Fiscal Note & Local Impact Statement

122 nd General Assembly of Ohio

BILL: **H.B. 648 (with amendments 4348, 4349, 4350, 4351, 4352, 4353, 4357)**

DATE: **January 21, 1998**

STATUS: **In House Health, Retirement and Aging**

SPONSOR: **Rep. Van Vyven**

LOCAL IMPACT STATEMENT REQUIRED: **Yes**

CONTENTS: **Makes changes to the disability benefit programs for PERS, SERS, STRS, PFDPF, and HPRS; make other changes**

State Fiscal Highlights

STATE FUND	FY 1998	FY 1999	FUTURE YEARS
PERS, SERS, STRS, HPRS, PFDPF			
Revenues	Varying effects with net impact uncertain	Varying effects with net impact uncertain	Varying effects with net impact uncertain
Expenditures	Varying effects with net impact uncertain	Varying effects with net impact uncertain	Varying effects with net impact uncertain
BWC – Operating Fund			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Indeterminate increase	Indeterminate increase	Indeterminate increase

- See Attachment A for a chart illustrating the various provisions and the actuarial impact on the 5 state retirement systems.
- Bureau of Workers' Compensation: Indeterminate increase in expenditures for administrative and systems changes needed to comply with reporting procedures to the 5 state retirement systems.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1997	FY 1998	FUTURE YEARS
Counties and municipalities			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase	Potential increase	Potential increase

- PFDPF – Penalties/fines: Potential expenditure increase for employers if penalties/fines are imposed.
- PERS – Transfers from PERS to PERS-LE: Indeterminate increase in PERS-LE liability which could translate into an increase in employer contributions. Board would have to determine how the liability would be assumed.

- PERS-LE – Transfer of Univ. of Akron police officers from SERS to PERS-LE: Insufficient data to determine extent of increase in liability to PERS-LE.

Detailed Fiscal Analysis

The bill makes numerous changes the five state retirement systems – PERS, SERS, STRS, HPRS, and PFDPF[1]. Please refer to the LSC Bill Analysis for a more detailed description. The following changes affect all 5 retirement systems and have a potential financial impact:

1. Worker's Compensation offset
   a. Impact on the 5 systems
   b. Impact on BWC
1. Administrative/Operational Changes
   a. Agree to receive medical treatment as a condition of benefit
   b. Submission and review of earning and other information
   c. Disability determination process
3. Uniform-non-uniform inter-system transfers
4. Elimination of the "remarriage penalty"

The following changes affect PFDPF only and have a potential financial impact:
5. Penalties/fines against the employer
6. Changes to the PFDPF disability benefit program
   a. Formula for calculating permanent and total disability benefit
   b. Benefit percentage for partial disability
5. Refund of balance of member contributions
6. Survivors elect member's contributions in lieu of benefit

Other changes with a potential financial impact:
9. PFDPF/HPRS - Survivors may purchase service credit
10. New transfers to PERS-LE
11. Univ. of Akron law enforcement officers- SERS to PERS-LE
12. PERS – Fines against employer

[1] The cost analysis for PFDPF uses the actuarial assumptions and methodologies which were used for the 1997 valuation, but with the changes proposed in the 1992-1996 Quinquennial report. For certain provisions of the bil, results have been prepared using the Entry Age Normal Cost (EANC) method, as required by SB 82. Unfunded liability is amortized as a level percent of payroll, with an open (rolling) amortization period. Total active member payroll is assumed to grow at 4.0% compounded annually. For some provisions there is currently no information available to estimate financial effects under the EANC method.

1a. Worker's Compensation offset

ORC:145.363, 742.401, 3307.441, 3309.411 5505.182, Section 3

The bill requires the retirement boards to adjust a member's disability payment under certain conditions. If the board determines that a member is receiving a disability benefit and a workers' compensation benefit for the same illness or injury and the sum of the two benefits (excluding cost-of-living or ad hoc increases) is greater than 100% of the member's final salary, then the board will deduct the amount over the 100% from the member's annual disability benefit. Final salary is defined as the average of the highest salaries paid to a member during any 3 years of service.

The actuarial reports for the systems provide the following information regarding the impact of this provision:

PERS: There was no available data regarding the dollar amount of reductions in PERS disability benefits currently in pay status upon which to base a detailed measurement of the financial effects of this provision. It is expected that there would be a small reduction in the cost of PERS disability benefits. However, no adjustment in contribution rates would be recommended until sufficient credible experience with the new provision had been observed.

STRS: STRS staff has determined, based on a comparison of Workers' Compensation data and STRS data, that 5% of STRS disability benefit recipients are eligible for Workers' Compensation benefits. While there is a small potential cost savings due to a reduction in STRS benefits for Workers' Compensation, the savings would be immaterial.

