**S.F. 503**

(Murphy)

H.F. 441

(Fritz)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): MSRS-Correctional
Relevant Provisions of Law: Minnesota Statutes, Section 352.91, Subdivision 3g
General Nature of Proposal: MCF-Faribault Laundry Coordinator and Delivery Van Driver Membership Inclusion in MSRS-Correctional
Date of Summary: January 23, 2006

Specific Proposed Changes

- Includes MCF-Faribault Laundry Coordinator and Delivery Van Driver Membership in MSRS-Correctional.

Policy Issues Raised by the Proposed Legislation

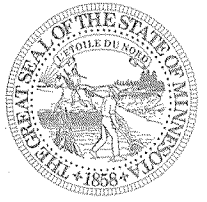
1. Extent of inmate contact by the MCF-Faribault employees.
2. Extent of compliance with other historic MSRS-Correctional Plan coverage requirements.
3. Lack of transfer recommendation in the 1996 MSRS-Correctional Plan coverage review.
4. Lack of inclusion in 1998 and 1999 MSRS-Correctional Plan coverage transfers.
5. Current Department of Corrections and Department of Employee Relations positions on transfers.
6. Appropriateness of proposed transfers without considering laundry employment positions at other correctional facilities.
7. Precedent issues.
8. Actuarial condition of MSRS-Correctional.

Potential Amendments

Amendment LCPR-S503-A1 eliminates obsolete language in the bill and clarifies various provisions without making any intended substantive changes.

Amendment LCPR-S503-A2 drops the delivery driver position from the retirement coverage transfer.

Amendment LCPR-S503-A3 requires an immediate Department of Corrections additional payment to offset the cost of the proposed retirement coverage transfer past service shift.



TO: Members of the Legislative Commission on Pensions and Retirement
 FROM: Lawrence A. Martin, Executive Director *LAM*
 RE: S.F. 503 (Murphy); H.F. 441 (Fritz): MSRS-Correctional; MCF-Faribault Laundry Coordinator and Delivery Van Driver Membership Inclusion
 DATE: January 20, 2006

Summary of S.F. 503 (Murphy); H.F. 441 (Fritz)

S.F. 503 (Murphy); H.F. 441 (Fritz) amends Minnesota Statutes, Section 352.91, Subdivision 3g, to add the Minnesota Correctional Facility-Faribault laundry coordinators and delivery van drivers to the Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) and to permit transferred employees to make additional member contributions and transfer post-July 1, 1997, pre-July 1, 2005, MCF-Faribault service credit to MSRS-Correctional.

Background Information on the MSRS-Correctional Retirement Plan

Background information on the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) is contained in Appendix A.

Background Information on the Inadequacies of and Problems in MSRS-Correctional Plan Membership Provisions

Background information on the inadequacies of and the problems in the membership provisions of the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional), based on a 2003-2004 Interim project of the Legislative Commission on Pensions and Retirement, is contained in Appendix B.

Background Information on the Minnesota Inmate Custody Classification System, the Minnesota Correctional Facility-Faribault and the MCF-Faribault Laundry Operation

1. Minnesota Inmate Custody Classification System

The Minnesota correctional system has a five-level classification structure for adult male inmates ranging from level 1, which is minimum custody, to level 5, which is maximum custody. Using the automated, objective system, adult male inmates are assigned a classification score within 30 to 45 days of admission. This risk score determines to what custody level the adult male inmate will be assigned.

The Minnesota Department of Corrections' five-level custody classification system, predicated on the availability of beds at a particular level, is as follows:

Level 1 Minimum	Level 2 Minimum	Level 3 Medium	Level 4 Close	Level 5 Maximum
MCF-Stillwater	MCF-Faribault	MCF-Lino Lakes	MCF-Rush City	MCF-Oak Park Hts.
MCF-Lino Lakes		MCF-Moose Lake	MCF-St. Cloud	
MCF-Faribault		MCF-Faribault	MCF-Stillwater	

2. Minnesota Correctional Facility-Faribault

The Minnesota Correctional Facility-Faribault, 1101 Linden Lane, Faribault, Minnesota, 55021-6400, is a medium-security, level 3 facility housing adult male inmates. A level 1 and 2 minimum-security unit is also located outside the secure perimeter. The 1989 Minnesota Legislature initially approved opening of the facility by authorizing funds to convert portions of the former Faribault Regional Center for correctional use. The facility population is 1,233 as of March 2004.

The facility includes ten remodeled buildings that are used for living quarters. One of the buildings has been adapted to meet the needs of the department's geriatric and special needs inmate populations.



A variety of work, including vocational/academic educational and other programs, is offered. MINNCOR Industries include wood furniture manufacturing, truck refurbishing, laundry, cleaning products, and subcontract work.

The education programs at the facility include adult basic education, literacy, and general educational development (GED). Vocational diploma/certificate programs are offered under contract through South Central Technical College and include cabinetmaking, upholstery, painting/commercial drywall, floor covering installation, carpentry, computer certification, small business management, drafting, and facility maintenance.

The facility also has a treatment unit for alcohol and other drug dependencies.

3. MCF-Faribault Laundry and Other MINNCOR Industry Programs

MINNCOR is the prison industries operation within Minnesota correctional facilities and, by state mandate, must operate profitably now and into the future. This means that the number of offenders assigned to MINNCOR programs will always be tied to the sales that MINNCOR can generate. MINNCOR operates at eight correctional facilities, utilizing 13.5 percent of the inmate population in Fiscal Year 2004.

The MCF-Faribault MINNCOR operation is the second largest MINNCOR operation by the number of offenders assigned to the operation (206 in Fiscal Year 2004) and by the number of MINNCOR employees utilized (20 MINNCOR employees) after MCF-Stillwater (341 in Fiscal Year 2004). The MCF-Faribault MINNCOR operation was fourth highest in sales in Fiscal Year 2003 (\$3,948,028), after MCF-Stillwater (\$8.9 million), MCF-Moose Lake (\$4.4 million), and MCF-St. Cloud (\$4.0 million).

