



H.F. 661
(O'Driscoll)

S.F. 589
(Pappas)

Executive Summary of Commission Staff Materials

<i>Affected Pension Plan(s):</i>	MSRS plans
<i>Relevant Provisions of Law:</i>	Minnesota Statutes, Chapters 352, 352B, and 356
<i>General Nature of Proposal:</i>	Administrative provisions.
<i>Date of Summary:</i>	March 19, 2015

Specific Proposed Changes

- Correction of 2014 MSRS-Correctional Plan Grandparenting Provision. The continuing eligibility for MSRS-Correctional coverage for former employees of the defunct Minnesota Extended Treatment Options Program/Minnesota Specialty Health System-Cambridge is clarified as applicable if rendering direct patient care and treatment rather than services administration (*Sec. 1*).
- State Patrol Plan Disability Benefit Optional Annuity Clarification. The opportunity for a disabilitant to elect an optional annuity is clarified as occurring at benefit commencement, or if no election occurred then, at age 54¾ or 4¾ years of benefit receipt, whichever is later (*Sec. 2*).
- State Patrol Plan Change in Disabilitant Transfer to Retirement Status Age. The age at which a disabilitant transfers to retirement status is changed to age 55 from age 65 for disabilitants beginning to receive benefits after July 1, 2015 (*Sec. 3*).
- Resumption of Full Post-Retirement Adjustment Rate Trigger for Legislators Retirement Plan. The trigger for a resumption of the full post-retirement adjustment rate applicable to retirees from the Legislators Retirement Plan is revised to be identical to the trigger for MSRS-General (*Sec. 4*).

Policy Issues Raised by the Proposed Legislation

1. Appropriateness of the drafting error correction in METO/Cambridge Specialty Health grandparenting provision.
2. Ongoing problems likely with 2014 grandparenting provision:
 - a. No clear determiner of grandparenting provision.
 - b. Difficulties in tracking grandparented eligible persons.
 - c. Unclear grandparenting if employment promotions are involved.
 - d. Corrosive effect on maintenance of minimum standards for special retirement plan coverage eligibility.
3. Need to get better MSRS-Correctional Plan coverage compliance.
4. Implications of revised disabilitant-to-retirement status State Patrol Plan provisions.
5. Appropriateness of the clarification in Legislators Plan post-retirement adjustment trigger mechanism.

Technical Amendment

H0661-1A makes three changes without any intended substantive impact in the proposed legislation:

- In Section 1, the preposition "by" is added to "employed" to balance the later preposition "with," so that it is clear that the grandparenting provision is conditioned on both current Department of Human Services employment and the absence of any Department of Human Services employment break in service.
- In Section 3, the proposed change in the age or benefit duration point shift in status for the State Patrol Retirement Plan of disabilitant to retired annuitant is made clearer by specifically referencing what is being transferred (i.e., status) and reducing the amount of parallel redundancies in language of two subdivisions compared to the provision as introduced.
- In Section 4, a reference in the post-retirement adjustment rate restoration trigger indexed to the MSRS General State Employees Retirement Plan (MSRS-General) for the Judges Retirement Plan is eliminated as obsolete, since a separate post-retirement adjustment rate reduction and restoration trigger was enacted for the Judges Retirement Plan in 2013.

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TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Lawrence A. Martin, Executive Director *JLM*
RE: H.F. 661 (O'Driscoll); S.F. 589 (Pappas): MSRS; Administrative Provisions
DATE: March 19, 2015

General Summary of H.F. 661 (O'Driscoll); S.F. 589 (Pappas)

H.F. 661 (O'Driscoll); S.F. 589 (Pappas) amends portions of Minnesota Statutes, Chapter 352, relating to the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) and the MSRS Correctional State Employees Retirement Plan (MSRS-Correctional), chapter 352B, relating to the State Patrol Retirement Plan, and Chapter 356, relating to retirement generally, by making the following changes:

1. Correction of 2014 MSRS-Correctional Plan Grandparenting Provision. The continuing eligibility for MSRS-Correctional coverage for former employees of the defunct Minnesota Extended Treatment Options Program/Minnesota Specialty Health System-Cambridge is clarified as applicable if rendering direct patient care and treatment rather than services administration (*Sec. 1*).
2. State Patrol Plan Disability Benefit Optional Annuity Clarification. The opportunity for a disabilitant to elect an optional annuity is clarified as occurring at benefit commencement, or if no election occurred then, at age 54¾ or 4¾ years of benefit receipt, whichever is later (*Sec. 2*).
3. State Patrol Plan Change in Disabilitant Transfer to Retirement Status Age. The age at which a disabilitant transfers to retirement status is changed to age 55 from age 65 for disabilitants beginning to receive benefits after July 1, 2015 (*Sec. 3*).
4. Resumption of Full Post-Retirement Adjustment Rate Trigger for Legislators Retirement Plan. The trigger for a resumption of the full post-retirement adjustment rate applicable to retirees from the Legislators Retirement Plan is revised to be identical to the trigger for MSRS-General (*Sec. 4*).

Section-by-Section Summary

A section-by-section summary of H.F. 661 (O'Driscoll); S.F. 589 (Pappas) is attached.

Background Information on Relevant Topics

The following attachments provide background information on topics relevant to the proposed legislation:

- **Attachment A:** Background information on the Department of Human Services facilities/programs with employees covered by the MSRS-Correctional plan.
- **Attachment B:** Background information on the closure of the Minnesota Extended Treatment Options Program and subsequent developments at the Minnesota Specialty Health System-Cambridge.
- **Attachment C:** Background information on the 2014 MSRS-Correctional retirement plan changes.
- **Attachment D:** Background information on the various aspects of Minnesota defined benefit retirement plan disability coverage.
- **Attachment E:** Comparison of the 2010-2014 Financial Sustainability Provisions.

Discussion and Analysis

H.F. 661 (O'Driscoll); S.F. 589 (Pappas), the MSRS 2015 Administrative Bill, revises a Correctional State Employees Retirement Plan (MSRS-Correctional) continuing coverage clause for certain employees at the Minnesota Specialty Health System-Cambridge at the time of the 2014 conversion by limiting application to those who continue in direct care and treatment of patients, rather than to those who continue to provide treatment services administration; by clarifying State Patrol Plan disabilitant optional annuity election procedures; by revising, for State Patrol Plan members who become disabled after June 30, 2105, the transfer date to retirement; and by clarifying the Legislators Plan post-retirement adjustment revision trigger procedures.

The proposed legislation raises several pension and related public policy issues for consideration by and possible discussion between members of the Commission, including the following:

1. Appropriateness of the Drafting Error Correction in METO/Cambridge Specialty Health Grandparenting Provision. The policy issue is the appropriateness in the change in the Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) membership inclusion grandparenting provision for former employees of the Minnesota Extended Treatment Options Program/Minnesota Specialty Health System-Cambridge that is portrayed by MSRS as a correction of a drafting error. During the 2014 Legislative Session, the Commission considered the issue of the proper coverage treatment for certain employees who were at the Minnesota Specialty Health System-Cambridge facility at the time of the conversion of the facility to community-based homes. The employees might be reassigned to positions which no longer qualified for MSRS-Correctional coverage because of the facility not being a facility with MSRS-Correctional coverage, because of the nature of the new position or because of a lack of sufficient inmate contact to meet general requirements for continued MSRS-Correctional coverage. To address this employee concern, grandparenting language was included which allowed those employed at the time of the 2014 conversion to community-based homes to continue in MSRS-Correctional coverage if there is no break in Department of Human Services employment and if that the service was “in the direct care and treatment services administration.” The quoted phrase is awkward at best. MSRS has concluded that the quoted phrase includes a drafting error, and that the intention was to continue coverage if the applicable employees continued to provide service “in the direct care and treatment of patients.” The grandparenting language, including the alleged drafting error, was fashioned by the Department of Human Services, which resisted any modifications in this and other MSRS-Correctional Plan coverage inclusion changes during the consideration of the 2014 legislation. While the language proposed for replacement rings of jargon and lacks clarity, the suggested corrective language lacks any specificity, which will likely lead to periodic controversies over the extent of the grandparent over time if the grandparenting provision is ever interpreted as anything other than a blanket inclusion of any former METO/MSHS-Cambridge facility employee. Consistent with viewing this as a correction of a drafting error, the proposed effective date is August 1, 2014, which was the effective date of the grandfathering language provision in the 2014 omnibus pension bill.
2. Ongoing Problems Likely with 2014 Grandparenting Provision. The policy issue is the likelihood that there will be ongoing problems with the 2014 Legislative Session provision that grandparented former employees at the prior Minnesota Extended Treatment Options Program/Minnesota Specialty Health System-Cambridge. The provision, at a minimum, is likely to cause future problems or disagreements for the following:
 - a. No Clear Determiner of Grandparenting Provision. The 2014 Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) membership inclusion grandparenting provision lacks clarity as to the determiner of when the conditions for the grandparenting have been met. To be grandparented, an employee must have been employed at the Cambridge facility immediately before its conversion to community-based homes, must have been covered by MSRS-Correctional at the time of conversion, must still be employed by the Department of Human Services, must not have had a break in service with the Department of Human Services, and must be employed in direct care and treatment "services administration" under the current law or "of patients" under the proposed legislation. The grandparented status depends on a factual determination, but the determiner is not designated. It could be the Department of Human Services, which has the greatest access to the relevant facts, Minnesota Management and Budget, which conducts the personnel and human relations functions in Minnesota state government, or the MSRS, which administers the Correctional Plan.
 - b. Difficulties in Tracking Grandparented Eligible Persons. Because grandparented personnel no longer will be employed in a Department of Human Services facility normally covered by MSRS-Correctional and likely will be dispersed throughout Department of Human Services employment, over time, it will be increasingly difficult in the future to track persons eligible for the grandparenting. Because the contribution requirements for MSRS-Correctional are significantly greater than the requirements for the MSRS General State Employees Retirement Plan (MSRS-General), any future coverage error involving grandparented personnel will create for them financial difficulties and, if lasting for any length of time, may generate requests for special pension legislation.
 - c. Unclear Grandparenting if Employment Promotions are Involved. The 2014 grandparenting language properly conditions that status on not having any break in service with the Department of Human Services, but does not treat an employment promotion similarly. An employee who is shifted from Cambridge to another Department of Human Services facility at the same employment level has a greater equitable claim to being grandparented in special retirement plan coverage than a person who changes facilities because of a promotion or shifts from the prior employment level because of a promotion, since these are changes that are voluntary.

d. Corrosive Effect on Maintenance of Minimum Standards for Special Retirement Plan Coverage Eligibility. Coverage by the MSRS Correctional State Employees Retirement Plan (MSRS-Correctional), as quasi-public-safety retirement coverage, is appropriately limited to employees who serve in employment positions that approach the employment requirements and employment risks and hazards of police or firefighter employment. The grandparenting of employees who once met that standard, but do not do so subsequently after dispersal into other employment circumstances will likely prompt other employees in other facilities performing the same duties as grandparented employees to demand the same retirement coverage and will make the decisions of the Commission and the Legislature to retain the special retirement coverage limited to special employment situations more difficult.

3. Need to Get Better MSRS-Correctional Plan Coverage Compliance. The policy issue is the need to address the longstanding problem of inadequate compliance with the inclusion requirements of the MSRS Correctional State Employees Retirement Plan. Membership in MSRS-Correctional, as provided in statute, for correctional officers and security counselors, the initial employees included in plan membership, depends on two factors, the employing facility (either a correctional facility, the Minnesota Security Hospital, or the Minnesota Sex Offender Program facilities), and the employment occupation title (corrections officer 1, 2, or 3, corrections officer supervisor, corrections lieutenant, corrections captain, corrections canine officer, security counselor, or security counselor lead). For all other plan members, inclusion is a function of the employing facility (the three identified for correctional officers/security counselors plus the Minnesota Specialty Health System-Cambridge), the employment occupational title (198 occupational positions beyond the nine identified for correctional officers/security counselors), and the extent of working time (75%) spent in direct contact with inmates or patients in a covered facility as certified by the applicable commissioner.