SERS: A spokesperson for the system stated that they are unable to determine the impact of this provision until sufficient experience with the new provision has been observed.

HPRS: The introduction of the Workers' Compensation integrated limit on disability benefits may produce a small long term reduction in costs if it actually leads to lesser benefits being paid. The limitation may be difficult for HPRS staff to administer. A spokesperson for the system also added that within a 10 year period, the system only had 5 on-duty disability retirements.

PFDPF: This provision represents potential savings for the Fund via reduced disability payments. However, it is not possible to estimate the savings due to lack of data on workers' compensation awards. Since the offset only applies prior to attainment of service retirement eligibility, many disability retirees would have a short period or no period during which the offset applied.

LBO is assuming that any savings realized by the systems could be offset in some degree by the administrative costs of administering this provision. For those systems with a higher incidence of members receiving Worker's Compensation benefits, presumably PERS and PFDPF, the administrative costs could be significant. The cost of the administrative impact of this provision is undetermined at this point in time.

1b. BWC reporting requirements

ORC: 4123.511, 4123.701, Section 3

The bill requires the Bureau of Workers' Compensation to determine if a claimant is a member of a state retirement system. It also requires BWC, within a specified timeframe, to notify the respective state retirement systems when a workers' compensation benefit has been granted , modified, suspended, or ceased for a claimant who has been identified as belonging to one of the state retirement systems.

The BWC estimates that they could potentially handle 6000 public employee related new **claims** (as distinct from the number of *people*) per year. Since there could be a many-to-one relationship between the number of claims and the employee (varying types of claims per person), the bureau is estimating that they could handle approximately 20,000 public employee related claims per year. This figure would include claims granted, modified, suspended, or revoked.

In trying to determine which employees would be affected by this offset, it is necessary to look at Section 3 of the As Introduced version of the bill. Section 3 states that a person whose disability benefit (i.e. on the retirement system side) became effective prior to the effective date of this bill is not subject to the adjustments described in the respective sections concerning the BWC offset. Given this qualification, there could be many potential scenarios. Since the factor which determines who is affected is on the retirement side (i.e. when their disability benefit is effective) and a claim is not necessarily filed at the same time with both BWC and the retirement system, there could potentially be employees who should be subject to the offset, but would not be identified as such. Unless BWC identified the public employees on their open claims (total open claims are estimated at 2.9 million), or the retirement system notified BWC that a disability benefit was being granted, these employees would not be captured. (Note: There is no provision in the As Introduced version of the bill whereby the retirement systems are authorized or required to notify BWC when a disability benefit is made.) In addition, under these provisions, an employee who had filed a claim with their respective retirement systems, but whose disability benefit isn't *effective* until after the effective date of the bill, would also be subject to the provisions of the BWC offset. This brief explanation does not cover all the different potential scenarios, but is rather an attempt to illustrate some of the potential situations. BWC is projecting that there would be significant computer system and administrative costs related to these reporting requirements. Actual figures are not available at this time.

2. Administrative/operational changes

ORC: 2a – 145.35 (G), 742.40 (B), 3307.42 (H), 3309.39 (G), 5505.18 (C)
2b – 145.362, 742.40, 3307.44, 3309.41, 5505.18 (E), 5703.21
2c – 145.35 (D), 742.38, 3307.42 (C), 3309.39 (C), 5505.18 (A)

2a. The bill requires the retirement boards to adopt rules whereby a disability benefit recipient agrees to receive any medical treatment recommended by the board's physician and to submit medical reports regarding the treatment. If the board determines that a recipient is not receiving the treatment, then the disability benefit will be suspended until the treatment begins or resumes. If the recipient fails to receive treatment for one year, then the disability benefit is forfeited. [Note: This provision codifies current procedure for STRS.]

2b. The bill requires a disability benefit recipient in any of the systems to file an earnings statement, medical information, and any other information required by that system's board. This additional information could be a copy of the recipient's federal income tax return or other information provided to the Internal Revenue Service. The benefit is suspended if the recipient refuses to file any of the required information. The benefit is terminated if the refusal continues for one year.

2c. The bill requires PERS, SERS, SHPRS, and STRS Boards to notify a member's employer that a disability benefit application has been filed not later than 14 days after receiving the application.

LBO estimates that these provisions may increase administrative costs for the systems. The degree to which these provision will increase costs is undetermined at this point in time.

The actuarial report for PFDPF estimates that the proposed changes under 2a and 2b could affect the rates of disability, but it is not possible at this time to make an opinion as to the degree of change expected and in what direction it will be. To the extent that the changes result in lower rates of disability, there should be a savings to the Fund. The next Quinquennial Valuation would measure the change and provide the information needed to assess the financial impact.