The MCF-Faribault MINNCOR operation is engaged in wood furniture, laundry, vehicle refurbishing, plastics, and cleaning products. It is primarily located in a 114,000 square foot building built in 1990. The MCF-Faribault laundry has up to 30 or 35 offenders assigned to it. There are five laundry coordinators, one laundry coordinator (mending), one laundry coordinator (washroom), and three laundry coordinators (general), employed at the MCF-Faribault laundry and four delivery van drivers who are associated with the laundry.

The following summarizes the number of offenders supervised by the employees and the nature of the principal responsibilities for the laundry coordinators and the delivery van drivers:

Position	Laundry Coordinator-Mending	Laundry Coordinator-Washroom	Laundry Coordinator	Laundry Coordinator	Laundry Coordinator	Delivery Driver
Employee	Sorn	Porras	Schaefer	Chavie	Buck	Various
Supervises	1 - 35 offenders	1 - 30 offenders	1 - 30 offenders	1 - 30 offenders	1 - 30 offenders	No offenders
1. Power sewing equipment operation	5% / time	0% / time	0% / time	0% / time	0% / time	
2. Marking machine operation	5%	0%	0%	0%	0%	
3. Colmac steam tunnel operation	10%	0%	5%	5%	5%	
4. Hospital garment processing	20%	0%	5%	5%	5%	
5. Laundry sorting and laundry cart processing	10%	0%	25%	25%	25%	
6. Flat work folding	20%	0%	25%	25%	25%	
7. Evaluate offender performance	20%	10%	30%	30%	30%	
8. Infection control supervision	5%	2%	5%	5%	5%	
9. Miscellaneous supervision	5%	5%	5%	5%	5%	
10. Start/stop laundry equipment	0%	3%	0%	0%	0%	
11. Laundry processing	0%	0%	0%	0%	0%	
12. Washer operation	0%	20%	0%	0%	0%	
13. Batch washing system operation	0%	30%	0%	0%	0%	
14. Drying equipment operation	0%	30%	0%	0%	0%	

Discussion and Analysis

S.F. 503 (Murphy); H.F. 441 (Fritz) adds the laundry coordinators and the delivery van drivers at the Minnesota Correctional Facility-Faribault to coverage by the Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional), permitting early retirement (at or before age 55), extending the age 55 conditional mandatory retirement requirement, and granting early retirees with a period of State-paid post-retirement health insurance coverage and permits the three employees to purchase past (post-1997 and pre-2005) service credit in MSRS-Correctional

The proposed legislation raises various pension and related public policy issues that will merit consideration by the Legislative Commission on Pensions and Retirement, as follows:

1. Extent of Inmate Contact by the MCF-Faribault Employees. The policy issue is the amount of inmate contact that the MCF-Faribault laundry coordinators and delivery van drivers have as a part of their ordinary employment duties. Minnesota Statutes, Section 352.91, Subdivision 3g, requires that the named occupational titles have direct contact with inmates for at least 75 percent of the employee's working time in order to be certified by the Commissioner of Corrections to the MSRS Executive Director for MSRS-Correctional Plan coverage. If the positions do not meet the 75 percent direct inmate contact threshold, there would be little point in processing legislation to include the titles in plan membership. The Department of Corrections was requested by the Commission staff to provide the job descriptions of the two occupational positions and an assessment of the direct contact time in 2004. The job descriptions provide some indication of the extent of direct inmate supervision. For the laundry coordinators, there is considerable potential inmate supervision on the face of the job description, but since there was no record of an actual job audit, the job description review is not conclusive. The responsibility areas of evaluating offender performance, miscellaneous supervision, and laundry equipment start-up/shut-down are unclear as to the extent of direct supervision on the face of the job description and for four of the five affected employees, those areas account for 25-35 percent of the person's time and effort. If some of the other areas involve a mix of direct supervision and contact and other aspects without direct supervision and contact, the minimum threshold for membership would not be met. The delivery driver positions do not appear, from the job description provided, to have any direct supervision and contact.
2. Extent of Compliance With Other Historic MSRS-Correctional Plan Coverage Requirements. The policy issue is the extent of compliance by the two occupational positions with 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 question of whether or not the considered occupational position was responsible to intervene in the event of a facility incident, 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, and 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 two occupational positions with these historic requirements in 2004. The Department of Corrections response to the 2004 inquiry on this question indicates that these positions produced only one Workers Compensation claim, for medical benefits only, without any lost employment time. The Department of Corrections should be requested to update this information in testimony.
3. Lack of Transfer Recommendation in the 1996 MSRS-Correctional Plan Coverage Review. The policy issue is the appropriateness of the proposed transfers when the occupational positions were not recommended for transfer to the MSRS-Correctional Plan in 1996, the last comprehensive review of the Department of Corrections and transfer recommendation process for the plan. While none of these employees were in their current positions in 1996 (the start date for Department of Corrections employment for the affected individuals appears to have been July 1, 1997), MCF-Faribault was in operation in 1996 and presumably had laundry operations significantly similar to the current functions in 1996, with employees performing substantially similar duties. If the 1996 review of Department of Corrections and Department of Human Services positions was as comprehensive as it was portrayed in testimony before the Commission in 1996, the review should have identified these positions as qualifying positions or some explanation about subsequent function changes at MCF-Faribault should be forthcoming.
4. Lack of Inclusion in 1998 and 1999 MSRS-Correctional Plan Coverage Transfers. The policy issue is the appropriateness of the proposed transfers since the two occupational titles were not included in

department-sponsored administrative transfers that occurred in June 1998, June 1999, and December 1999. If the extent of inmate contact is as great as suggested, the positions should have been likely candidates for transfer in 1998-1999, which included ten other positions at MCF-Faribault. While many or most 1998-1999 administrative transfers occurred as a result of an employee request for transfer, some explanation should be provided by the Department of Corrections why these occupational positions were not included in transfer requests. With at least ten occupational positions at MCF-Faribault transferred in 1998-1999, a reasonable person could conclude that the MCF-Faribault Human Resources manager would have a heightened awareness about retirement plan coverage issues and consequently should have identified these positions as eligible for transfer at that time.