The Commission staff last reviewed a detailed listing, by occupational title and employing facility, as of October 12, 2012, and that review identified 32 MSRS-Correctional plan members who were then likely incorrectly included in coverage, as follows:

<u>Number of Employees</u>	<u>Position Name</u>	<u>Employment Place</u>	<u>Reason for Coverage Question</u>
Department of Corrections:			
1	Correctional Food Services Super	MCF-St. Cloud	Not specified in M.S. Sec. 352.91
2	Corrections Program Director	MCF-Rush City	Not specified in M.S. Sec. 352.91
1	Clinical Program Therapist 2	Community Services Field	Not included DOC facility
1	Correctional Agent	Community Services Field	Not included DOC facility
1	Correctional Captain	Minn. Dept. of Corrections	Not included DOC facility
2	Correctional Lieutenant	Minn. Dept. of Corrections	Not included DOC facility
4	Correctional Officer 2	Minn. Dept. of Corrections	Not included DOC facility
1	Correctional Officer 3	Community Services Field Services-St. Paul	Not included DOC facility
15	Correctional Officer 3	Minn. Dept. of Corrections	Not included DOC facility
2	Corr. Security Caseworker Career	Minn. Dept. of Corrections	Not included DOC facility
Department of Human Services:			
2	Behavior Analyst 2	Minn. Intensive Therapeutic Homes-Moose Lake	Not included DHS facility
1	Behavior Analyst 3	Forensic Team	Not included DHS facility
2	Clinical Program Therapist 3	Minn. Intensive Therapeutic Homes-Moose Lake	Not included DHS facility

A decade ago, when the Commission staff reviewed an MSRS-Correctional plan membership occupation name and facility list, MSRS acknowledged some inclusion errors, but disputed many of the questioned inclusions by simply asserting, without providing any documentation of its contention, that the inclusion was properly certified.

Some steps are undoubtedly needed to ensure that MSRS is vigilant in verifying that the inclusion requirements have been met in all MSRS-Correctional plan membership instances, and more importantly, to ensure that the commissioners of the two departments are properly certifying employees who are appropriately MSRS-Correctional plan members.

4. Implications of Revised Disabilitant-to-Retirement Status State Patrol Plan Provisions. The policy issue is the implications that arise out of the proposed clarification or revision of the statute that requires the transfer of a State Patrol Retirement Plan disabilitant to the status of a retirement annuitant at some age or point of benefit receipt. Section 3 will cause State Patrol Plan members newly disabled after June 30, 2015 to transfer to retirement status at age 55 or the five year anniversary of the disability, whichever is later, rather than at age 65 or the five year anniversary of the disability, whichever is later. This change does not apply to anyone who is already disabled, but some State Patrol Plan members may object to the change. If this section of the bill were revised by amendment to apply to all State Patrol plan disabilitants, both new disabilitants and those currently in that status, the change would yield modestly higher cost savings to the plan, but would create more opposition to the change.

The particular age to be used does have cost implications for the plan. Disabilitants impose cost on the plan beyond the benefits being paid, due to a need for physical or psychological exams and continued monitoring of whether the individual has recovered sufficiently to no longer justify continued receipt of disability benefits. Thus, lowering the disabilitant transfer to retirement age to general age 55 (for those first disabled after June 30, 2015) should, at least in the future, produce minor administrative cost savings. Automatic spousal benefits also add to plan cost. The State Patrol Retirement Plan includes automatic payment of an annuity to the surviving spouse if the disabilitant dies before electing a joint-and-survivor annuity. This coverage is without direct cost to the member. In other words, there is no reduction in the monthly disability benefit paid to the member to provide this automatic surviving spouse coverage, as there would be under an elected joint-and-survivor annuity. Thus, a move to general age 55 for the disability-to-retirement transfer date, at least for new disabilitants, would help lower plan costs by ending the need for disabilitant monitoring and by requiring the individual to choose optional joint-and-survivor coverage at general age 55, rather than general age 65.

While a move to general age 55 rather than 65 makes sense from the standpoint of the pension fund administration and those who provide financial support to the pension fund, that change does have negative implications from the standpoint of the prospective disabilitant. The Commission staff's understanding is that retirement benefits are subject to income taxation while disability benefits might not be. Also, further financial burden would be placed on the disabilitant/retiree at age 55 if surviving spouse coverage is desired, because that will no longer be automatically provided. It would need to be elected and paid for by applicable benefit amount reductions.

The current law use of general age 65 in this State Patrol Plan termination of disability benefit provision is due to action taken by the 1993 Legislature. In the early 1990s, the pension plan administrations were concerned that disability eligibility provisions in several plans could lead to age discrimination complaints. In public safety and quasi-public safety plans eligibility for plan disability provisions ended at age 55, the normal retirement age for the given plans. Disabilitant transfer-to-retirement-status provisions declared that when an existing disabilitant turned age 55, the individual must be considered to be a retiree. Based on the recommendation of a consultant to one of the plan administrations, in 1993, the Minnesota State Retirement System (MSRS) and the Public Employees Retirement Association (PERA) recommended striking age limitations in disability eligibility provisions. A further recommendation was to revise disabilitant transfer-to-retirement-status provisions in public safety plans by removing age 55 and inserting "age 65 or the five-year anniversary of the disability, whichever is later." The plan administrations were told this "age 65" language was a safe harbor which would avoid any successful age discrimination complaints. Although Commission staff advised further review of the proposed change rather than immediate legislative action, no further review occurred and various changes to address age discrimination concerns was enacted in Laws 1993, Chapter 307.

In the years following 1993, it became generally recognized that use of "age 65" language in public safety plans was an unnecessary overreaction. Age 65 was the normal retirement age used by the Social Security Old Age Program, and it was the normal retirement age for Minnesota general employee plans. But there was no need to apply age 65 in disability-related provisions in public safety plans and quasi-public safety plans where the plan normal retirement age is age 55. Over the years, most of these "age 65" references have been dropped from public safety and quasi-public safety plan provisions. MSRS is proposing to remove an "age 65" remnant from a State Patrol Plan provision in Section 3 of the bill. Its removal should not present an age discrimination concern. However, the change would create some cost savings for the plan, although the impact will be quite modest because the change will only apply to new disabilitants. The Commission may also wish to consider that the change will also have real impacts for new disabilitants. Taxation of benefits after age 55 is likely to become considerably less favorable, and those individuals will no longer be able to rely on automatic surviving spouse coverage after age 55. The individual will need to elect a joint-and-survivor annuity to provide that coverage.

5. Appropriateness of the Clarification in Legislators Retirement Plan Post-Retirement Adjustment Trigger Mechanism. The policy issue is the appropriateness of a change in the trigger reestablishing the full 2.5% annual post-retirement adjustment for the Legislators Retirement Plan. Because the Legislators Plan is not actuarially funded beyond the full funding of some retired legislators before 2008, when the general 2.5% annual post-retirement adjustment provision applicable to the statewide retirement plans under Minnesota Statutes, Section 356.415, were downsized in 2010 as a response to the 2008 Great Recession, a funded-ratio trigger for the restoration of the full annual post-retirement adjustment rate was specified for each statewide retirement plan, with the trigger for the Legislators Retirement Plan indexed to the funded ratio of the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General). In 2014 (Laws 2014, Ch. 296, Art. 11, Sec. 3) the Legislature passed a revision in this MSRS post-retirement adjustment provision intended to require two consecutive actuarial valuations showing funding ratios in excess of 90%, rather than one, before the plan could pay 2.5% adjustments rather than 2.0%. This was supposed to apply to all the MSRS plans other than the State Patrol Plan, but the language did not clearly pick up the change for the Legislators Plan. Section 4 of the bill is intended to clarify that the more stringent two-valuation hurdle, rather than a single actuarial valuation, also applies to the Legislators Plan. The clarification of Legislators Plan post-retirement adjustment procedures in Section 4 does seem appropriate to ensure that retired legislator post-retirement adjustments do not increase to 2.5% earlier than for the retirees of other MSRS plans. Commission members may choose to consider that failure to make that clarification could be viewed negatively by the public.

Technical Amendment

Amendment H0661-1A makes three changes without any intended substantive impact in the proposed legislation, as follows:

- In Section 1, the preposition "by" is added to "employed" to balance the later preposition "with," so that it is clear that the grandparenting provision is conditioned on both current Department of Human Services employment and the absence of any Department of Human Services employment break in service.
- In Section 3, the proposed change in the age or benefit duration point shift in status for the State Patrol Retirement Plan of disabilitant to retired annuitant is made clearer by specifically referencing what is being transferred (i.e., status) and reducing the amount of parallel redundancies in language of two subdivisions compared to the provision as introduced.
- In Section 4, a reference in the post-retirement adjustment rate restoration trigger indexed to the MSRS General State Employees Retirement Plan (MSRS-General) for the Judges Retirement Plan is eliminated as obsolete, since a separate post-retirement adjustment rate reduction and restoration trigger was enacted for the Judges Retirement Plan in 2013 (Laws 2013, Ch. 111, Art. 14).

Section-by-Section Summary of H.F. 661 (O'Driscoll); S.F. 589 (Pappas)

Sec.	Pg.Ln	Stat. Provision	Plan	Summary
1	1.9	352.91, Subj. 3e	MSRS- Correctional	Language enacted in 2014, which continued MSRS-Correctional Plan coverage for certain employees employed at the Minnesota Specialty Health System-Cambridge when that facility was converted to community-based homes in 2014 if the employee continued without break in service with the Department of Human Services in the "direct care and treatment services administration," is revised by clarifying that the service must be in the direct care and treatment of patients.
2	2.14	352B.10, Subd. 5	State Patrol	A State Patrol Retirement Plan disabilitant optional annuity election provision is revised by clarifying language, including clarifying the timing of the election approaching the five-year anniversary of the disability.
3	2.28	352B.105	State Patrol	The State Patrol Retirement Plan disabilitant-transfer-to-retirement provision is revised by formatting the provision into subdivisions, and by requiring that transfer to retirement will occur generally at age 55 rather than age 65 for those first disabled after June 30, 2015.
4	3.18	356.415, Subd. 1a	MSRS-Plans other than State Patrol	The post-retirement adjustment procedure provision applicable to MSRS plans other than State Patrol Retirement Plan (revised in 2014 to generally require two consecutive actuarial valuations indicating a funding ration of at least 90%, rather than one actuarial valuation, before a plan can provide 2.5% adjustments rather than two percent adjustments), is further revised to clarify that the two-actuarial-valuation requirement also applies to the Legislators Retirement Plan.

Background Information on the Department of Human Services Facilities/Programs with Employees Covered by the MSRS-Correctional Plan

1. Introduction. When the Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) was created in 1973 (Laws 1973, Ch. 653, Sec. 39-44), the plan was primarily created to engender personnel changes within the prison guard population within the Department of Corrections by providing enhanced retirement benefits at an earlier normal retirement age. Sometime during its drafting or during legislative consideration of the legislation, rehabilitation therapists at the Minnesota Security Hospital were included in the program, which traded enhanced retirement coverage for an early mandatory retirement age. With the inclusion in MSRS-Correctional of Minnesota Security Hospital rehabilitation counselors, Department of Human Services facilities or programs and their employees were incorporated into quasi-public-safety personnel retirement coverage.
2. State Provision of Secure Confinement of Dangerous Mentally or Psychologically Impaired Persons. Minnesota has a long history of providing human services to individuals at state-run facilities. The Minnesota Legislature began establishing state institutions for individuals with physical or mental disabilities shortly after statehood.

In 1866 (Laws 1866, Ch. 6), the Legislature authorized the establishment of the first state-operated hospital. A temporary hospital opened in St. Peter in 1866, and the first wing of the permanent hospital at St. Peter opened in 1873. Although most state hospitals have closed over time, the regional treatment center at Anoka and the Minnesota Security Hospital in St. Peter continue to serve individuals with mental illness from throughout the state.

State-Operated Services (SOS) is a division of the Department of Human Services, and delivers publicly funded behavioral health care and support services to persons who have complex and sometimes interrelated conditions, including chemical dependency, developmental disabilities, mental illness, and traumatic brain injuries.

