



DATE: June 2, 2010

TO: Commissioners
Human Resources Directors

FROM: Tom J. Hanson *TJH*
Commissioner

PHONE: (651) 201-8010

RE: Laws of 2010, Chapter 337 – Early Retirement Incentive

Laws of 2010, Chapter 337 provides an Early Retirement Incentive for employees of the Executive, Legislative and Judicial branches of state government. Attached is a memorandum that provides implementation instructions for *Executive branch agencies*.

Executive branch agencies have the discretion to determine whether this incentive will be offered to their employees. If an agency determines to offer the incentive, the legislation requires MMB to pre-approve any such offering. Guidance regarding the approval process is contained in the memorandum.

MMB staff is available to consult with your agency regarding the specifics of this memorandum and to make presentations to the decision makers of your agency regarding this incentive. Please contact Assistant Commissioner Barbara Holmes at (651) 259-3740 with any questions that you may have.

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I. INTRODUCTION

Governor Pawlenty has signed legislation (copy attached) that allows the State of Minnesota Legislative, Judicial and Executive branches to offer an early retirement incentive to certain eligible employees. This memo addresses the implementation of the legislation for ***executive branch agencies***. (NOTE: MnSCU, MSRS, PERA and TRA are specifically excluded from the MMB approval requirements and the implementation requirements set forth in this document).

The decision to offer this incentive is *completely* within an agency's discretion. An agency should feel free **not** to offer this incentive if it has no legitimate business needs upon which to base an offering.

II. WHO IS ELIGIBLE TO RECEIVE THIS INCENTIVE?

1. An employee of the Executive, Legislative or Judicial branch (including employees of MnSCU, MSRS, PERA, and TRA) who has **at least 15 years of allowable service** or coverage ***in one or more*** of the following:
 - MSRS General State Employees Retirement Plan
 - MSRS Correctional State Employees Retirement Plan
 - MSRS Unclassified Employees Retirement Program
 - State Patrol Retirement Plan
 - Legislators Retirement Plan
 - Elective State Officers Retirement Plan
 - General Employees Retirement Plan of the Public Employees Retirement Association
 - Public Employees Police and Fire Retirement Plan of the Public Employees Retirement Association
 - Local Government Correctional Service Retirement Plan of the Public Employees Retirement Association
 - Teachers Retirement Association
 - Minneapolis Employees Retirement Fund
 - St. Paul Teachers Retirement Fund Association
 - Duluth Teachers Retirement Fund Association
 - Judges Retirement Fund
2. **OR** an employee of the Executive, Legislative or Judicial branch (Including MnSCU) who has **at least 15 years of coverage** under the Individual Retirement Account Plan under chapter 354C

3. **AND** the employee must be **immediately eligible upon retirement to receive a retirement benefit** or annuity. This includes eligibility to receive a **reduced** retirement benefit which in many plans commences at age 55. See the next section on how to determine whether an employee meets the retirement eligibility criteria.
4. Elected officials are **NOT** eligible for this incentive.
5. This incentive may not be provided in addition to any other early retirement incentive or employer-paid post-separation benefit. For example, if an employee is covered by the Correctional Employees Retirement Plan and eligible for an early retirement incentive under the provisions of a labor agreement, he or she may not receive this benefit.

III. **HOW DO I DETERMINE WHETHER OR NOT AN EMPLOYEE MEETS THE NECESSARY RETIREMENT ELIGIBILITY CRITERIA?**

The employee must meet the retirement eligibility requirement by the proposed **date of separation** not the date the incentive is offered or accepted. This date of separation may be no later than June 30, 2011.

MSRS has agreed to assist agencies on this determination. The Human Resources Office of your agency should contact a Retirement Counselor at MSRS. The Retirement Counselor will be able to tell the agency if or upon what date a specific employee has or will have sufficient allowable service credit to qualify for the incentive. In most cases, MSRS will also be able to determine if the employee has service under a retirement plan that they do not administer. MSRS will not provide any further details regarding an employee's retirement benefit to the agency; however, an employee may always request this information on his or her own behalf. The MSRS general information telephone number is (651) 296-2761, or Toll Free: (800) 657-5757.