5. Current Department of Corrections and Department of Employee Relations Positions on Transfers. The policy issue is the appropriateness of approving the suggested transfers without clear support for the transfers by the Department of Corrections and the Department of Employee Relations. The Department of Corrections, when contacted in 2004, indicated support for including the laundry coordinator occupational title at MCF-Faribault and indicated opposition for including the delivery van driver occupational title at MCF-Faribault. The Department of Corrections has recently undertaken a review of potential MSRS-Correctional Plan transfers under Minnesota Statutes, Section 352.91, Subdivision 4a, and in the department's recent report to the Legislature on the topic, the laundry coordinator positions were recommended for inclusion, but the delivery driver position was not recommended. Amendment LCPR-S503-A2 would drop the delivery driver position from the retirement coverage transfer. In March 2004, related to proposed legislation to expand the MSRS-Correctional Plan pending before the 2004 Legislature, including a bill identical to this proposed legislation, the Department of Employee Relations raised concerns about the impact of plan expansions on the State's cost of the employer contribution towards post-retirement health and dental insurance coverage for MSRS-Correctional Plan retirees and an unanticipated ramification of the 1987 legislation that reduced the plan vesting requirements from ten years to five years (Laws 1987, Chapter 372, Article 9) and of the 1989 legislation that reduced the plan vesting requirement from five years to three years (Laws 1989, Chapter 319, Article 13). A 2004 letter from Deputy Commissioner of Employee Relations Paul Larson expressing these concerns in detail is attached.
6. Appropriateness of Proposed Transfers without Considering Laundry Employment Positions at Other Correctional Facilities. The policy issue is the appropriateness of acting on these proposed transfers in a vacuum, without knowing how these positions compare to laundry positions in other correctional facilities. No laundry coordinator in any Minnesota correctional facility is currently a member of the MSRS-Correctional Plan. In June 1999, a delivery van driver at MCF-Sauk Center was included in the MSRS-Correctional Plan membership through an administrative transfer, although the facility was closed during the 1999 fiscal year. The MCF-Sauk Center delivery van driver was the only delivery van driver who was an MSRS-Correctional Plan member. If the laundry employees proposed for inclusion in the MSRS-Correctional Plan are appropriate for the transfer, additional information will be needed to explain why the MCF-Faribault laundry operates differently from laundries serving all other correctional facilities. In response to a 2004 request, the Department of Corrections indicates that only one other correctional facility, the Minnesota Correctional Facility-Thistledeew Camp, employs any laundry workers and only one of those supervises inmates, but only to a limited (35 percent) extent.
7. Precedent. The policy issue is the question of the existence of past similar legislation and the question of the potential that the proposed legislation would constitute for further similar future MSRS-Correctional Plan transfers. Minnesota Statutes, Section 352.91, Subdivision 3g, amended in this proposed legislation, is an example of an expansion of the MSRS-Correctional Plan by a small number of correctional occupations and would be a precedent for this proposed legislation, although none of the positions involve laundry operations. The proposed legislation, if ultimately enacted, would be a precedent for future expansions, but would only constitute an adverse precedent if one or both occupational positions do not have substantial inmate contact and consequent employment risks and hazards or if Commission scrutiny was deficient or flawed.
8. Actuarial Condition of MSRS-Correctional. The policy issue is the actuarial condition of the MSRS-Correctional Retirement Plan and the capacity of the plan and its current financing structure to absorb the additional actuarial liability from the proposed service credit transfer. The proposed legislation, modeled on past practice, requires extra member contributions to obtain the service credit transfer, but does not require immediate extra employer contributions to accomplish the transfer. The unfunded transfer liability, under the proposed legislation, would be funded from the existing stream of employer contributions, which are likely to be deficient currently. The July 1, 2005, actuarial

valuation of the MSRS-Correctional Plan was due in November 2005, but was not filed until January 19, 2006, and was not prepared using the revised actuarial assumptions approved by the Legislative Commission on Pensions and Retirement in December 2005. The growing contribution deficiency is likely to increase once the actuarial assumption revisions are implemented. The Minnesota State Retirement System (MSRS) has been seeking a 7.03 percent of covered pay increase in MSRS-Correctional Plan contribution rates, 2.91 percent of pay by the member and 4.12 percent of pay by the employing units, phased in over four installments, to address the growing plan contribution deficiency. The following sets forth the July 1, 2004, and July 1, 2005, actuarial valuation results for the MSRS-Correctional Plan:

	2004		2005	
<u>Membership</u>				
Active Members		3,326		3,607
Service Retirees		943		1,025
Disabilitants		154		150
Survivors		91		104
Deferred Retirees		678		738
Nonvested Former Members		339		351
Total Membership		5,531		5,975
<u>Funded Status</u>				
Accrued Liability		\$524,215,028		\$546,117,680
Current Assets		\$486,617,032		\$503,573,272
Unfunded Accrued Liability		\$37,597,996		\$42,544,408
Funding Ratio	92.83%		92.21%	
<u>Financing Requirements</u>				
Covered Payroll		\$134,117,624		\$147,385,402
Benefits Payable		\$17,265,693		\$19,025,766
Normal Cost	14.96%	\$20,066,740	15.01%	\$22,111,459
Administrative Expenses	0.20%	\$268,235	0.20%	\$294,771
Normal Cost & Expense	15.16%	\$20,334,975	15.21%	\$22,406,230
Normal Cost & Expense	15.16%	\$20,334,975	15.21%	\$22,406,230
Amortization	2.31%	\$3,098,117	2.50%	\$3,684,635
Total Requirements	17.48%	\$23,433,092	17.71%	\$26,090,865
Employee Contributions	5.69%	\$7,631,293	5.69%	\$8,386,229
Employer Contributions	7.98%	\$10,702,586	7.98%	\$11,761,355
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	0.00%	\$0	0.00%	\$0
Total Contributions	13.67%	\$18,333,879	13.67%	\$20,147,584
Total Requirements	17.48%	\$23,433,092	17.71%	\$26,090,865
Total Contributions	13.67%	\$18,333,879	13.67%	\$20,147,584
Deficiency (Surplus)	3.81%	\$5,099,213	4.04%	\$5,943,281
Amortization Target Date	2020		2020	
Actuary	Segal		Segal	

Because MSRS-Correctional has a significant contribution deficiency (i.e., total actuarial requirements exceed total contributions), its ability to handle any unfunded transfer liability through regular employer contributions, the past practice for the plan, is consequently in question. Amendment LCPR-503-A3 would require an immediate Department of Corrections additional payment to offset the cost of the proposed retirement coverage transfer past service shift.

9. Department of Corrections Budget Impact from Funding Alternative. The policy issue is the impact on the budget of the Department of Corrections if the employer was required to fund transfer liabilities concurrent with the transfer. When MSRS-Correctional was fully funded (i.e., assets equal to or greater than accrued liability) and had a contribution sufficiency in the past, there was no urgent need to fund transfer liabilities quickly. Now that MSRS-Correctional is not fully funded and does not have a contribution sufficiency, it is more important to be concerned with the prompt funding of transfer liabilities. If the Commission addresses issue #8 and required more prompt funding of the transfer liability for the proposed legislation, as amendment S503-A3 would do, there would be an impact on the Department of Corrections budget. Since the transfer liability amount has not yet been assessed, the general parameters of the budgetary impact on the department cannot currently be assessed.

Technical Amendment

Amendment LCPR-S503-A1 eliminates obsolete language in the bill and clarifies various provisions without making any intended substantive changes.

Appendix 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 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 Manger
Correctional Counselor I	Prison Industry Foreman
Correctional Counselor II	Prison Industry Supervisor
Correctional Counselor III	Food Service Manager
Correctional Counselor IV	Prison Farmer Supervisor
Correctional Lieutenant	Prison Farmer Assistant Supervisor
Correctional Officer	Rehabilitation Therapist
Correctional Sergeant	

Pre-July 1, 1973, service in a covered position was generally transferred from 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 the MSRS-Correctional Plan membership.

5. 1980 Addition of MSRS-Correctional Plan Covered Position Administrative Certification Process. In 1980 (Laws 1980, Chapter 600, Sections 2, 3, 4, and 5), coverage by the MSRS-Correctional Plan was classified as applicable only to employees in adult correctional facilities, and post-June 1, 1980, employment as a special teacher, a tradesperson, or a maintenance person at the Minnesota Correctional Facility-Lino Lakes was included in MSRS-Correctional Plan coverage. 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, 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. 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.

14. 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.

15. Attraction of MSRS-Correctional 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.

Appendix B

Background Information on the Inadequacies and Problems in MSRS-Correctional Plan Membership Provisions

The Commission 2003-2004 Interim project, involving a detailed specific comparison of every employment position reported by the Minnesota State Retirement System (MSRS) as a member of the Correctional Employees Retirement Plan of the Minnesota State Retirement System (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 actually 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 fell into several categories, summarized as follows:

1. Information Lacking. The Commission staff found that no specific information was provided by MSRS for eight persons, with no information available on the occupational titles or facilities involved. MSRS indicated that seven employees actually terminated before June 30, 2003, but were included in the actuarial valuation data transmitted to the actuarial firm retained by the Commission, and that one employee was included twice in the actuarial valuation demographic data sent to the Commission-retained actuary because of a duplicate Social Security number. (Initially, in early August 2003, MSRS provided information on 3,229 members of the MSRS-Correctional Plan to the Commission staff and information on 3,262 MSRS-Correctional members to the Commission-retained actuary. In response to an August 15, 2003, Commission staff request to explain the difference between the two counts, MSRS sent information on 25 additional MSRS-Correctional members in late August 2003, but did not explain the situation of the remaining eight-person differential until October 30, 2003.)
2. Nonexistent Statutory Authority. The Commission staff found that there was no specific statutory inclusion authority for 20 persons in ten occupational titles at six Department of Corrections and two Department of Human Services facilities. The joint MSRS/Department of Corrections/Department of Human Services response on October 30, 2003, indicated that:
 - (a) the central services administrative specialist intermediate positions at MCF-St. Cloud and MCF-Moose Lake, involving five employees, and the central services administrative specialist senior positions at MCF-Red Wing, involving one employee, were previously stores clerk positions who were included in the plan under the occupational title "stores clerk senior";
 - (b) the correctional inmate program coordinator position at MCF-Lino Lakes was improperly left in the plan, but the mistake was not discovered within the statutory three-year correction period;
 - (c) the groundskeeper senior positions at MCF-Red Wing and MCF-Rush City, involving two employees, are considered authorized for inclusion by the Department of Corrections and MSRS under Minnesota Statutes, Section 352.91, Subdivision 2, as maintenance employees;
 - (d) the reported human services technician position at the St. Peter State Security Hospital, involving one employee, had no MSRS-Correctional Plan service or member deductions and was included in the information transmitted by MSRS to the Commission staff in error;
 - (e) the reported library technician position at MCF-Moose Lake, involving one employee, is actually in a library/information resource services specialist position and was improperly coded by MSRS under a different occupational title;
 - (f) the rehabilitation counselor senior positions at the St. Peter State Security Hospital, involving three employees, were approved as an administrative transfer that was retroactively approved by the Legislative Advisory Commission in 1999 (however, the 1999 approval was for a rehabilitation counselor position, not the indicated rehabilitation counselor senior position);
 - (g) the sales and service positions at MCF-Stillwater and MCF-Moose Lake, involving three employees, are considered authorized for inclusion by the Department of Corrections and MSRS under Minnesota Statutes, Section 352.91, Subdivision 3, as a member of a trade;
 - (h) the social worker senior position at the Minnesota Sexual Psychopathic Personality Treatment Center, involving two employees, was approved as an administrative transfer that was retroactively approved by the Legislative Advisory Commission in 1999 (however, the 1999 Legislative Advisory Commission approval was for a social worker specialist senior position at the Sexual