3. Department of Human Services Program/Facilities with MSRS-Correctional Plan Coverage.
 - a. In General. The Department of Human Services operates three programs or facilities at which there are employees covered by MSRS-Correctional. The programs or facilities are the Minnesota Security Hospital at St. Peter, the Minnesota Specialty Health System in Cambridge, and the Minnesota Sex Offender Program facilities at Moose Lake and at St. Peter. The Department of Human Services was included in MSRS-Correctional coverage solely for rehabilitation therapists at the Minnesota Security Hospital in 1973, when the retirement plan was created. Coverage of Department of Human Services employees by the MSRS-Correctional plan has grown considerably over the 41-year existence of the plan. The Department of Human Services provided the following information on the growth of MSRS-Correctional coverage for its employees over the 28-year period 1994-2012:

Year	1994	1997	2000	2003	2006	2009	2012
Employees	26	72	149	221	666	992	1391
Numeric Change	--	+46	+77	+72	+445	+326	+399
Percentage Change	--	277%	107%	48%	201%	49%	40%

- b. Minnesota Security Hospital and the St. Peter Regional Treatment Center Campus. The St. Peter campus is the locale for the State Operated Forensic Services. That division of the Department of Human Services consists of nine programs that provide evaluation and treatment to individuals involved with the legal system due to a crime. These programs serve people committed, under Minnesota Statutes, Chapter 253B, to the Commissioner of Human Services as Mentally Ill and Dangerous (MI&D) or as a person with developmental disabilities or a related condition who presents a public safety risk. Also served are people with mental illness who the court has ordered for evaluation and treatment, under Minnesota Rules of Criminal Procedure, 20.01 and 20.02, before the start of a criminal trial. The nine programs operated in St. Peter, according to the Department of Human Services, are:

- Minnesota Security Hospital
- Forensics Transition Services
- Competency Restoration Program
- Forensic Nursing Home
- Community Support Services
- Forensic Network
- Special Needs Services
- Young Adult and Adolescent Program
- Forensic Community Residential Support Services

- 1) **Minnesota Security Hospital.** Despite its name, the Minnesota Security Hospital is not licensed as a hospital. Rather, it is Minnesota’s only facility that provides extended residential treatment for mental illness in a secure setting.

The Minnesota Security Hospital is located on a large campus in St. Peter that once housed both the Security Hospital and a regional treatment center for individuals with mental illness and developmental disabilities. The Security Hospital consists of several buildings, the largest

being a high-security building constructed in 1982 and further expanded in 1996. Despite its name, the Minnesota Security Hospital is not licensed as a hospital, but rather as a residential treatment facility and supervised living facility.

Although the Minnesota Security Hospital is frequently thought of as a single, large facility, its campus in St. Peter actually houses four separate SOS programs. All of these programs are “forensic” programs in that they provide evaluation, treatment, or care for mentally ill individuals involved with the criminal justice system.

The secure residential units of the Minnesota Security Hospital provide long-term care and treatment for patients that are civilly committed as mentally ill and dangerous. Additionally, some individuals are sent to the secure units for court-ordered mental health evaluations. Patients live on locked wards with 24-hour monitoring by security staff. Patients are housed in three different buildings at the Security Hospital. The largest building is entirely secure, and contains eight patient residential units as well as the Competency Restoration Unit. A second building houses only Transition Services patients and is non-secure. A third building is shared by three secure residential units and one less-secure unit for Transition Services patients. In the secure residential units, each unit is separately secured. Patients with similar mental illnesses are housed together, and each unit provides differentiated programming directed toward its patients’ particular needs. Each unit also has rooms where patients can be restrained or held in seclusion when necessary.

Programming and treatment are designed to improve mental health so that patients can transfer to less restrictive settings. On July 1, 2012, there were 247 patients housed in the secure units.

- 2) **Forensics Transition Services** is a less restrictive environment for former residents of the secure residential units who have improved to the point that they can more safely interact with each other, staff, and the community. Patient activities are monitored, but there is no security staff in Transition Services residential units, and patients have greater flexibility to choose their activities.

In Forensics Transition Services, patients have relatively unrestricted access to building amenities and staff work areas. The unit in the shared building is locked from the inside so that patients can only leave the premises when permitted by a staff member; however, it is open from the outside so that patients can return at will. The other building has no physical barrier to entrances or exits. Patients in either setting are routinely permitted to leave the buildings and walk around the campus. The majority can earn passes which allow them to have unsupervised access to the community.

Programming is designed to teach skills patients will need to live-long term in less restrictive settings. Individuals committed as mentally ill and dangerous may not be transferred to less restrictive settings without the approval of a special review board appointed by the Commissioner of Human Services. On July 1, 2012, there were 84 patients in Transition Services.

Some employees of the Forensics Transition Services were initially covered by the MSRS-Correctional plan in 2007 without any specific legislative authorization. As of February 2014, 73 Department of Human Services employees were covered by MSRS-Correctional in nine occupational classifications, as follows:

Position Title	Number of Employees
Behavior Analyst 2	4
Human Services Support Specialist	18
Licensed Practical Nurse	24
Occupational Therapist Senior	1
Psychologist 3	1
Recreation Therapist Senior	6
Registered Nurse	10
Registered Nurse Senior	3
Social Worker Specialist	6

- 3) **The Competency Restoration Program** is a short-term program for individuals who were determined by a court to be incompetent to stand trial. Individuals in this program are assisted to understand basic legal concepts so that they can participate in a trial. The average length of stay in the program was about 5.5 months. The Competency Restoration Program is housed within the Security Hospital’s secure building and operates under the same license, but it serves a fundamentally different purpose than the treatment programs serving other patients at the Security Hospital. On July 1, 2012, there were 29 persons enrolled in the Competency Restoration Program.

It is unclear when some employees of the Competency Restoration Program were initially covered by the MSRS-Correctional plan. The Department of Human Services, in response to Commission staff inquiries, indicates that some personnel "were relocated from Human Services Technicians to Security Counselors were moved into CERP in 2012." The expansion of MSRS-Correctional plan coverage to this program was never specifically authorized by legislation.

As of February 2014, 42 Department of Human Services employees were covered by MSRS-Correctional in seven occupational classifications, as follows:

Position Title	Number of Employees
Licensed Practical Nurse	5
Recreation Program Assistant	1
Recreation Therapist Senior	1
Registered Nurse	6
Registered Nurse Senior	1
Security Counselor	26
Social Work Specialist	2

- 4) **The Forensic Nursing Home** operates under a separate license and in a separate building from the rest of the Minnesota Security Hospital complex. The Forensic Nursing Home is a facility for residents who are potentially a danger to themselves or others and who need higher levels of medical care for physical illnesses or disabilities. Patients primarily come from the Minnesota Security Hospital, the state-run Minnesota Sex Offender Program, or state prisons. Many of the patients have chronic medical issues that require long-term or permanent nursing care. Others are receiving end-of-life care. On July 1, 2012, there were 28 patients housed at the Forensic Nursing Home.

Some employees of the Forensic Nursing Home were initially covered by the MSRS-Correctional plan in 2008 without any specific legislative authorization. As of February 2014, 52 Department of Human Services employees were covered by MSRS-Correctional in seven occupational classifications, as follows:

Position Title	Number of Employees
Human Services Support Specialist	30
Licensed Practical Nurse	10
Recreation Therapist Lead	1
Recreation Therapist Senior	1
Registered Nurse	6
Registered Nurse Senior	3
Social Work Specialist	1

- c. Former METO/Minnesota Specialty Health System in Cambridge. The 1995 Legislature authorized the Commissioner of Human Services to develop a specialized service model at the Cambridge Regional Human Services Center campus to serve Minnesotans who have a developmental disability and exhibit severe behaviors that present a risk to public safety. The program that was developed was known as the Minnesota Extended Treatment Options (METO) Program. METO combined extensive outreach and support services with the availability of specialized residential beds so that individuals can be served in the least restrictive setting necessary. With extensive outreach and support services available elsewhere, admission to the program was limited to those few individuals who exhibited such extreme behaviors that they could not be served safely in their communities.

METO program participants were required to be mentally retarded, be of adult age, and exhibit behaviors that present a risk to public safety. Most individuals were placed in METO under the Minnesota Civil Commitment and Treatment Act, with the majority being committed as a person with mental retardation. Before its closure in 2011, METO had the capacity to provide specialized residential services for up to 48 clients.

Minnesota Specialty Health System-Cambridge provides services to individuals diagnosed with developmental disabilities or related conditions who may be highly complex with a history of legal problems, public safety and/or personal safety concerns due to significant behavioral disturbances and/or poorly managed medical conditions. The program replaced the Minnesota Extended Treatment Options Program. METO closed on June 30, 2011, as a result of the settlement of the 2009 federal district court *Jensen v. Minnesota Department of Human Services* litigation and initially was replaced by the Minnesota Specialty Health System-Cambridge. Subsequent events, including a delay until 2012 in Minnesota Department of Health licensing, Department of Human Services Licensing Division correction orders for failures in 2012 to discontinue the use of mechanical restraints at the facility as required under the 2011 federal litigation settlement, a 2012 State Ombudsman for Mental Health and Developmental Disabilities report criticizing the facility's treatment activities, and a suspended departmental plan to convert the facility into a Minnesota Sex Offender Program facility leave the future of the facility and the appropriateness of its continued inclusion in MSRS-Correctional plan coverage in doubt.

Inclusion of nine occupational classifications of the METO Program in the MSRS-Correctional plan occurred by specific legislation (Laws 1999, Ch. 222, Art. 13). The following compares the 53 METO Program employees covered by the MSRS-Correctional plan as of June 30, 2011, when the program was closed, with the 34 Minnesota Specialty Health System-Cambridge employees covered by MSRS-Correctional as of February 2014:

Minnesota Extended Treatment Options Program June 30, 2011		MSHS-Cambridge February 18, 2014	
Position Title	Number of Employees	Position Title	Number of Employees
Behavior Analyst 1	4	Behavior Analyst 1	3
--	--	Behavior Analyst 2	1
Behavior Analyst 3	1	--	--
Group Supervisor Assistant	1	Group Supervisor Assistant	1
Human Services Support Specialist	42	Human Services Support Specialist	26
Psychologist 2	1	--	--
Recreational Therapist Senior	1	Recreational Therapist Senior	1
Registered Nurse Senior	1	Registered Nurse Senior	1
Residential Program Lead	1	--	--
Skills Development Specialist	1	Skills Development Specialist	1

- d. The Minnesota Sex Offender Program. The Minnesota Sex Offender Program (MSOP) provides services for persons who are civilly committed for sex offenses or for individuals that are found to be either a “sexual psychopathic personality” or a “sexually dangerous person” by a court. Most MSOP clients have completed prison sentences and are civilly committed by the courts and placed in treatment for an indeterminate period of time.

A sexual psychopathic personality is a person who, as a result of a mental or emotional condition:

- engaged in a “habitual course of misconduct in sexual matters;”
- has an “utter lack of power to control the person’s sexual impulses;” and
- as a result of this inability to control his/her behavior is “dangerous to other persons.”

A sexually dangerous person is a person who:

- has “engaged in a course of harmful sexual conduct” that creates a “substantial likelihood of serious physical or emotional harm to another;”
- the person has a sexual, personality, or mental disorder; and
- the person is likely to engage in harmful sexual conduct in the future.

MSOP is one program with two locations – Moose Lake and St. Peter. As of January 1, 2012, MSOP was providing treatment for 635 clients across both sites, with 474 clients at Moose Lake and with 161 clients at St. Peter. Most clients begin treatment at the MSOP Moose Lake facility and after successfully completing the first two phases of treatment, are transferred to the St. Peter facility to complete treatment and begin working toward provisional discharge. Clients acquire skills through active participation in group therapy and are provided opportunities to demonstrate meaningful change through participation in rehabilitative services including education classes, therapeutic recreational activities and vocational work program assignments. MSOP staff observes and monitors clients not only in treatment groups, but also in all aspects of daily living.

MSOP clients average 46 years of age and the vast majority are European/European-American. Over 57% of MSOP clients were committed from a non-Metro county, with over 22% committed from Hennepin County. Over 81% of MSOP clients have completed 12 years of education or have a General Education Diploma (GED).