IV. **WHAT IS THE INCENTIVE?**

Agencies may offer an incentive based upon **the value of up to 24 months of the employer's contribution to health and dental insurance premiums** at the level of coverage the employee is receiving at the time of separation (single, family, full-time, part-time, etc.). This amount will be deposited into the employee's Health Care Savings Plan (HCSP) account administered by MSRS.

The legislation was negotiated with the understanding that the incentives would equal the full 24-months of value of the employer's portion of the health and dental insurance premiums. However, if an agency's business needs clearly justify offering less than the full 24 months in all or parts of the agency, MMB will consider that request in the approval process.

Because the health and dental insurance premiums change at the beginning of each calendar year, the agency will pay the incentive into the employee's HCSP in installments. For example: If an employee accepts the incentive and leaves state service on August 1, 2010, the agency would immediately deposit 5-months worth of the employer's contribution for health and dental insurance premiums being made for that particular employee based upon 2010 rates. In January of 2011 the agency would immediately deposit 12-months worth of the employer's contribution that would have been made for that particular employee based upon 2011 rates. In January of 2012 the agency would immediately deposit the appropriate month's worth of the employer's contribution that would have been made for that particular employee based upon 2012 rates, and so forth into 2013 if necessary.

A form entitled "Estimated Cost of Early Retirement Incentive" is attached to assist the agency in determining the individual cost of the incentive. Because premium costs are not available for 2011, 2012 and 2013 the form uses 2010 premium costs. **Given the trend in health insurance costs, it would be reasonable to assume that these amounts will increase in 2011, 2012 and 2013.**

V. ARE THERE ANY TIME LIMITS ON WHEN THIS INCENTIVE MAY BE OFFERED AND ACCEPTED OR WHEN THE EMPLOYEE MUST RETIRE?

The legislation requires the employee to accept an offered early retirement incentive **no later than December 31, 2010.** However, an agency may structure its offer to be accepted earlier than that date. MMB strongly suggests that agencies give the employee at least 21 days to accept an offer and in any event that an offer be made no later than December 1, 2010. This will allow the employee sufficient time to make this important decision.

As part of its offer, the agency may determine the date of separation that best suits its business needs. However, the legislation requires the agency to consult with the employee regarding the date of separation. In any event, **the employee must separate no later than June 30, 2011.**

VI. WILL EMPLOYEES WHO RECEIVE THIS INCENTIVE HAVE THE RIGHT TO CONTINUE THEIR INSURANCE COVERAGE UNDER THE SEGIP PROGRAM?

Nothing in the legislation changes the employee's eligibility to continue participation in SEGIP. Employees may choose to use the funds in their HCSP account to continue their coverage under the SEGIP program after separation from state employment if otherwise eligible. Or they may choose to end their coverage under the SEGIP program when they separate from state employment and use the HCSP account to pay for different insurance coverage or any other medical expenses allowed for under HCSP regulations.

VII. HOW CAN EMPLOYEES USE HCSP FUNDS?

The HCSP Program is administered by MSRS. For further information on how funds in an HCSP account can be used, see <http://www.msrs.state.mn.us/hcsp/index.htmls>.

VIII. WHAT SHOULD AN AGENCY CONSIDER IN DETERMINING WHETHER OR NOT TO OFFER THE INCENTIVE?

1. This incentive should be viewed as a tool to address **workforce planning needs, organizational structure, and/or current and future budgetary limitations**. Agencies should **not** use this incentive to reward employees for exemplary or long-term service or to remove employees whose performance is less than satisfactory. The legislation also requires that the agency and the Commissioner of MMB consider “equity within the agency” when offering this incentive.
2. This incentive should not be offered to unclassified employees unless specifically approved by the Commissioner of MMB. The name of the unclassified employee must be provided before approval can be given.
3. An agency may make multiple offerings of the incentive. For example, the initial offering of the incentive may produce no response; it may be necessary to restructure or expand the offering. Or, financial or operational circumstances may change after the initial offering thereby allowing for an additional offering. Each offering must be approved by MMB.
4. Some of the issues an agency may want to consider are:
 - Are there opportunities to use the incentive in lieu of laying off other employees?
 - Are there opportunities to use the incentive to provide overall budget savings to a unit or the agency?
 - Are there opportunities for staffing reductions in
 - lower priority services that the agency provides?
 - lower demand services that the agency provides?
 - overly expensive programs or services that the agency provides?
 - programs/positions that provide a duplication of services?
 - Are there opportunities to use the incentive as part of an organizational restructuring process?
 - Are there opportunities to use the incentive to alter staff/management proportionality?