Psychopathic Personality Treatment Center, not the indicated social worker senior position. A referenced Attachment B to the joint response included three handwritten additions of social worker senior positions at the Minnesota Sexual Psychopathic Personality Treatment Center, but those additions were not processed by the Legislative Commission on Pensions and Retirement); and

- (i) the work therapy program coordinator position at the Sexual Psychopathic Personality Treatment Center, involving one employee, is not referenced in Minnesota Statutes, Section 352.91, but that omission is a statutory inconsistency when compared to identical job functions at the St. Peter State Security Hospital.

3. Unclear Statutory Authority. The Commission staff found that the statutory inclusion authority was unclear or questionable for 73 persons in 17 occupational titles at eight Department of Corrections facilities. The joint MSRS/Department of Corrections/Department of Human Services response dated October 30, 2003, indicated that the following occupational positions are all covered under Minnesota Statutes, Section 352.91, Subdivision 2, as trades, maintenance, or corrections industries/maintenance personnel. (However, Minnesota Statutes, Section 352.91, Subdivision 2, refers to “maintenance personnel and members of trades, but does not refer to “correctional industries/maintenance” personnel.)

- auto body;
- automotive technician;
- automotive mechanic lead;
- correctional industries production supervisor;
- correctional manufacturing specialist-engineering and drafting;
- correctional manufacturing specialist-tool and die;
- correctional manufacturing specialist-wood;
- correctional manufacturing specialist-upholstery;
- electronics technician;
- electronics technician senior;
- graphics;
- licensing plant;
- light assembly;
- light manufacturing;
- mechanical;
- refrigeration mechanic; and
- transportation warehouse.

4. Lack of Minnesota Sexual Psychopathic Personality Treatment Center References. The Commission staff found that for 28 persons in seven occupational titles at the Minnesota Sexual Psychopathic Personality Treatment Center, the individuals are included in MSRS-Correctional Plan coverage despite the lack of any Minnesota Sexual Psychopathic Personality Treatment Center reference in Minnesota Statutes, Section 352.91, Subdivisions 3c, 3d, and 3g. The joint MSRS/Department of Corrections/Department of Human Services response dated October 30, 2003, indicates that five positions (psychologist 3, recreation program assistant, recreation therapist senior, registered nurse, and work therapy assistant) were certified by the Department of Human Services under Laws 1996, Chapter 408, Article 8. (However, Laws 1996, Chapter 408, Article 8, Sections 14 and 15, was limited to the specified occupational titles only at the St. Peter State Security Hospital.) The joint MSRS/Department of Corrections/Department of Human Services response of October 30, 2003, also indicates that a rehabilitation counselor at the Minnesota Sexual Psychopathic Personality Treatment Center was recommended retroactively by the Legislative Commission on Pensions and Retirement in 1999. (However, the 1999 Pension Commission retroactive recommendation related to a rehabilitation counselor, not the rehabilitation counselor senior position in question.)

5. Unintended Employment Locale. The Commission staff found that for 27 persons in eight occupational titles, at the Department of Corrections Central Office and at the Anoka-Metro Regional Treatment Center, the applicable employment location is not a correctional facility (for the Department of Corrections) or a security facility (for the Department of Human Services) and hence are not eligible for MSRS-Correctional Plan coverage. The joint MSRS/Department of Corrections/Department of Human Services response of October 30, 2003, indicated that the correctional security caseworker, correctional security caseworker career, correctional officer 2, correctional officer 3, correctional officer 4, correctional program therapist 2, and sentencing to service crew leader positions work at multiple facilities and are only paid out of the Central Office payroll for budgeting purposes. The joint MSRS/Department of Corrections/Department of Human

Services response also indicated that the registered nurse position was covered by MSRS-Correctional as a Minnesota Extended Treatment Options Program employee through July 1, 2003, although the transfer of the employee to the Anoka-Metro Regional Treatment Center was entered into the computer system on June 24, 2003.

6. Incorrect Reported Titles. The Commission staff found that for 22 persons in three occupational titles, at three Department of Human Services facilities, the reported title "benefit analyst" was incorrect. The joint MSRS/Department of Corrections/Department of Human Services response of October 30, 2003, indicates that a typographical error occurred in the title name.
7. Occupational Title Changes. The Commission staff found that for 81 persons in three occupational titles at nine Department of Corrections facilities, occupational titles may have changed without any subsequent statutory reference change. The joint MSRS/Department of Corrections/Department of Human Services response of October 30, 2003, indicates that the central services administrative services intermediate, central services administrative services principal, and correctional program therapist occupational titles were simply title changes.
8. Obsolete References. The Commission staff found 13 occupational titles for which there was no incumbent in the MSRS-Correctional Plan as of July 1, 2003. The joint MSRS/Department of Corrections/Department of Human Services response of October 30, 2003, indicated that the occupational positions were obsolete, vacant, or replaced by other occupational titles, and recommended:
 - deleting from Minnesota Statutes, Section 352.91, references to the occupational titles of chemical dependency counselor supervisor, corrections officer supervisor, corrections parent education coordinator, office and administrative specialist senior, and registered nurse principal;
 - retaining references in Minnesota Statutes, Section 352.91, of the occupational titles of electrician supervisor, licensed practical nurse 1, recreation program assistant, and social worker senior;
 - changing the occupational titles corrections behavior therapist 1, 2, and 3 to corrections program therapist 1, 2, and 3; and
 - changing the occupational title stores clerk senior to central services administrative services intermediate, senior, and/or principal.