- 1) **Moose Lake MSOP Treatment Facility.** With the exception of clients receiving alternative treatment, clients begin the commitment at MSOP’s Moose Lake facility. Moose Lake clients include individuals involved in the civil commitment process, non-participants and those participating in initial and primary stages of treatment. MSOP’S Moose Lake facility clients are housed in two buildings. Main, originally built in 1995, houses 102 clients. Complex One, built in 2009, houses 337 clients.
- 2) **St. Peter MSOP Treatment Facility.** The DHS-run Minnesota Sex Offender Program on the St. Peter campus was physically and administratively separated from State Operated Services in 2008. Its buildings are contained within a separate high-security perimeter; other than a few shared functions like mail and food service, it shares no staff with the Minnesota Security Hospital or other State Operated Services programs. Individuals who have demonstrated meaningful change and have progressed through treatment move to St. Peter to begin the reintegration process. St. Peter also provides alternative treatment for clients for whom conventional programming is not appropriate. These clients require unique treatment approaches due to development disabilities, traumatic brain injuries and/or severe learning disabilities. MSOP’s St. Peter facility occupies four buildings on the Minnesota Security Hospital campus, housing 148 patients.
- 3) **Minnesota Sex Offender Program – Department of Corrections.** In addition to MSOP’s two primary facilities, MSOP operates a 50-bed sex offender treatment program at the Moose Lake Minnesota Correctional Facility for offenders who have been identified as likely to be referred for civil commitment, but are still serving their correctional sentences. This program offers treatment similar in scope and design to treatment provided at the MSOP Moose Lake facility.

Background Information on the Closure of the Minnesota Extended Treatment Options Program and Subsequent Developments at the Minnesota Specialty Health System-Cambridge

METO was the former Minnesota Extended Treatment Options Program (METO). METO was created within the Department of Human Services in the 1990s. There was concern at that time that there would be situations in which individuals with disabilities were going to have crises, had lost their placements, were coming out of prison, or were at risk of going to prison, and so the Department of Human Services wanted an alternative to do that and a 48-bed facility was established on the former Cambridge State Hospital campus. The 1995 Legislature authorized the Commissioner of Human Services to develop a specialized service model at the Cambridge Regional Human Services Center campus to serve Minnesotans who have a developmental disability and exhibit severe behaviors that present a risk to public safety. The program that developed was known as the Minnesota Extended Treatment Options Program. METO combined extensive outreach and support services with the availability of specialized residential beds so that individuals can be served in the least restrictive setting necessary. With extensive outreach and support services available, admission to the program was limited to those few individuals who exhibited such extreme behaviors that they could not be served safely in their communities.

METO program participants were required to be mentally retarded, be of adult age, and exhibit behaviors that present a risk to public safety. Most individuals were placed in METO under the Minnesota Civil Commitment and Treatment Act. METO had the capacity to provide specialized residential services for up to 48 clients.

Family members of three patients first raised concerns about patient treatment at METO in 2007. The state ombudsman launched a year-long investigation that found that individuals were being routinely restrained in a prone face down position and placed in metal handcuffs and leg hobbles. Litigation followed.

Jensen v. Minnesota Department of Human Services, litigation heard by U.S. District Judge Donovan Frank in St. Paul, alleged that the Minnesota Extended Treatment Options, a facility in Cambridge, frequently subjected patients with developmental disabilities to improper and inhumane use of seclusion and mechanical restraints. A federal judge gave final approval to a settlement reached between the State of Minnesota and 300 developmentally disabled former residents of a state-run institution. The 2012 settlement includes not only compensation for victims, but a far-ranging plan to improve the treatment of disabled people in the state. The settlement mandates training for DHS staff with an emphasis on positive behavioral support and requires regular reporting over the next two years. METO closed as a part of a settlement of the litigation. The agreement required DHS, in part, to

- 1) close METO by June 30, 2011;
- 2) adopt new policies prohibiting seclusion and limiting the use of restraints to emergency situations in SOS facilities for people with developmental disabilities and severe behavioral problems;
- 3) increase nonresidential services staffing;
- 4) implement new and increased training requirements; and
- 5) put in place an oversight process to ensure that new restraint policies were followed.

The agreement also required the state to establish a class action settlement fund of \$3 million for METO residents who had been unlawfully restrained, with \$2.8 million coming from the state and \$200,000 coming from two insurance companies.

METO closed on June 30, 2011, as a result of the settlement of the 2009 federal district court Jensen v. Minnesota Department of Human Services litigation and has been replaced by the Minnesota Specialty Health System-Cambridge. In July 2011, the 48-bed facility in Cambridge was shut down as part of a statewide reorganization. It reopened with a new, 16-bed facility known as Minnesota Specialty Health System-Cambridge in the same location. As reconfigured, Minnesota Specialty Health System-Cambridge provided services to individuals diagnosed with developmental disabilities or related conditions who may be highly complex with a history of legal problems, public safety and/or personal safety concerns due to significant behavioral disturbances and/or poorly managed medical conditions. The facility was initially licensed by DHS as a residential facility for persons with developmental disabilities, a license that does not qualify the facility for federal reimbursements.

Subsequently, the Stipulated Class Action Settlement Agreement (09-CV-1775 DWF/FLN) associated with the former Minnesota Extended Treatment Options (METO) program required DHS to draft a bill to replace outdated terms that appear in Minnesota Statutes and Rules. Instruction to that effect was provided in Laws 2012, Chapter 216, Article 12, Section 10.

In 2011, as part of a \$3 million federal class action settlement, DHS agreed to “immediately and permanently discontinue the use of mechanical restraint,” including handcuffs and leg irons at its facility in Cambridge. The state agency also agreed to extend the terms of the settlement to all state-operated facilities serving people with developmental disabilities. However, DHS did not submit a license application for the Minnesota Specialty Health System-Cambridge facility until February 2012. The facility was licensed by the Minnesota Department of Health on April 24, 2012, roughly 10 months after its reopening.

DHS’s Licensing Division determined that the new Cambridge facility also had problems with use of restraints in emergency situations. In February 2012, DHS conducted its first licensing review and issued a correction order because the facility did not adhere to its policy that required reporting the use of restraints within 24 hours. In July 2012, the department issued two more correction orders within a week of each other for similar violations. In October 2012, licensing staff cited the facility for using restraints in inappropriate circumstances. A day later, licensing staff issued another correction order—the facility’s fourth since mid-February for not adhering to facility policy regarding the review and reporting of the use of restraints.

In September 2012, the state Ombudsman for Mental Health and Developmental Disabilities made an unannounced visit to the facility. The ombudsman’s report documented various concerns related to the facility’s treatment activities, inappropriate medication of residents as a form of “chemical restraints,” lack of vocational and rehabilitative programming, and use of the local medical center when a resident’s behavior is out of control.

In October 2013, the Department of Human Services formulated a plan that would move clients of the Minnesota Sex Offender Program to Cambridge to be housed at the Minnesota Specialty Health System-Cambridge campus. That proposal was opposed by city officials and residents. In November, 2013, Governor Mark Dayton suspended the plans by the Minnesota Sex Offender Program to transfer clients to a facility in Cambridge until certain conditions have been met.

Until 2014, the Minnesota Specialty Health System-Cambridge campus served individuals who were civilly committed for developmental disabilities and presented a public safety risk. They included some clients with sexual offense histories and others who were sent to the program as they underwent competency assessments to stand trial for criminal charges. Some clients had dual diagnoses as developmentally disabled and mentally ill.

In December 2013, a federal judge admonished the state Department of Human Services (DHS) for illegally operating a home for people with developmental disabilities in Cambridge for 10 months without a license and for concealing the oversight. The licensing violation raised new questions about safety and oversight of the Cambridge facility, where over a decade’s time numerous developmentally disabled adults were improperly restrained by staff. The failure to obtain a license was significant because it meant the Cambridge facility was not subject to regular inspections by state officials to determine if it was still using restraints in violation of the settlement. Federal Judge Donovan Franks’ order included a finding that DHS consciously concealed and misled the federal court and the plaintiffs in the prior class action settlement. Attorneys in the class action case are seeking \$150,000 in sanctions against DHS for the violation. The money would be paid into a court fund to assist people with developmental disabilities and their families.

Background Information on the 2014 MSRS-Correctional Retirement Plan Changes

1. MSRS-Correctional Employee and Employer Contribution Rate Increase Codified. Consistent with Minnesota State Retirement System (MSRS) board recommendations and based on the operation of the MSRS procedure for revising contribution rates (Minn. Stat. Sec. 352.045), the Correctional State Employees Retirement Plan (MSRS-Correctional) employee contribution rate was increased by 0.5% of pay (from 8.6% to 9.1% of pay) and the corresponding employer contribution rate is increased by 0.75% of pay (from 12.10% to 12.85%), beginning July 1, 2014. (*Laws 2014, Ch. 296, Art. 3, Sec. 3-4; Source: SF 2441 (Pappas); HF 3013 (Nelson)*)
2. Revisions in State Operated Forensic Services Program Provisions. Plan coverage was expanded by replacing coverage for the Minnesota Security Hospital with coverage for the State-Operated Forensic Services Program, consisting of the Minnesota Security Hospital, the Forensic Nursing Home, the Forensic Transition Service, and the Competency Restoration Program. The revised provisions are the plan policy statement provision (Minn. Stat. Sec. 352.90), the covered correctional service qualifying jobs subdivision (Minn. Stat. Sec. 352.91, Subd. 1), the covered correctional service maintenance, correctional industry, and trades subdivision (Minn. Stat. Sec. 352.91, Subd. 2), the covered correctional service nursing personnel subdivision (Minn. Stat. Sec. 352.91, Subd. 3c), the covered correctional service other correctional personnel subdivision (Minn. Stat. Sec. 352.91, Subd. 3d), and the covered correctional service additional Department of Human Services personnel subdivision (Minn. Stat. Sec. 352.91, Subd. 3f). In addition, a new subdivision was added to the covered correctional service section (Minn. Stat. Sec. 352.91, Subd. 3j) defining “state-operated forensic services program” to mean the Minnesota Security Hospital, the Forensic Nursing Home, the Forensic Transition Service, and the Competency Restoration Program. (*Laws 2014, Ch. 296, Art. 5, Sec. 1-5, 7-8. Source: SF 2308 (Johnson); HF 2607 (Murphy, M., by request)*)
3. Revised Reference to Licensed Practical Nurse Positions. In recognition of the consolidation of the “licensed practical nurse 1” and “licensed practical nurse 2” occupational titles, references to those positions were replaced with “licensed practical nurse” in the nursing personnel and additional Department of Human Services personnel provision (Minn. Stat. Sec. 352.91, Subd. 3c, 3f). (*Laws 2014, Ch. 296, Art. 5, Sec. 4, 7. Source: SF 2308 (Johnson); HF 2607 (Murphy, M., by request) and House Ways and Means amendment H1951A1*)
4. Addition of Clinical Program Therapist 2 Position. The position “clinical therapist 2” was added for plan coverage if the minimum 75% inmate or patient contact standard is met. (*Laws 2014, Ch. 296, Art. 5, Sec. 7. Source: SF 2308 (Johnson); HF 2607 (Murphy, M., by request) and House Ways and Means amendment H1951A1*)
5. Correction of Disability Filing Deadline Cross-Reference. In the Revisor of Statutes' technical correction bill, the MSRS-Correctional disability benefit provision was revised by correcting a cross-reference to a provision specifying the application deadline date. (*Laws 2014, Ch. 275, Art. 2, Sec. 25. Source: SF 1997 (Latz); HF 2546 (Yarusso)*)
6. Grandfathering of Continued Plan Coverage for Certain Minnesota Specialty Health System-Cambridge Employees. Any MSHS-Cambridge employee with MSRS-Correctional coverage immediately before the conversion of the facility to the Community-Based Homes Program retains that coverage, no matter what Department of Human Services facility employs the person, if there is no break in service with direct care and treatment services administration. (*Laws 2014, Ch. 296, Art. 5, Sec. 6. Source: SF 2308 (Johnson); HF 2607 (Murphy, M., by request)*)

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Background Information on Various Aspects of Minnesota Defined Benefit Retirement Plan Disability Benefit Coverage

1. Disability Casualty Benefit Coverage in General. Although Minnesota public pension plans exist primarily to provide retirement annuities to plan members who reach a conclusion of their regular working lifetimes, Minnesota plans have long provided casualty benefit coverage, including disability benefit coverage. Among past Minnesota public safety employee retirement plans, the local police and paid firefighter relief associations, casualty benefit coverage proceeded the age and service retirement annuity, which grew out of superannuation disability benefit coverage, when a plan participant became so enfeebled by age, without a specific illness or injury, that the person qualified for a retirement benefit.