5. There are various ways in which an agency could offer this incentive. Some examples include:
- The incentive could be offered to all eligible employees and granted to all of those employees who subsequently express an interest in receiving the incentive to achieve overall staffing reductions.
 - The incentive could be conditionally offered to all eligible employees but granted only where workforce planning needs, organizational structure, and/or current and future budgetary limitations necessitate.
 - The incentive could be offered to a particular classification of employees – for example, Office and Administrative Specialists. It could be granted to all of those employees who subsequently express an interest in receiving the incentive or it could be granted to a limited number of those employees who subsequently express an interest in receiving the incentive. Decisions on how to equitably limit the number should be based upon business needs and could be applied by using a random drawing, seniority or other equitable method.
 - The incentive could be offered to a particular programmatic unit.
 - The incentive could be offered to a particular individual where workforce planning needs, organizational structure, and/or current and future budgetary limitations necessitate.
6. A cost-benefit analysis should be an integral part of the agency's decision process. (NOTE: Even if the use of the incentive is cost neutral, it may still be offered if other workforce planning needs are addressed.) Some of the factors to be considered in such an analysis are:
- The cost of the incentive – see the attached “Estimated Cost of Early Retirement Incentive.”
 - Severance costs for the individual employee.
 - If the position will not be refilled, future salary and benefit costs saved for the remainder of the 2010-2011 biennium and the entire 2012-2013 biennium.
 - If the position will be refilled at a lower salary or classification, the net savings.
 - If a layoff will be avoided, the net savings (unemployment insurance costs, insurance continuation costs).

IX. SHOULD AN AGENCY INVOLVE THE LABOR UNIONS THAT REPRESENT THE AFFECTED EMPLOYEES?

It is not a requirement of the legislation to involve representatives of the labor unions that represent your agency's employees. **However, it is always advisable to share this type of information with them.** There may be situations where a more efficient organizational structure could be accomplished but would require a Memorandum of Understanding to modify labor contract provisions. Agencies are encouraged to involve representatives of labor unions early on to help identify and implement these opportunities.

X. ARE THERE ANY RESTRICTIONS ON RE-HIRING EMPLOYEES WHO ACCEPT THIS INCENTIVE?

Yes. The legislation prohibits the agency from rehiring any employee or using any employee as a consultant for three years from the date of the employee's separation. If an employee subsequently goes to work for a private business that contracts with any of the agencies or governmental entities covered by this legislation, the employee may not work on that particular contract/project.

XI. AVOIDING LEGAL PROBLEMS

1. It is critical to show that decisions to offer the incentive were made for **legitimate business reasons**.
2. Remember that any data or documents created for this purpose could be public data.
3. Agencies should review their overall plan to determine if it has a disproportionate effect on protected classes and contact the Attorney General's Office if specific questions or concerns arise
4. Agencies should establish an implementation process to make their determinations and follow it in all circumstances.
5. Agencies should provide consistent information to employees.

XII. DO I NEED MMB'S APPROVAL TO OFFER THE INCENTIVE?

The legislation requires that agencies obtain the approval of MMB before offering the incentive to any employees in their agency. To obtain approval provide a memorandum to MMB Commissioner Tom Hanson that responds to the following questions.

1. **For what purposes will the incentive be offered and how will the incentive be offered?**

In an earlier section of this memo entitled "WHAT SHOULD AN AGENCY CONSIDER IN DETERMINING WHETHER OR NOT TO OFFER THE INCENTIVE?" Items #2 and #3 set forth various matters an agency could address by offering this incentive and various ways the incentive could be offered. For example, the agency could be attempting to accomplish workforce and succession planning, staffing reductions, organizational restructuring, staff/management proportionality, etc. To accomplish this purpose the agency could be offering the incentive to all eligible employees, by programmatic unit, by class, to specific individuals, etc.