The joint MSRS/Department of Corrections/Department of Human Services response also indicated that the occupational title "water treatment plant operator" was covered by the MSRS-Correctional Plan as a trades member.

The Commission staff prepared proposed legislation, introduced in the 2004 Legislative Session as H.F. 2036 (Smith); S.F. 1982 (Betzold), which was intended to resolve the various inconsistencies in the actual membership of the MSRS-Correctional Retirement Plan and the applicable statutory provisions. The proposed legislation was not heard by the Commission in 2004 because of opposition by and complaints from some or all of the labor organizations representing the affected MSRS-Correctional Plan members.



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March 4, 2004

The Honorable Steven Smith
State Representative
Chairman, Legislative Commission of Pensions and Retirement
55 State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1201

RE: Proposed Legislation to the Correctional Employees Retirement Plan M.S. §§352.90 and 352.91

Dear Representative Smith:

This letter serves to document the Department of Employee Relations' (DOER) concern over the above referenced proposed legislation to expand the Correctional Retirement Plan, Senate File 1982/House File 2036, Senate File 2252/House File 2387, and Senate File 1578.

Background

Over the course of the last two decades, DOER has had two significant roles in the overall administration of the Correctional Retirement Plan. The first role relates to oversight in adding employees to the Correctional Retirement Plan through the now defunct administrative procedure previously outlined in M.S. §352.91, subd. 4. During the 1990s, DOER worked in conjunction with the Departments of Human Services and Corrections in developing a fairly comprehensive administrative process for moving employees into the Correctional Retirement Plan. In addition to the administrative process, the Legislature added a significant number of employees (approximately 500) to the Correctional Retirement Plan during the 1996 legislative session.

During the 2001 legislative session, the Legislature repealed M.S. §352.91, subd. 4 based on the assumption that all of the employees eligible had been added to the Plan. At that time, the Rush City Correctional Facility had not yet opened.

The second role relates to the increased costs associated with adding more employees to the Correctional Retirement Plan. In addition to the increased employer and employee contributions for the employee's pension contribution, there is the cost of an employer contribution toward the employee's health and dental insurance when the Correctional Plan employee retires.

In 1983, the State and the various unions representing Correctional Retirement Plan employees negotiated language into several of the collective bargaining agreements that provided for the continuation of employer paid health and dental insurance for retirees at the same amount that the employer was contributing to its active employees. In 1983, the employer contribution consisted of:

- Health
 - single or family coverage depending on what the employee had at the time of retirement
- Dental
 - single or family coverage depending on what the employee had at the time of retirement

The cost for health and dental insurance in 1983 is illustrated as follows:

- Employer Contribution for single health coverage
 - 100% total employer contribution at a cost of \$56.06 per month
- Employer Contribution for family health coverage
 - 90% employer contribution at a cost of \$68.45 per month
 - 10% employee contribution at a cost of \$8.49 per month
- Employer Contribution for single dental coverage
 - 100% employer contribution at a cost of \$9.76 per month
- Employer Contribution for family dental coverage
 - 50% employer contribution at a cost of \$10.94 per month

In 1983, there were approximately 1,124 employees covered by the Correctional Retirement Plan. Today, there are approximately 3,262 employees covered by the Correctional Retirement Plan.

In addition to the nearly 300% increase in the employee population of the Correctional Retirement Plan, there has been almost a 1,400% increase in the medical/dental insurance costs mostly borne by the employer. Because of these tremendous increases, the financial burden to the state, and specifically the Departments of Corrections and Human Services, to maintain this generous benefit is quickly approaching an unmanageable level. Today, the Employer Contribution consists of:

- Health
 - single or family coverage depending on what the employee has at the time of retirement
- Dental
 - single or family coverage depending on what the employee has at the time of retirement

The current cost for health and dental insurance in 2004 is illustrated as follows:

- Employer Contribution for single health coverage
 - 100% total employer contribution at a cost of \$320.20 per month
- Employer Contribution for family health coverage
 - 85% Employer Contribution at a cost of \$848.40 per month
 - 15% Employee Contribution at a cost of \$93.20 per month
- Employer and Employee Contribution in 2004 for single dental coverage:
 - 10% Employee Contribution at a cost of \$2.12 per month
 - 90% Employer Contribution at a cost of \$19.10 per month
- Employer and Employee Contribution in 2004 for family dental coverage:
 - 50% Employee Contribution at a cost of \$22.88 per month
 - 50% Employer Contribution at a cost of \$39.86 per month

Issues

In 1983, when the State and the Unions representing Correctional Retirement Plan employees agreed to the continuation of the employer health and dental insurance contribution, they connected the insurance benefit to the eligibility of the MSRS Correctional Plan eligibility. At that time, in order to be eligible to receive a Correctional Plan annuity at the time of retirement, the Correctional Plan employee was statutorily required to have 10 years of covered Correctional Plan service. See generally M.S. §352.115, subd. 1 (1986). As such, the employer agreed to continue to pay for the retiree insurance in the same amount as active employees if the employee had 10 years of Correctional Plan service and was at the appropriate retirement age. Through the years, this length of service requirement has been reduced through legislation from 10 years to five years to three years. See generally M.S. §352.115, subd. 1 (1988) and M.S. §352.115, subd. 1 (1990).