Most Minnesota public pension plans provide disability benefit coverage as part of their package of benefits. The exceptions are the Legislators Retirement Plan, the Elective State Officers Retirement Plan, and some volunteer firefighter relief associations. As elected officials, legislators and constitutional officers who suffer a disability in office would be entitled to a continuation of salary for the length of their term unless they choose to resign before the end of their term. Volunteer firefighter relief associations are authorized to provide disability, death, or survivor benefits beyond a service pension, at their election.

Basic retirement plans, where the public pension plan coverage does not supplement Social Security coverage, provide the totality of disability benefit coverage. Coordinated retirement plans provide benefit coverage that supplements Social Security disability benefits and both provide disability coverage. Public safety and quasi-public-safety retirement plans provide disability benefits for incapacities to perform any significant gainful employment (total and permanent disabilities) or to perform the tasks of the person's particular employment position (occupational disabilities). General employee retirement plans provide disability benefits solely for total and permanent disabilities. The disability benefit is typically the accrued retirement annuity, unreduced for early commencement.

Disability benefits are part of the portion of a public pension plan's benefit package referred to as ancillary benefits or casualty benefits. The ancillary or casualty benefit coverage is funded actuarially in whole or in part by the primary age and service retirement annuity coverage provided by the pension plan and supplants or supplements other employment-related insurance coverage. In many Minnesota public pension plans, the disability benefit represents early access to or early payment of the unreduced benefit portion of a public pension benefit plan can become a de facto early retirement incentive program.

The principal means of regulating disability benefit utilization is the definition of disability. For the various Minnesota public pension plans other than volunteer firefighter relief associations, where the disability definition is specified in statute or special law, one of two disability definitions are used, an occupationally based definition or a non-occupational definition. The occupationally based definition is common among public safety employee pension plans, and provides that an employee is disabled if the employee is unable to perform the duties of the person's employment position due to a physical or mental impairment. The non-occupational definition, common among general or non-uniformed employee pension plans, provides that an employee is disabled if the employee is unable to engage in any substantial gainful employment. The disability definition regulates disability benefit utilization if the interpretation and administration of the definition is consistent and exacting.

2. Summary of the Current Total and Permanent Disability Definition Provisions.

MSRS-General <i>[352.01, Subd. 17]</i>	PERA-General <i>[353.01, Subd. 19]</i>	Legislators Plan
<p>"Total and permanent disability" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that has existed or is expected to continue for a period of at least one year.</p>	<p>"Total and permanent disability" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to be of long-continued and indefinite duration. Long-continued and indefinite duration means that the disability has been or is expected to be for a period of at least one year.</p>	<p>No disability benefit coverage.</p>
TRA <i>[354.05, Subd. 14]</i>	First Class City Teachers <i>[354A.011, Subd. 14]</i>	Judges Retirement Plan <i>[490.121, Subd. 13]</i>
<p>"Total and permanent disability" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to be of long-continued and indefinite duration. An "indefinite duration" is a period of at least one year.</p>	<p>"Disability" or "permanent and total disability" means the inability of a member to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to be of long-continued and indefinite duration which shall not be less than one year.</p>	<p>"Disability" means the permanent inability of a judge to continue to perform the functions of judge by reason of a physical or mental impairment resulting from a sickness or an injury.</p>

State Patrol Plan <i>[325B.03, Subd. 7, 12]</i>	PERA-P&F <i>[353.01, Subd. 41 and 46]</i>	MSRS-Correctional <i>[352.01, Subd. 17a-17e]</i>	PERA-Correctional <i>[353.001, Subd.1-4]</i>
“Duty disability” means the physical or psychological condition that is expected to prevent a member for at least 12 months from performing the normal duties of the person’s position and that is a direct result of an injury incurred during or a disease arising out of the performance of normal duties or out of the performance of less frequent duties in either case are specifies to protecting the property and personal safety of others and prevent inherent dangers specifies to the position “Regular disability” means physical or psychological condition that is expected to prevent a member for at least 12 months from performing the normal duties of the person’s position resulting from a disease or an injury arising from non-work activities or from work normal or less frequent activities without inherent dangers specific to occupation.	“Duty disability” means the physical or psychological condition that is expected to prevent a member for at least 12 months from performing the normal duties of the person’s position and that is direct result of an injury incurred leaving or a disease arising out of the performance of inherently dangerous duties that are specific to the employment position. “Regular disability” means a physical or psychological condition that is expected, for at least 12 month, to prevent a member from performing normal or less frequent position duties that do not present inherent dangers specific to occupations covered by the retirement plan.	“Duty disability” means the physical or psychological disabling condition expected to last at least 12 months to prevent a member from performing normal duties of the employment position that is a direct result of an injury incurred during or arising out of the performance of normal duties or the performance of less frequent duties that is either of which present inherent dangers specifies to cover correctional positions. “Regular disability” means the physical or psychological disability condition expected to continue for at least months, to prevent the person from performing normal duties from a disease or injury arising from non-work activities or from work activities performing normal or less frequent duties that do not have inherent dangers specific to correctional positions.	“Duty disability” means the physical or psychological condition expected to last at least 12 months to prevent a member from performing normal of positions that is a direct result of an injury incurred during or a disease arising out of the performance of inherently dangerous duties specific to correctional positions. “Regular disability” means the physical or psychological condition expected to last at least 12 months from performing the normal correctional position duties that result from disease or an injury that arises from non-work activities or from normal or less frequent work duties that do not have the inherent dangers specific to occupational positions covered by the plan.

3. **Actuarial Cost Differential.** The calculated actuarial cost of disability benefit coverage is much higher for public safety employee retirement plans than it is for general employee retirement plans. The following sets forth the calculated normal cost requirement over time for the disability benefit coverage for PERA-P&F as compared to the State Patrol Retirement Plan, the other statewide public safety employee retirement plan; the Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) and the Local Government Correctional Service Retirement Plan (PERA-Correctional), the two statewide quasi-public safety employee retirement plans; and MSRS-General, PERA-General, and the Teachers Retirement Association (TRA):

Retirement Plan	1990	1995	2000	2001	2002	2003	2004	2005
PERA-P&F	1.70%	2.12%	2.02%	2.03%	2.03%	2.26%	3.50%	3.42%
State Patrol Plan	1.84	2.39	2.39	2.41	2.43	2.43	2.50	2.50
MSRS-Correctional	0.21	0.24	1.23	1.25	1.24	1.25	1.61	1.60
PERA-Correctional	N/A	N/A	2.11	2.00	1.93	1.86	1.54	1.53
MSRS-General	0.25	0.27	0.46	0.46	0.42	0.42	0.45	0.43
PERA-General	0.30	0.49	0.49	0.49	0.37	0.37	0.34	0.35
TRA	0.47	0.62	0.10	0.10	0.21	0.21	0.18	0.19

Plan	2006	2007	2008	2009	2010	2011	2012	2013	2014
PERA-P&F	3.42%	3.18%	3.75%	2.89%	2.62%	2.86%	3.19%	2.96%	3.27%
State Patrol Plan	2.34	2.46	2.16	2.19	1.96	2.17	1.78	1.69	1.85
MSRS-Correctional	3.06	3.15	2.91	2.34	3.38	3.43	2.21	2.19	2.23
PERA-Correctional	1.49	1.48	1.92	1.88	1.82	1.82	2.08	2.02	2.00
MSRS-General	0.42	0.41	0.45	0.45	0.41	0.38	0.37	0.37	0.38
PERA-General	0.35	0.35	0.37	0.37	0.29	0.30	0.29	0.29	0.31
TRA	0.21	0.21	0.19	0.20	0.17	0.18	0.19	0.19	0.20

Sources: Table 11 of Actuarial Valuation Reports for 1990, 1995, 2000, 2001, 2002, 2003, 2008 Exhibit V of Actuarial Valuation Reports for 2004, 2005, 2006, and 2007

4. **Comparison of Current Disability Benefit Coverage Provisions.**

Retirement Plan	MSRS-General <i>[Minn. Stat. Sec. 352.113]</i>	PERA-General <i>[Minn. Stat. Sec. 353.33]</i>	TRA <i>[Minn. Stat. Sec. 354.48]</i>
Disability	Total and permanent disability	Total and permanent disability	Total and permanent disability
Age/Service requirement	Before normal retirement age with three years of allowable service (five years if hired after 6/30/2010).	Before normal retirement age if vested. 100% vested after three years allowable service if hired before 7/1/2010 and 100% vested after five years of allowable service if hired after 6/30/2010.	Before normal retirement age with three years of allowable service.

Retirement Plan	MSRS-General	PERA-General	TRA
Amount	Normal retirement benefit based on allowable service and average salary at disability without reduction for commencement before normal retirement age. Payments stop if disability ceases or death occurs. Benefits may be reduced on resumption of partial employment.	Normal retirement benefit based on allowable service and average salary at disability without reduction for commencement before normal retirement age. The disability benefit is reduced to that amount which, when added to Workers' Compensation, does not exceed the salary the disabled member received as of the date of the disability or the salary currently payable for the same employment position substantially similar to the one the person held as of the date of the disability, whichever is greater. If a member became disabled prior to 7/1/1997 but did not commence his or her benefit before 7/1/1997, the benefit payable is calculated under the laws in effect before 7/1/1987 and an actuarial increase shall be made for the change in the post-retirement interest rates from 5% to 6%. Payments stop if disability ceases or death occurs.	Normal retirement benefit based on allowable service and average salary at disability without reduction for commencement before normal retirement age unless an optional annuity plan is selected. Payments stop at normal retirement age or the five-year anniversary of the effective date of the disability benefit, whichever is later. Payments may stop earlier if disability ceases or death occurs. Benefits may be reduced on resumption of partial employment.
Retirement after disability age/ service requirement	Normal retirement age with continued disability.	Payments change to a retirement annuity at normal age.	Normal retirement age or the five-year anniversary of the effective date of the disability benefit, whichever is later.
Amount	Payments revert to a retirement annuity at normal retirement age. Any optional annuity continues. Otherwise, a normal retirement benefit equal to the disability benefit paid before normal retirement age, or an actuarially equivalent optional annuity.	Benefits may be reduced on resumption of partial employment.	Any optional annuity continues. Otherwise, the larger of the disability benefit paid before normal retirement age or the normal retirement benefit available at normal retirement age, or an actuarially equivalent optional annuity.
Form of payment	Same as for retirement.	Same as for retirement.	Same as for retirement.
Benefit Increases	Same as for retirement.	Same as for retirement.	Same as for retirement.

Retirement Plan	State Patrol Plan <i>[Minn. Stat. Sec. 352B.10]</i>	PERA-P&F <i>[Minn. Stat. Sec. 353.656]</i>	MSRS-Correctional <i>[Minn. Stat. Sec.352.95]</i>	PERA-Correctional <i>[Minn. Stat. Sec. 353E.06]</i>
Duty Disability	Occupational disability	Occupational disability	Occupational disability	Occupational disability
Age/Service requirement	Member who cannot perform his duties as a direct result of a disability relating to an act of duty.	Physically or mentally unable to perform normal duties as a police officer or firefighter as direct result of an act of duty specific to protecting property and personal safety of others. Members age 55 or older with 20 or more years of allowable service are not eligible to apply for duty disability benefits.	Physically or mentally unable to perform normal job duties as a direct result of a disability relating to an incident while performing the duties of the job. Members who become disabled after 6/30/2009 will have disability benefits converted to retirement benefits at age 55 instead of age 65.	Member who cannot perform his duties as a direct result of a disability relating to an act of duty specific to protecting the property and personal safety of others.
Amount	60% of average salary plus 3% of average salary for each year in excess of 20 years of allowable service (pro rata for completed months). Payments cease at age 65 or earlier if disability ceases or death occurs. Benefits may be paid upon reemployment but salary plus benefit cannot exceed current salary of position held at time of disability.	60%, plus an additional 3% for each year of service in excess of 20 years, of average salary paid until normal retirement age, of for 60 months, whichever is later. The retirement benefit is then recalculated but is never lower than the disability benefit. If a member became disabled prior to 7/1/1997 but did not commence the benefit before 7/1/1997, the benefit is calculated under the laws in	50% of average salary plus 2.4% (2.2% if first hired after 6/30/2010) of average salary for each year in excess of 20 years and 10 months of allowable service (pro rata for completed months). Payment begins at disability and ends at age 55 (age 65 if disabled prior to 7/1/2009) or the five-year anniversary of the effective date of the disability benefit, whichever is later. Payments	47.5% of average salary plus 1.9% of average salary for each year in excess of 25 years of allowable service (pro rata for completed months). Payment begins at disability and ends at age 65 or earlier if disability ceases or death occurs. Benefits may be paid upon reemployment but salary plus benefit cannot exceed current salary of position held at time of disability.