Agencies should provide the **specific details** on how the particular purposes will be accomplished. For example: “Because of anticipated budget cuts in the 2012 – 2013 biennium, the incentive will be offered to all eligible employees in the ABC Unit to reduce the overall staffing levels. The positions will not be refilled unless future appropriations support such refilling.” Or: “An incentive will be offered to employees A and B to facilitate an organizational restructuring of the ABC Unit. Their job duties will be redistributed to existing employees in similar classifications.”

Depending upon how the incentive is offered, **an agency may submit a general plan on how the incentive will be offered or may list the specific individuals that will be offered the incentive.** If the agency is not initially offering the incentive to specific individuals, it will eventually be required to provide that information under the reporting requirement explained below.

2. What are the fiscal impacts associated with this incentive?

In an earlier section of this memo entitled “WHAT SHOULD AN AGENCY CONSIDER IN DETERMINING WHETHER OR NOT TO OFFER THE INCENTIVE?” Item #4 sets forth various elements to consider when performing a cost benefit analysis, for example: compensation savings, avoiding layoff costs, refilling at a lower cost, etc.

If an agency knows the specific individuals who will be offered the incentive, it should provide the specific fiscal impact of offering the incentive to that particular person. If an agency is not initially offering the incentive to specific individuals, it will be required to provide that information under the reporting requirement explained below.

XIII. SUGGESTED STEP-BY-STEP PROCESS

1. Review this memo with the appropriate decision makers to determine whether the agency will offer the incentive.
2. If it is determined to offer the incentive, develop a specific plan on how the incentive will be offered.
3. The agency may want to develop an informational piece to provide to its employees on how the incentive will be offered in your agency.
4. Submit the plan to MMB Commissioner Tom Hanson for approval.
5. Once approval is obtained, the agency may offer the incentive as approved.

6. After consulting with the employee on a specific date for separation, offer the incentive in writing to the employee and require that the employee sign and return the acceptance letter by a specific date, in any event no later than December 31, 2011. MMB suggests that agencies give the employee at least 21 days to accept the offered incentive. The form to be used to offer the incentive and that the employee must sign will be provided when agencies receive approval from MMB.
7. **The legislation requires that the agency provide the applicable retirement system with a copy of the acceptance letter no later than 15 days after the offer is accepted.**
8. Provide the payroll processing information to the agency's payroll division unit. Instructions will be provided when you receive approval from MMB.
9. Submit the Utilization Report to MMB no later than February 1, 2011.
10. Make the appropriate HCSP contributions on the date of separation, in January of 2011, 2012 and, if necessary in 2013.

XIV. HOW SHOULD THE INCENTIVE PAYMENTS BE PROCESSED?

When MMB approves the agency's proposed plan, instructions will be provided on how the incentive payments should be processed by the agency's payroll division.

XV. WILL AGENCIES BE REQUIRED TO SUBMIT ANY REPORTS ABOUT THEIR USE OF THE INCENTIVE?

Yes. The legislation requires that MMB report to the Legislature on April 2, 2011, on the utilization of the early retirement incentive. MMB will require agencies to provide the following information regarding the use of the incentive, no later than February 1, 2011:

- the name of the individual employee who was offered and accepted the incentive
- the employee's classification
- the employee's bargaining unit
- whether or not the position has been refilled
- the purpose for offering the incentive to the employee
- any projected cost savings achieved for the 2010 - 2011 and/or 2012 - 2013 biennia
- any organizational restructuring or workforce planning goals that were accomplished

A reporting format will be provided when MMB approves the agency's plan.

XVI. WHO CAN I CONTACT AT MMB IF I HAVE QUESTIONS

If you have any questions regarding the information contained in this memo please contact MMB Assistant Commissioner Barbara Holmes at (651) 259-3740.