The effect of the legislation reducing the 10-year eligibility to three years is dramatic. Currently, employees with a mere three years of Correctional Retirement Plan service can retire at age 55. While their pensions may not be significant, retirees will receive the employer contribution for health and dental insurance until age 65. The employer is also responsible for any and all premium increases until age 65. At this time, the employer cost of providing up to ten years of family coverage at current premium rates is projected to be more than \$100,000 per retiree. If premiums continue to increase over the ten years at current annual double-digit rates of increase, the figure could easily be two to three times greater.

The State contends that the purpose of the employer contribution toward the retiree health and dental insurance was to recognize long-term employees working under the everyday stresses of a correctional facility environment. See generally M.S. §352.90. In my research of other public sector units that provide a similar employer paid health insurance benefit, typically to law enforcement employees, all require at least 20 years of service in order to receive the benefit. I am not aware of any other Minnesota public employer that provides employer paid insurance for Correctional employees.

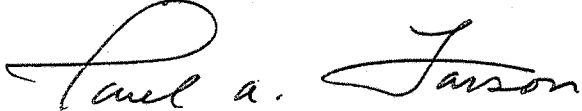
Page 4
March 4, 2004

I think it is important to note that no one is being blamed for this consequence. In reflecting back, it was an error for the State, during contract negotiations in 1983, to link the qualifications for the retiree insurance with the vesting requirements of the annuity. At the time, no one anticipated a 3-year vesting period. Further, the Departments of Corrections and Human Services cannot refuse to appoint an individual who has expressed their interest in a vacant Correctional Plan position based solely on the person's age without risking violations of state and federal age discrimination laws.

With relatively short-term employees now eligible to receive this unintended benefit, DOER has begun to track instances of unintended beneficiaries. Over the last seven years, 79 employees have retired at age 55 with less than 10 years of Correctional Plan service. Of those 79 employees, 28 retired with full insurance benefits and had less than five years of Correctional Plan service. Additionally as of January 2004, DOER has determined that in the next 10 years, 114 employees with less than 10 years of Correctional Retirement Plan service will be eligible to retire with a full employer contribution toward health and dental insurance, including any and all premium increases to be absorbed by the employer just as the employer does for its active employees. Of the 114 employees eligible, 41 will be able to retire with the same benefit package and will have five years of service or less. All of this at a time when the employer costs for the retiree insurance at the Departments of Corrections and Human Services in calendar year 2003 exceeded \$2.8 million.

The State has had some success in bargaining this issue with the Unions but unfortunately several unions want even more costly items in exchange for their agreement to needed changes. Given the unintended and increasingly expensive problems resulting from past expansions of this benefit, DOER does not support the continuation to add more employees. To do so will further increase DHS and DOC costs. In the event the legislation proceeds to add more employees, we respectfully request an amendment to the bill which would restore the eligibility to its original ten years which is the eligibility requirement that was in place when the insurance benefit was originally bargained.

Sincerely,



Paul Larson
Deputy Commissioner/State Negotiator
Labor Relations and Total Compensation
(651) 296-8274

cc: Larry Martin, Legislative Commission on Pensions and Retirement
Cal R. Ludeman, Commissioner
DHS Human Resources
DOC Human Resources

- 1.1 M moves to amend S.F. No. 503; H.F. No. 441, as follows:
- 1.2 Page 2, after line 20, insert:
- 1.3 "(6) laundry coordinator-mending, at the Minnesota Correctional Facility-Faribault;
- 1.4 (7) laundry coordinator-washroom, at the Minnesota Correctional Facility-Faribault;"
- 1.5 Page 2, line 21, delete "(6)" and insert "(8)"
- 1.6 Page 2, line 23, delete "(7)" and insert "(9)"
- 1.7 Page 3, line 7, delete "Department" and insert "commissioner"
- 1.8 Page 3, line 25, delete "4.9" and insert "5.69"
- 1.9 Page 3, line 27, after "the" insert "period of the"
- 1.10 Page 3, line 32, after "director" insert "of the Minnesota State Retirement System"
- 1.11 Page 3, line 36, before "plan" insert "general state employees retirement"
- 1.12 Page 4, line 2, delete the second "by the" and insert "under Minnesota Statutes,
- 1.13 section 356.214,"
- 1.14 Page 4, line 3, delete "Legislative Commission on Pensions and Retirement"
- 1.15 Page 4, line 11, delete "commission-retained" and after "actuary" insert "retained
- 1.16 under Minnesota Statutes, section 356.214,"
- 1.17 Page 4, line 13, delete "Legislative Commission on Pensions and" and insert "Public
- 1.18 Employees Retirement Association"
- 1.19 Page 4, line 14, delete "Retirement"

- 1.1 M moves to amend S.F. No. 503; H.F. No. 441, as follows:
- 1.2 Page 2, line 20, after ";" insert "and"
- 1.3 Page 2, line 22, delete "; and"
- 1.4 Page 2, delete line 23
- 1.5 Page 2, line 24, delete "Facility-Faribault"

1.1 M moves to amend S.F. No. 503; H.F. No. 441, as follows:

1.2 Page 3, after line 32, insert:

1.3 "(c) The Department of Corrections shall pay an amount equal to 3.98 percent
1.4 of the average salary of the transferred employee for the period of transferred service
1.5 credit plus compound interest from the midpoint of the transferred service credit period
1.6 at the rate of 0.71 percent per month. The additional employer contribution must be
1.7 paid within 30 days of the date on which the executive director of the Minnesota State
1.8 Retirement System notifies the commissioner of corrections that the member made the
1.9 additional member contribution."

Senator Murphy introduced--

S.F. No. 503: Referred to the Committee on State and Local Government Operations.