Retirement Plan	State Patrol Plan	PERA-P&F	MSRS-Correctional	PERA-Correctional
		effect before 7/1/1997 but did not commence their benefit before 7/1/1997 and an actuarial increase shall be made for the change in post- retirement interest rates from 5% to 6%.	stop earlier if disability ceases or death occurs. Benefits may be paid upon reemployment but salary plus benefit cannot exceed current salary of position held at time of disability.	
Non-Duty Disability	Disability not related to covered employment.	Physically or mentally unable to perform normal duties as a police officer or firefighter.	Employee determined to have a regular disability not related to an incident while performing the duties of the job.	Disability preventing member from performing normal duties that arise out of activities not related to covered employment or while at work, activities related to duties that do not present inherent dangers specific to the occupation.
Age/Service requirement	At least one year of allowable service.	One year of allowable service. Members age 55 or older with 15 or more years of allowable service are not eligible to apply for regular disability benefits.	At least one year of covered Correctional service for employees hired before 7/1/2009, or a vested Correctional employee hired after 6/30/2009.	At least one year of allowable service.
Amount	Normal retirement benefit based on allowable service (minimum of 15 years) and average salary at disability without reduction for commencement before age 55. Payments cease at age 65 or earlier if disability ceases or death occurs. Benefits may be paid upon reemployment, but salary plus benefit cannot exceed current salary of position held at time of disability.	45% of average salary, paid until normal retirement Age, or for 60 months, whichever is later. The retirement benefit is then recalculated, but is never lower than the disability benefit. Benefits for total and permanent regular disability are calculated as 3% of average salary for each year of allowable service, with a minimum of 45% of average salary. If a member became disabled prior to 7/1/1997 but did not commence the benefit before 7/1/1997 the benefit payable is calculated under the laws in effect before 7/1/1997 and an actuarial increase shall be made for the change in post-retirement interest rates from 5% to 6%.	Normal retirement benefit based on covered correctional Service (minimum of 15 years if hired prior to 7/1/2009) and average salary at disability. Payment begins at disability and ends at age 55 (age 65 if disabled prior to 7/1/2009) or the five-year anniversary of the effective date of the disability benefit, whichever is later. Payments stop earlier if disability ceases or death occurs.	Normal retirement benefit based on allowable service (minimum of 10 years) and average salary at disability. Payment begins at disability and ends at age 65 or earlier if the disability ceases or death occurs. Benefits may be paid upon reemployment but salary plus benefit cannot exceed current salary of position held at time of disability.
Retirement after disability age/ service requirement	Age 65 with continuing disability.	Same as for retirement.	Member is reclassified from disabled to retired at age 55 (age 65 if disabled prior to 7/1/2009).	Age 65 with continued disability.
Amount	Optional annuity continues. Otherwise, normal retirement benefit equal to the disability benefit paid, or an actuarially equivalent option.	Upon cessation of disability benefits. Any optional annuity continues. Otherwise, the larger of the disability benefit paid before age 55 or the normal retirement benefit available at age 55, or an actuarially equivalent optional annuity.	Optional amount continues. Otherwise, normal retirement benefit equal to the disability benefit paid, or an actuarially equivalent option. Benefits may be paid upon reemployment but salary plus benefit cannot exceed current salary of position held at time of disability.	Any optional annuity continues. Otherwise, the larger of the disability benefit paid before age 65 or the normal retirement benefit available at age 65, or an actuarially equivalent optional annuity.
Form of payment	Same as for retirement.	Same as for retirement.		Same as for retirement.
Benefit increase	Same as for retirement.	Same as for retirement.	Same as for retirement.	Same as for retirement.

Retirement Plan	DTRFA [Minn. Stat. Sec. 354A.36]	SPTFRA [Minn. Stat. Sec. 354A.36]	Judges [Minn. Stat. Sec.490.124, Subd.4]
Disability	Totally and permanently disabled.	Totally and permanently disabled.	Permanent inability to perform the function of judge.
Age/Service requirement	Under the normal retirement age, with three years of allowable service credit (five years if hired after 6/30/2010,) with at least two years of allowable service credit uninterrupted.	Three years of allowable service with service earned within the current fiscal year and at least two years of allowable service since the last interruption in service.	No benefit is paid by the fund. Instead salary is continued for one year but not beyond age 70. Employee contributions continue and allowable service is earned.
Amount	Equal to normal retirement benefit based on allowable service credit and average salary at disability without reduction for commencement before the retirement age, but reduced by any Worker's Compensation received. Payments begin after disability and ends at the normal retirement age or earlier if the disability ceases or death occurs. Benefits paid while partially employed may be reduced.	Calculated as a normal retirement benefit payable for life without reduction for early commencement. At normal retirement age, the benefit converts from a disability benefit to a retirement benefit. The disability benefit is reduced by any Workers' Compensation benefits payable.	If disability continues after the first year (or at age 70 if earlier), the larger of 25.00% of average salary or the normal retirement benefit, without reduction.
Retirement after disability age/ service requirement	Normal retirement age if still totally and permanently disabled.		Member is still disabled after salary payments cease after one year or at age 70, if earlier.
Amount	Optional annuity form continues, otherwise the larger of the disability benefit paid before the normal retirement age or the normal retirement benefit available at normal retirement age, or an actuarial equivalent optional annuity.		No change in disability benefit amount from pre-retirement computed benefit amount.
Form of payment	Same as for normal retirement.	Same as for normal retirement.	Same as for normal retirement.
Benefit Increases	Same as for normal retirement.	Same as for normal retirement.	Same as for normal retirement.

5. Federal Income Tax Treatment of Disability Benefit Coverage. Section 61(a) of the federal Internal Revenue Code provides that, except as otherwise provided by law, gross income means all income from whatever source derived, including compensation for services. Section 104(a)(1) of the federal Internal Revenue Code provides that gross income does not include amounts received under workers' compensation acts as compensation for personal injuries or sickness. Specifically, Section 104(a)(1) of the federal Internal Revenue Code provides the following:

Section 104. Compensation for injuries or sickness

(a) In General

Except in the case of amounts attributable to (and not in excess of) deductions allowed under section 213 (relating to medical, etc., expenses) for any prior taxable year, gross income does not include—

(1) amounts received under workmen's compensation acts as compensation for personal injuries or sickness;

Section 1.104-1(b) of the federal Income Tax Regulations states that section 104(a)(1) of the federal Internal Revenue Code excludes from gross income amounts received by an employee under a workers' compensation act or under a statute in the nature of a workers' compensation act that provides compensation to the employee for personal injury or sickness incurred in the course of employment. Section 104(a)(1) also applies to compensation which is paid under a workers' compensation act to the survivor or survivors of a deceased employee. Section 104(a)(1) does not apply to a retirement pension or annuity to the extent it is determined by reference to the employee's age or length of service, or the employee's prior contributions, even though the employee's retirement is occasioned by an occupational injury or sickness. Section 104(a)(1) also does not apply to amounts which are received as compensation for a non-occupational injury or sickness nor to amounts received as compensation for an occupational injury or sickness to the extent that they are in excess of the amount provided in the applicable workers' compensation act or acts.

Thus, if the public retirement plan has a duty- or occupational-based disability benefit and are in the nature of workers' compensation, the duty- or occupational-based disability benefits are excludable from the gross income of the recipients under section 104(a)(1) of the federal Internal Revenue Code to the extent that the benefit amount is not determined by reference to the disabilitant's age, length of service credit, or prior contributions.

The federal Internal Revenue Code, Section 104(a)(1), disability income exclusion replaced the pre-1977 "sick pay" provisions and is more restrictive than the pre-1977 law.

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2010-2014 Financial Sustainability Provisions
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Contained in Laws 2010, Ch. 359; 1st Spec. Sess. Laws 2011, Ch. 8; Laws 2013, Ch. 111 and Ch. 143, Art. 2; Laws 2014, Ch. 296