2010 Early Retirement Incentive Cost Estimator

Employee Name _____

Retirement Date _____

Months of Employer Contributions to HCSP (Maximum of 24 months) _____

Coverage at time of retirement:

___ health-single coverage; ___ health-family coverage; ___ waived

___ dental-single coverage; ___ dental-family coverage; ___ waived

Percent of employer contribution at time of retirement ___100%; ___75%; ___50%

Health Plan	Single Coverage			Family Coverage		
	Full Employer Contribution	75% Employer Contribution	50% Employer Contribution	Full Employer Contribution	75% Employer Contribution	50% Employer Contribution
	447.28	335.46	223.64	1185.14	888.86	592.58

Dental Plan	Single Coverage			Family Coverage		
	Full Employer Contribution	75% Employer Contribution	50% Employer Contribution	Full Employer Contribution	75% Employer Contribution	50% Employer Contribution
	22.52	16.90	11.26	47.84	35.90	23.92

Estimated cost of Retirement Incentive

_____ (health plan employer contribution) + _____ (dental plan employer contribution) X
 _____ (Number of months of Employer Contributions to HCSP) = _____ total **estimated** Health
 Care Savings Plan contribution.

This amount is an estimate and will increase annually when new insurance year rates are established.

Minnesota Session Laws

Key: (1) ~~language to be deleted~~ (2) new language

2010, Regular Session

This document represents the act as presented to the governor. The version passed by the legislature is the final engrossment. It does not represent the official 2010 session law, which will be available here summer 2010.

CHAPTER 337--S.F.No. 1481

An act

relating to state government finance; authorizing retirement incentives for certain state employees.

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

Section 1. **RETIREMENT INCENTIVE.**

Subdivision 1. Eligibility. (a) An eligible appointing authority may provide the retirement incentive in this section to an employee who:

(1) has at least 15 years of allowable service in one or more of the funds listed in Minnesota Statutes, section 356.30, subdivision 3, or has at least 15 years of coverage by the individual retirement account plan governed by Minnesota Statutes, chapter 354B, and upon retirement is immediately eligible for a retirement annuity or benefit from one or more of these funds;

(2) accepts the incentive no later than December 31, 2010, and retires no later than June 30, 2011; and

(3) is not in receipt of a retirement plan, retirement annuity, retirement allowance, or service pension from a fund listed in Minnesota Statutes, section 356.30, subdivision 3, during the month preceding the termination of qualified employment.

(b) An eligible appointing authority is any appointing authority in the executive, legislative, or judicial branch of state government, the Public Employees Retirement Association, the Minnesota State Retirement System, the Teachers Retirement Association, or the Minnesota State Colleges and Universities.

(c) An elected official is not eligible to receive an incentive under this section.

(d) An employee who, after termination of employment, receives an employer contribution for health insurance may not receive a payment for health insurance under this section from that appointing authority.

Subd. 2. Incentive. For an employee eligible under subdivision 1, the appointing authority will deposit into the employee's account in the health care savings plan established in Minnesota Statutes, section 352.98, up to 24 months of the employer contribution, as specified in the collective bargaining agreement or compensation plan covering the position from which the employee terminates service, for health and dental insurance for the employee, and, if the employee had dependent coverage immediately before retirement, for the employee's dependents. The contributions provided under this section are those the employee was receiving as of the date of termination, subject to any changes in contributions specified in the collective bargaining agreement or compensation

plan covering the position from which the employee terminated service.

Subd. 3. **Employer discretion; implementation.** Provision of an incentive under this section is at the discretion of the appointing authority. Appointing authorities in the executive branch must apply for approval from the commissioner of management and budget before providing early retirement incentives under this section. All appointing authorities and the commissioner's review must give consideration to issues such as equity within the agency, budgetary constraints, and workforce planning concerns. The appointing authority will determine the date of retirement upon consultation with the employee. Unilateral implementation of this section by the appointing authority is not an unfair labor practice under Minnesota Statutes, chapter 179A.

Subd. 4. **Acceptance.** An employee who is eligible for an incentive under this section, who is offered an incentive by the appointing authority, and who accepts the incentive offer must do so in writing. A copy of the acceptance document must be provided by the appointing authority to the applicable retirement plan within 15 days of its execution.

Subd. 5. **Reemployment prohibition.** An individual who receives an incentive payment under this section may not be reemployed or hired as a consultant by any agency or entity that participates in the State Employee Group Insurance Program for a period of three years after termination of service.

Subd. 6. **Report.** The commissioner of management and budget must report to the legislature by April 2, 2011, regarding use of the retirement incentive for calendar year 2010, with a recommendation regarding renewal of the incentive.

Sec. 2. EFFECTIVE DATE.

Section 1 is effective the day following final enactment.