1 A bill for an act

2 relating to retirement; correctional state employees
3 retirement plan of the Minnesota State Retirement
4 System; expanding the plan membership to include
5 laundry coordinators and delivery van drivers at the
6 Minnesota Correctional Facility-Faribault; amending
7 Minnesota Statutes 2004, section 352.91, subdivision
8 3g.

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

10 Section 1. Minnesota Statutes 2004, section 352.91,
11 subdivision 3g, is amended to read:

12 Subd. 3g. [ADDITIONAL CORRECTIONS DEPARTMENT PERSONNEL.]

13 (a) "Covered correctional service" means service by a state
14 employee in one of the employment positions at the designated
15 Minnesota correctional facility specified in paragraph (b) if at
16 least 75 percent of the employee's working time is spent in
17 direct contact with inmates and the fact of this direct contact
18 is certified to the executive director by the commissioner of
19 corrections.

20 (b) The qualifying employment positions and the designated
21 correctional facilities are:

22 (1) corrections discipline unit supervisor, at the
23 Minnesota Correctional Facility-Faribault, the Minnesota
24 Correctional Facility-Lino Lakes, the Minnesota Correctional
25 Facility-Oak Park Heights, the Minnesota Correctional
26 Facility-Rush City, and the Minnesota Correctional Facility-St.
27 Cloud;

1 (2) dental assistant registered, at the Minnesota
2 Correctional Facility-Faribault, the Minnesota Correctional
3 Facility-Lino Lakes, the Minnesota Correctional Facility-Moose
4 Lake, the Minnesota Correctional Facility-Oak Park Heights, and
5 the Minnesota Correctional Facility-Red Wing;

6 (3) dental hygienist, at the Minnesota Correctional
7 Facility-Shakopee and the Minnesota Correctional Facility-Rush
8 City;

9 (4) psychologist 2, at the Minnesota Correctional
10 Facility-Faribault, the Minnesota Correctional Facility-Lino
11 Lakes, the Minnesota Correctional Facility-Moose Lake, the
12 Minnesota Correctional Facility-Oak Park Heights, the Minnesota
13 Correctional Facility-Red Wing, the Minnesota Correctional
14 Facility-Rush City, the Minnesota Correctional Facility-St.
15 Cloud, the Minnesota Correctional Facility-Shakopee, and the
16 Minnesota Correctional Facility-Stillwater; or

17 (5) sentencing to service crew leader involved with the
18 inmate community work crew program, at the Minnesota
19 Correctional Facility-Faribault and the Minnesota Correctional
20 Facility-Lino Lakes;

21 (6) laundry coordinator, at the Minnesota Correctional
22 Facility-Faribault; and

23 (7) delivery van driver, at the Minnesota Correctional
24 Facility-Faribault.

25 Sec. 2. [COVERAGE FOR PRIOR STATE SERVICE FOR CERTAIN
26 PERSONS.]

27 Subdivision 1. [ELECTION OF PRIOR STATE SERVICE
28 COVERAGE.] (a) An employee who has future retirement coverage
29 transferred to the correctional state employees retirement plan
30 under section 1 is entitled to elect to obtain prior service
31 credit for eligible correctional state service performed after
32 June 30, 1997, and before July 1, 2005, with the Department of
33 Corrections. All prior service credit must be purchased.

34 (b) Eligible correctional state service is a prior period
35 of continuous service after June 30, 1997, performed as an
36 employee of the Department of Corrections that would have been

1 eligible for the correctional state employees retirement plan
2 coverage under section 1, if that prior service had been
3 performed after June 30, 2005, rather than before July 1, 2005.
4 Service is continuous if there has been no period of
5 discontinuation of eligible state service for a period greater
6 than 30 calendar days.

7 (c) The Department of Corrections shall certify eligible
8 correctional state service to the commissioner of employee
9 relations and the executive director of the Minnesota State
10 Retirement System.

11 (d) A correctional employee covered under section 1 is
12 entitled to purchase the past service if the department
13 certifies that the employee met the eligibility requirements for
14 coverage. The employee must make additional employee
15 contributions. Payments for past service must be completed by
16 June 30, 2006.

17 Subd. 2. [PAYMENT FOR PRIOR SERVICE.] (a) An employee
18 electing to obtain prior service credit under subdivision 1 must
19 pay an additional employee contribution for that prior service.
20 The additional member contribution is the contribution
21 differential percentage applied to the actual salary paid to the
22 employee during the period of the prior eligible correctional
23 state service, plus interest at the rate of 8.5 percent per
24 annum, compounded annually. The contribution differential
25 percentage is the difference between 4.9 percent of salary and
26 the applicable employee contribution rate of the general state
27 employees retirement plan during the prior eligible correctional
28 state service.

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

33 Subd. 3. [TRANSFER OF ASSETS.] (a) Assets must be
34 transferred from the general state employees retirement plan to
35 the correctional state employees retirement plan in an amount
36 equal to the present value of benefits earned under the plan for

1 each employee transferring to the correctional state employees
2 retirement plan, as determined by the actuary retained by the
3 Legislative Commission on Pensions and Retirement in accordance
4 with Minnesota Statutes, section 356.215, multiplied by the
5 accrued liability funding ratio of active members as derived
6 from the most recent actuarial valuation prepared by the
7 commission-retained actuary. The transfer of assets must be
8 made within 30 days after the employee elects to transfer the
9 coverage to the correctional state employees retirement plan.

10 (b) The Department of Corrections shall pay the cost of the
11 actuarial work performed by the commission-retained actuary
12 under paragraph (a) upon receipt of a billing by the executive
13 director of the Legislative Commission on Pensions and
14 Retirement.

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

21 Sec. 3. [EFFECTIVE DATE.]

22 Sections 1 and 2 are effective July 1, 2005.