	MSRS-General		MSRS-Correct.		State Patrol		Judges		Legislators		ESO	
	Member	Employer	Member	Employer	Member	Employer	Member	Employer	Member	Employer	Member	Employer
a. Contributions 2010: 2013: 2014	-- -- +0.5%	-- -- +0.5%	-- -- +0.5%	-- -- +0.5%	-- +2.0% --	-- +3.0% --	-- +1.0% Tier I +1.0% Tier II	-- +2.0% Tier I +2.0% Tier I	-- -- --	-- -- --	-- -- --	-- -- --
b. Post-retirement adjustments	2010: Reduced from 2.5% to 2.0%, restored when 90% funded on MVB;* 6-mo. waiting period imposed for initial increase. 2014: 90% funded trigger spread over two actuarial valuations.	2010: Reduced from 2.5% to 2.0%, restored when 90% funded on MVB;* 6-mo. waiting period imposed for initial increase.	2010: Reduced from 2.5% to 2.0%, restored when 90% funded on MVB;* 6-mo. waiting period imposed for initial increase. 2013: Reduced from 1.5% to 1.0% after 12/31/13 until at least 85% funded, to 1.5% when 85-90% funded, and to 2.5% when 90% funded.	2010: Reduced from 2.5% to 1.5%, restored when 90% funded on MVB;* 6-mo. waiting period imposed for initial increase. 2013: Reduced from 1.5% to 1.0% after 12/31/13 until at least 85% funded, to 1.5% when 85-90% funded, and to 2.5% when 90% funded.	2010: Reduced from 2.5% to 2.0%, restored when 90% funded on MVB;* 6-mo. waiting period imposed for initial increase. 2013: Reduced from 2.0% to 1.75% until 70% funded on MVB * Minimum period to obtain full post-retirement adjustment increased to 18 months. 2014: 70% funded trigger spread over two actuarial valuations.	2010: Reduced from 2.5% to 2.0%, restored when 90% funded on MVB;* 6-mo. waiting period imposed for initial increase. 2013: Reduced from 2.0% to 1.75% until 70% funded on MVB * Minimum period to obtain full post-retirement adjustment increased to 18 months. 2014: 70% funded trigger spread over two actuarial valuations.	2010: Reduced from 2.5% to 2.0%, restored once MSRS-General is 90% funded on MVB;* 6-mo. waiting period for initial increase.	2010: Reduced from 2.5% to 2.0%, restored once MSRS-General is 90% funded on MVB;* 6-mo. waiting period for initial increase.	2010: Reduced from 2.5% to 2.0%, restored once MSRS-General is 90% funded on MVB;* 6-mo. waiting period for initial increase.	2010: Reduced from 2.5% to 2.0%, restored once MSRS-General is 90% funded on MVB;* 6-mo. waiting period for initial increase.	2010: Reduced from 2.5% to 2.0%, restored once MSRS-General is 90% funded on MVB;* 6-mo. waiting period for initial increase.	2010: Reduced from 2.5% to 2.0%, restored once MSRS-General is 90% funded on MVB;* 6-mo. waiting period for initial increase.
c. Interest on refunds	2010: Reduced from 6% to 4% after 6/30/11.	2010: Reduced from 6% to 4% after 6/30/11.	2010: Reduced from 6% to 4% after 6/30/11.	2010: Reduced from 6% to 4% after 6/30/11.	2010: Reduced from 6% to 4% after 6/30/11.	2010: Reduced from 6% to 4% after 6/30/11.	2010: Reduced from 6% to 4% after 6/30/11.	2010: Reduced from 6% to 4% after 6/30/11.	2010: Reduced from 6% to 4% after 6/30/11.	2010: Reduced from 6% to 4% after 6/30/11.	2010: Reduced from 6% to 4% after 6/30/11.	2010: Reduced from 6% to 4% after 6/30/11.
d. Deferred annuities augmentation	2010: Reduced from 5, 3, or 2.5% to 2% after 12/31/11. Eliminated after 1/1/11.	2010: Reduced from 5, 3, or 2.5% to 2% after 12/31/11. Eliminated after 1/1/11.	2010: Reduced from 5, 3, or 2.5% to 2% after 12/31/11. Eliminated after 1/1/11.	2010: Reduced from 5, 3, or 2.5% to 2% after 12/31/11. Eliminated after 1/1/11.	2010: Reduced from 5, 3, or 2.5% to 2% after 12/31/11. Eliminated after 1/1/11.	2010: Reduced from 5, 3, or 2.5% to 2% after 12/31/11. Eliminated after 1/1/11.	2010: Reduced from 5, 3, or 2.5% to 2% after 12/31/11. Eliminated after 1/1/11.	2010: Reduced from 5, 3, or 2.5% to 2% after 12/31/11. Eliminated after 1/1/11.	2010: Reduced from 5, 3, or 2.5% to 2% after 12/31/11. Eliminated after 1/1/11.	2010: Reduced from 5, 3, or 2.5% to 2% after 12/31/11. Eliminated after 1/1/11.	2010: Reduced from 5, 3, or 2.5% to 2% after 12/31/11. Eliminated after 1/1/11.	2010: Reduced from 5, 3, or 2.5% to 2% after 12/31/11. Eliminated after 1/1/11.
e. Reemployed annuitant earnings limitation deferral account interest	Eliminated after 1/1/11.	Eliminated after 1/1/11.	Eliminated after 1/1/11.	Eliminated after 1/1/11.	Eliminated after 1/1/11.	Eliminated after 1/1/11.	Eliminated after 1/1/11.	Eliminated after 1/1/11.	Eliminated after 1/1/11.	Eliminated after 1/1/11.	Eliminated after 1/1/11.	Eliminated after 1/1/11.
f. Vesting service requirement	2010: For new members after 6/30/10, increased from 3 years to 5 years.	2010: For new members after 6/30/10, increased from 3 years to 5 years.	2010: For new members after 6/30/10, increased from 3 years to 5 years.	2010: For new members after 6/30/10, increased from 3 years to 5 years.	2010: For new members after 6/30/10, increased from 3 years to 5 years.	2010: For new members after 6/30/10, increased from 3 years to 5 years.	2010: For new members after 6/30/10, increased from 3 years to 5 years.	2010: For new members after 6/30/10, increased from 3 years to 5 years.	2010: For new members after 6/30/10, increased from 3 years to 5 years.	2010: For new members after 6/30/10, increased from 3 years to 5 years.	2010: For new members after 6/30/10, increased from 3 years to 5 years.	2010: For new members after 6/30/10, increased from 3 years to 5 years.
g. Early retirement reduction factor, per year under normal retirement age	--	--	2010: For pre-6/30/10 members retiring after 6/30/15 and for new members after 6/30/10, increased from 2.4% to 5.0%.	2010: For pre-6/30/10 members retiring after 6/30/15 and for new members after 6/30/10, increased from 1.2% to 2.4%.	2010: For new members after 6/30/10, increased from 1.2% to 2.4%.	2010: For new members after 6/30/10, increased from 1.2% to 2.4%.	2010: For new members after 6/30/10, increased from 1.2% to 2.4%.	2010: For new members after 6/30/10, increased from 1.2% to 2.4%.	2010: For new members after 6/30/10, increased from 1.2% to 2.4%.	2010: For new members after 6/30/10, increased from 1.2% to 2.4%.	2010: For new members after 6/30/10, increased from 1.2% to 2.4%.	2010: For new members after 6/30/10, increased from 1.2% to 2.4%.
h. Benefit accrual rate %, per year of high-5 average salary	--	--	2010: For new members after 6/30/10, reduced from 2.4% to 2.2%.	2010: For new members after 6/30/10, reduced from 2.4% to 2.2%.	2010: For new members after 6/30/10, reduced from 2.4% to 2.2%.	2010: For new members after 6/30/10, reduced from 2.4% to 2.2%.	2010: For new members after 6/30/10, reduced from 2.4% to 2.2%.	2010: For new members after 6/30/10, reduced from 2.4% to 2.2%.	2010: For new members after 6/30/10, reduced from 2.4% to 2.2%.	2010: For new members after 6/30/10, reduced from 2.4% to 2.2%.	2010: For new members after 6/30/10, reduced from 2.4% to 2.2%.	2010: For new members after 6/30/10, reduced from 2.4% to 2.2%.
i. Maximum benefit	--	--	2013: 33 yrs limit on service credit.	2013: \$1 million annually in Police & Fire Retirement Supplemental Aid	2013: 33 yrs limit on service credit.	2013: \$1 million annually in Police & Fire Retirement Supplemental Aid	2013: 33 yrs limit on service credit.	2013: \$1 million annually in Police & Fire Retirement Supplemental Aid	2013: 33 yrs limit on service credit.	2013: \$1 million annually in Police & Fire Retirement Supplemental Aid	2013: 33 yrs limit on service credit.	2013: \$1 million annually in Police & Fire Retirement Supplemental Aid
j. State aid	--	--	2013: 33 yrs limit on service credit.	2013: \$1 million annually in Police & Fire Retirement Supplemental Aid	2013: 33 yrs limit on service credit.	2013: \$1 million annually in Police & Fire Retirement Supplemental Aid	2013: 33 yrs limit on service credit.	2013: \$1 million annually in Police & Fire Retirement Supplemental Aid	2013: 33 yrs limit on service credit.	2013: \$1 million annually in Police & Fire Retirement Supplemental Aid	2013: 33 yrs limit on service credit.	2013: \$1 million annually in Police & Fire Retirement Supplemental Aid

Note: Other changes to these provisions may have also been enacted, but the nature of the revisions was not considered to be part of the "financial sustainability" legislation. *MVB = Market Value Basis **AVB = Actuarial Value Basis
 MN LCPR; Financial Sustainability Comparison, 2010-2014.docx (updated 2/2015)
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2010-2014 Financial Sustainability Provisions
Comparison of MSRS, PERA, TRA, and First Class City Teacher Retirement Fund Association Provisions

Contained in Laws 2010, Ch. 359; 1st Spec. Sess. Laws 2011, Ch. 8; Laws 2013, Ch. 111 and Ch. 143, Art. 2; Laws 2014, Ch. 296

	PERA-General		PERA-Correct		PERA-P&F		TRA		DTRFA		SPTFA	
	Member	Employer	Member	Employer	Member	Employer	Member	Employer	Member	Employer	Member	Employer
a. Contributions												
2010:	+0.25%	+0.25%	--	--	+0.2%	+0.3%	+2.0%	+2.0%	+1.00%	+1.00%	+1.00% Coord; +1.00% Basic	+1.00% Coord; +1.00% Basic
2013:	--	--	--	--	+1.2%	+1.8%	--	--	--	--	--	--
2014:	0.25%	0.25%	--	--	--	--	--	--	--	--	--	--
Contrib. rate stabilizer	Modified						Added					
b. Post-retirement adjustments	2010: Reduced from 2.5% to 1.0%, restored when 90% funded on MVB, * rate reduced if fund later declines from 90% funded.	2010: Reduced from 2.5% to 1.0%, restored when 90% funded on MVB, * rate reduced if fund later declines from 90% funded.	2010: Reduced from 2.5% to 1.0% for 1/1/11 and 1/1/12, then equal to the CPI % for the preceding fiscal year, not to exceed 1.5% until 90% funded on MVB, * then not to exceed 2.5%, rate reduced if fund later declines from 90% funded.	2010: Reduced from 2.5% to 1.0% until 90% funded for two consecutive valuations. Minimum receipt period of 25 mo. for a prorated initial adjustment or 36 mo. for a full initial adjustment.	2010: Suspended for 1/1/11 & 1/1/12; starting 1/1/13, reduced from 2.5% to 2.0%, restored when 90% funded on MVB, * 6-mo. waiting period for initial increase.	2010: Suspended for 1/1/11 & 1/1/12; starting 1/1/13, reduced from 2.5% to 2.0%, restored when 90% funded on MVB, * 6-mo. waiting period for initial increase.	2010: Suspended for full initial post-retirement adjustment extended from 12 months to 18 months with prorated benefit for period over 6 months and under 18 months.	2010: 0% when less than 80% funded on MVB, * 1% when 80%-90% funded on MVB, * and 2% when more than 90% funded on MVB, * when 90% funded on AVB** moves to inflation match up to 5%.	2010: 0% when less than 80% funded on MVB, * 1% when 80%-90% funded on MVB, * and 2% when more than 90% funded on MVB, * when 90% funded on AVB** moves to inflation match up to 5%.	2010: Automatic 2% inc. suspended for 1/1/2011.	2010: Automatic 2% inc. suspended for 1/1/2011.	2011: 1% when less than 80% funded on AVB**, 2% until 90% AVB; when 90% funded on AVB moves to inflation match up to 5%.
c. Interest on refunds	2010: Reduced from 6% to 4% after 6/30/11.	2010: Reduced from 6% to 4% after 6/30/11.	2010: Reduced from 6% to 4% after 6/30/11.	2010: Reduced from 6% to 4% after 6/30/11.	2010: Reduced from 6% to 4% after 6/30/11.	2010: Reduced from 6% to 4% after 6/30/11.	2010: Reduced from 6% to 4% after 6/30/11.	2010: Reduced from 6% to 4% after 6/30/10.	2010: Reduced from 6% to 4% after 6/30/10.	2011: Reduced from 6% to 4% after 7/1/11.	2011: Reduced from 6% to 4% after 7/1/11.	2011: Reduced from 6% to 4% after 7/1/12
d. Deferred annuities augmentation	2010: Reduced from 5, 3, or 2.5% to 1% for plan members terminating before 1/1/12; eliminated for plan members terminating after 12/31/11.	2010: Reduced from 5, 3, or 2.5% to 1% for plan members terminating before 1/1/12; eliminated for plan members terminating after 12/31/11.	2010: Reduced from 5, 3, or 2.5% to 1% for plan members terminating before 1/1/12; eliminated for plan members terminating after 12/31/11.	2010: Reduced from 5, 3, or 2.5% to 1% for plan members terminating before 1/1/12; eliminated for plan members terminating after 12/31/11.	2010: Reduced from 5, 3, or 2.5% to 1% for plan members terminating before 1/1/12; eliminated for plan members terminating after 12/31/11.	2010: Reduced from 5, 3, or 2.5% to 1% for plan members terminating before 1/1/12; eliminated for plan members terminating after 12/31/11.	2010: Reduced from 5, 3, or 2.5% to 2% after 6/30/12.	2010: Reduced from 5, 3, or 2.5% to 2% after 6/30/12.	2010: Reduced from 5, 3, or 2.5% to 2% after 7/1/12.	2010: Reduced from 5, 3, or 2.5% to 2% after 7/1/12.	2011: Reduced from 5, 3, or 2.5% to 2% after 7/1/12	2011: Reduced from 5, 3, or 2.5% to 2% after 7/1/12
e. Reemployed annuitant earnings limitation deferral account interest	2010: Eliminated after 1/1/11.	2010: Eliminated after 1/1/11.	2010: Eliminated after 1/1/11.	2010: Eliminated after 1/1/11.	2010: Eliminated after 1/1/11.	2010: Eliminated after 1/1/11.	2010: Eliminated after 1/1/11.	2010: Eliminated after 6/30/10.	2010: Eliminated after 6/30/10.	2011: Eliminated after 6/30/11	2011: Eliminated after 6/30/11	2011: Eliminated after 6/30/11
f. Vesting service requirement	2010: For new members after 6/30/10, increased from 3 years to 5 years.	2010: For new members after 6/30/10, increased from 3 years to 5 years.	2010: For new members after 6/30/10, increased from 3 years to 50% vested w/5 years-100% w/10 years.	2010: For new members after 6/30/10, increased from 3 years to 50% vested w/5 years-100% w/10 years.	2010: For new members after 6/30/10, incr. from 3 yrs to 50% vested w/ 5 yrs-100% w/10 yrs.	2010: For new members after 6/30/10, incr. from 3 yrs to 50% vested w/ 5 yrs-100% w/10 yrs.	2010: For new members after 6/30/10, increased from 3 to 5 years.	2010: For new members after 6/30/10, increased from 3 to 5 years.	2010: For new members after 6/30/10, increased from 3 to 5 years.	2010: For new members after 6/30/10, increased from 3 to 5 years.	2011: 5-year vesting clarified to apply to all benefits and programs for post-2010 hires.	2011: 5-year vesting clarified to apply to all benefits and programs for post-2010 hires.
g. Early retirement reduction factor, per year under normal retirement age	--	--	--	--	--	--	--	--	--	--	--	--
h. Benefit accrual rate percentage, per year of high-5 average salary	--	--	--	--	--	--	--	--	--	--	--	--
i. Maximum benefit	--	--	--	--	2013: 33 yrs limit on service credit.	2013: \$9 million annually in Police & Fire Retirement Supplemental Aid	--	--	--	--	--	--
j. State aid	--	--	--	--	--	--	--	--	--	--	--	2013: \$7 million each in FY13/FY14 2014: \$7 million annually

*MVB = Market Value Basis **AVB = Actuarial Value Basis

Note: Other changes to these provisions may have also been enacted, but the nature of the revisions was not considered to be part of the "financial sustainability" legislation.

1.1 moves to amend H.F. No. 661; S.F. No. 589, as follows:

1.2 Page 2, line 11, after "employed" insert "by"

1.3 Page 2, delete section 3 and insert:

1.4 "Sec. 3. Minnesota Statutes 2014, section 352B.105, is amended to read:

1.5 **352B.105 TERMINATION OF DISABILITY BENEFITS.**

1.6 Subdivision 1. **Termination.** Disability benefits payable under section 352B.10
1.7 must terminate on the transfer date; on which the disabilitant transfers status as a
1.8 disabilitant to status as a retirement annuitant.

1.9 Subd. 2. **Pre-July 1, 2015, disabilitants.** The transfer date for a person whose
1.10 disability benefits began to accrue before July 1, 2015, and who is still disabled is the end
1.11 of the month in which the disabilitant becomes 65 years old or the five-year anniversary
1.12 of the effective date of the disability benefit, whichever is later. If the disabilitant is still
1.13 disabled on the transfer date, the disabilitant must be deemed to be a retired member and,
1.14 if the disabilitant had chosen an optional annuity under section 352B.10, subdivision 5,
1.15 must receive an annuity under the terms of the optional annuity previously chosen. If the
1.16 disabilitant had not chosen an optional annuity under section 352B.10, subdivision 5, the
1.17 disabilitant may then choose to receive either a normal retirement annuity computed under
1.18 section 352B.08, subdivision 2, or an optional annuity as provided in section 352B.08,
1.19 subdivision 3. An optional annuity must be chosen within 90 days of attaining the transfer
1.20 date. If an optional annuity is chosen, the optional annuity accrues on the first of the
1.21 month next following the transfer date.

1.22 Subd. 3. **Post-June 30, 2015, disabilitants.** The transfer date for a person whose
1.23 disability benefits began to accrue after June 30, 2015, and who is still disabled is the end
1.24 of the month in which the disabilitant becomes 55 years old or the five-year anniversary of
1.25 the effective date of the disability benefit, whichever is later."

1.26 Page 3, line 23, after the second "plan," insert "and"

2.1 Page 3, line 24, strike ", and the judges retirement plan"

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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **661**

02/05/2015 Authored by O'Driscoll

The bill was read for the first time and referred to the Committee on Government Operations and Elections Policy

1.1 A bill for an act
1.2 relating to retirement; Minnesota State Retirement System; various plans;
1.3 making changes of an administrative nature; clarifying coverage treatment of
1.4 former MSHS-Cambridge employees; revising disability to retirement transfer
1.5 dates for State Patrol plan disabilitants; correcting legislators plan postretirement
1.6 adjustment trigger; amending Minnesota Statutes 2014, sections 352.91,
1.7 subdivision 3e; 352B.10, subdivision 5; 352B.105; 356.415, subdivision 1a.

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

1.9 Section 1. Minnesota Statutes 2014, section 352.91, subdivision 3e, is amended to read:

1.10 Subd. 3e. **Minnesota Specialty Health System-Cambridge.** (a) "Covered
1.11 correctional service" means service by a state employee in one of the employment positions
1.12 with the Minnesota Specialty Health System-Cambridge specified in paragraph (b) if at
1.13 least 75 percent of the employee's working time is spent in direct contact with patients
1.14 who are in the Minnesota Specialty Health System-Cambridge and if service in such a
1.15 position is certified to the executive director by the commissioner of human services.

1.16 (b) The employment positions are:

- 1.17 (1) behavior analyst 1;
- 1.18 (2) behavior analyst 2;
- 1.19 (3) behavior analyst 3;
- 1.20 (4) group supervisor;
- 1.21 (5) group supervisor assistant;
- 1.22 (6) human services support specialist;
- 1.23 (7) residential program lead;
- 1.24 (8) psychologist 2;
- 1.25 (9) recreation program assistant;

- 2.1 (10) recreation therapist senior;
 2.2 (11) registered nurse senior;
 2.3 (12) skills development specialist;
 2.4 (13) social worker senior;
 2.5 (14) social worker specialist; and
 2.6 (15) speech pathology specialist.

2.7 (c) A Department of Human Services employee who was employed at the Minnesota
 2.8 Specialty Health System-Cambridge immediately preceding the 2014 conversion to the
 2.9 community-based homes and was in covered correctional service at the time of the
 2.10 transition shall continue to be covered by the correctional employees retirement plan while
 2.11 employed and without a break in service with the Department of Human Services in the
 2.12 direct care and treatment ~~services~~ administration of patients.

2.13 **EFFECTIVE DATE.** This section is effective retroactively from August 1, 2014.

2.14 Sec. 2. Minnesota Statutes 2014, section 352B.10, subdivision 5, is amended to read:

2.15 Subd. 5. **Optional annuity.** A disabilitant may elect, in lieu of spousal survivorship
 2.16 coverage under section 352B.11, subdivision 2b, the normal disability benefit or an
 2.17 optional annuity as provided in section 352B.08, subdivision 3. The choice of an optional
 2.18 annuity must be made in writing, on a form prescribed by the executive director, and ~~must~~
 2.19 may be made before the commencement of the payment of the disability benefit, ~~or~~. If the
 2.20 disabilitant did not select an optional annuity at the time of application, the disabilitant
 2.21 may select an optional annuity under this section within 90 days before reaching age 55
 2.22 or within 90 days before reaching the five-year anniversary of the effective date of the
 2.23 disability benefit, whichever is later. The optional annuity is effective on the date on
 2.24 which the disability benefit begins to accrue, or the month following the attainment of age
 2.25 55 or following the five-year anniversary of the effective date of the disability benefit,
 2.26 whichever is later.

2.27 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.28 Sec. 3. Minnesota Statutes 2014, section 352B.105, is amended to read:

2.29 **352B.105 TERMINATION OF DISABILITY BENEFITS.**

2.30 **Subdivision 1. Post-June 30, 2015, disabilitants.** For disability benefits which
 2.31 begin to accrue after June 30, 2015, disability benefits payable under section 352B.10
 2.32 must terminate on the transfer date, which is the end of the month in which the disabilitant
 2.33 becomes 65 ~~55~~ years old or the five-year anniversary of the effective date of the disability

3.1 benefit, whichever is later. If the disabilitant is still disabled on the transfer date, the
 3.2 disabilitant must be deemed to be a retired member ~~and, if the disabilitant had chosen an~~
 3.3 ~~optional annuity under section 352B.10, subdivision 5, must receive an annuity under the~~
 3.4 ~~terms of the optional annuity previously chosen. If the disabilitant had not chosen an~~
 3.5 ~~optional annuity under section 352B.10, subdivision 5, the disabilitant may then choose to~~
 3.6 ~~receive either a normal retirement annuity computed under section 352B.08, subdivision~~
 3.7 ~~2, or an optional annuity as provided in section 352B.08, subdivision 3. An optional~~
 3.8 ~~annuity must be chosen within 90 days of attaining the transfer date. If an optional~~
 3.9 ~~annuity is chosen, the optional annuity accrues on the first of the month next following the~~
 3.10 ~~transfer date.~~

3.11 Subd. 2. Pre-July 1, 2015, disabilitants. For disability benefits which begin
 3.12 to accrue before July 1, 2015, disability benefits payable under section 352B.10 must
 3.13 terminate on the transfer date, which is the end of the month in which the disabilitant
 3.14 becomes 65 years old or the five-year anniversary of the effective date of the disability
 3.15 benefit, whichever is later. If the disabilitant is still disabled on the transfer date, the
 3.16 disabilitant must be deemed to be a retired member.

3.17 EFFECTIVE DATE. This section is effective July 1, 2015.

3.18 Sec. 4. Minnesota Statutes 2014, section 356.415, subdivision 1a, is amended to read:

3.19 Subd. 1a. **Annual postretirement adjustments; Minnesota State Retirement**
 3.20 **System plans other than State Patrol retirement plan.** (a) Retirement annuity, disability
 3.21 benefit, or survivor benefit recipients of the legislators retirement ~~plans~~ plan, including
 3.22 constitutional officers as specified in chapter 3A, the general state employees retirement
 3.23 plan, the correctional state employees retirement plan, the unclassified state employees
 3.24 retirement program, and the judges retirement plan are entitled to a postretirement
 3.25 adjustment annually on January 1, as follows:

3.26 (1) a postretirement increase of two percent must be applied each year, effective
 3.27 on January 1, to the monthly annuity or benefit of each annuitant or benefit recipient
 3.28 who has been receiving an annuity or a benefit for at least 18 full months before the
 3.29 January 1 increase; and

3.30 (2) for each annuitant or benefit recipient who has been receiving an annuity or
 3.31 a benefit for at least six full months, an annual postretirement increase of 1/12 of two
 3.32 percent for each month that the person has been receiving an annuity or benefit must be
 3.33 applied, effective January 1, following the calendar year in which the person has been
 3.34 retired for at least six months, but has been retired for less than 18 months.

4.1 (b) The increases provided by this subdivision commence on January 1, 2011.
 4.2 Increases under this subdivision for the general state employees retirement plan, the
 4.3 correctional state employees retirement plan, or the judges retirement plan terminate on
 4.4 December 31 of the calendar year in which two prior consecutive actuarial valuations
 4.5 prepared by the approved actuary under sections 356.214 and 356.215 and the standards
 4.6 for actuarial work promulgated by the Legislative Commission on Pensions and
 4.7 Retirement ~~indicates~~ indicate that the market value of assets of the retirement plan
 4.8 equals or exceeds 90 percent of the actuarial accrued liability of the retirement plan
 4.9 and increases under subdivision 1 recommence after that date. Increases under this
 4.10 subdivision for the legislators retirement plan ~~or the elected state~~ established under chapter
 4.11 3a, including constitutional officers retirement plan specified in that chapter, terminate on
 4.12 December 31 of the calendar year in which ~~the~~ two prior consecutive actuarial ~~valuation~~
 4.13 valuations prepared by the approved actuary under sections 356.214 and 356.215 and the
 4.14 standards for actuarial work promulgated by the Legislative Commission on Pensions
 4.15 and Retirement ~~indicates~~ indicate that the market value of assets of the general state
 4.16 employees retirement plan equals or exceeds 90 percent of the actuarial accrued liability
 4.17 of the retirement plan and increases under subdivision 1 recommence after that date.

4.18 (c) An increase in annuity or benefit payments under this subdivision must be made
 4.19 automatically unless written notice is filed by the annuitant or benefit recipient with the
 4.20 executive director of the applicable covered retirement plan requesting that the increase
 4.21 not be made.

4.22 **EFFECTIVE DATE.** This section is effective retroactively from July 1, 2014.