3. Uniform-non-uniform inter-system transfers					
	PERS	SERS	STRS	HPRS	PFDPF
Employee Contribution Rates	State – 8.5% Local – 8.5% LE – 9.0%	9.0%	9.3%	10.0%	Police – 10.0% Fire – 10.0%
Employer Contribution Rates	State – 13.31% Local – 13.55% LE – 16.70%	14.00%	14.00%	24.00%	Police – 19.50% Fire – 24.00%
Actuarial Effect	Unknown	Insufficient data to make determination	None*	Insufficient data to make determination*	Insufficient data to make determination*

*See additional comments below.
ORC: 145.295, 742.379, 3307.01, 3307.411, 3307.412, 3309.351, 5505.202

The actuarial reports provided the following additional information:

STRS: Historically transfers have not occurred from Ohio's public safety systems to STRS. It is unlikely that many transfers would occur in the future. As such, there is no cost impact.

HPRS: There is no requirement to transfer the full value of the service credit. In order to maintain cost neutrality, it is important that the full value be transferred to HPRS. The effect on funding requirements for HPRS is probably small, but cannot be estimated reliably without additional data.

PFDPF: The Fund would receive the employer contributions, in addition to the employee contributions, so the actuarial loss associated with transfers into the Fund would be decreased. The Fund would pay more on transfers out, but presumably these are fewer than transfers in. As an example, if a PERS-LE member with a $40,000 salary transferred to PFDPF after 10 years of service, the employer contributions received from PERS would be roughly $54,000. IF the same transfer were from PERS-local or PERS-state the employer contributions would be about $44,000. The total potential savings can not be estimated because data on transfer experience is not available.

With respect to the purchase of non-uniformed service credit by a PFDPF member, this provision would further decrease the actuarial loss associated with transfers into the Fund. If we consider the above example to be a transfer from PERS-local to PFDPF-Police, then the employee and employer contributions received from PERS would be about $27,000 and $44,000, respectively, for a total of $71,000. The corresponding contributions under PFDPF-Police would have been $32,000 and $63,000, for a total of $95,000. Hence, the employee would pay $24,000 if the employee wished to receive full credit for the ten years. Again, the total potential savings can not be estimated because currently data is not available on transfer experience.

4. Elimination of “remarriage penalty”					
	PERS	SERS	STRS	HPRS	PFDPF
Actuarial Effect	$834,000 liability increase (.01% of covered payroll)	None**	Negligible	Provision already exists	$2,440,000 increase in AAL* and $50,000 increase in normal cost

*AAL = actuarial accrued liability

**SERS already assumes that the benefits will be distributed for the spouse’s lifetime.

ORC: 145.45, 742.37(D), 3307.49, 3309.45

The actuarial reports provide the following additional information:

PERS: Based upon PERS experience of fewer than 10 remarriage terminations annually, the stand-alone cost of eliminating the remarriage termination provision has been estimated to be 0.01% (.0001) of covered payroll.

STRS: The financial impact of this change is immaterial.

PFDPF: This provision would generally affect survivors of active deaths, or survivors of relatively young disability retirees. The figures shown above consider current surviving spouses and prospective future surviving spouses of current retirees and current active members.

5. PFDPF – Penalties/fines against the employer

ORC: 742.32, 742.35, 742.38, 742.40

Past due employer/employee contributions

The bill establishes a monetary penalty for reports and payments of employee contributions transmitted after the due date. A penalty of 5% of the total amount due for the reporting period is added when the report and payments are filed 30 days or more after the last day of the reporting period. If the penalty is not paid within three months after being added to the employer billing, interest at a rate determined by the Board may be charged on the amount of the penalty from the date the amount is due to the date of payment.

Under current law, an employer is required to pay the employer contributions in four equal installments promptly. Any amounts not paid within 90 days after an installment is due are subject to a 5% penalty and the Board may charge interest at a rate of 6% on past due accounts and any penalties assessed. Under the bill, a 5% penalty is assessed against the employer 60 days after the installment is due (instead of the 90 days under current law) and the Board can determine the rate of interest to be charged from the date the installment is due to the date of payment.

Late filing of physician's report

The bill requires the employer to file a copy of the physician's report for employees who become a member of the fund on or after the date the minimum standards/procedures take effect. The report must be filed not later than 30 days after an employee becomes a member of the fund. Under the bill, the board will impose a fine of $100 per day beginning with the first day after the date the report is due and ending on the last day prior to the date the report is received by the Board. Under certain conditions, these reporting requirements and fines also apply when an application for disability benefits is made by or for a member. An employer has 28 days in which to respond to a Board's request for a copy of the physician's report or a statement certifying that the employer does not have a copy of the report. The fine would be the same as described above - $100 per day for the relevant time period.

Failure to re-employ a recipient

Under the bill, the board will assess a penalty against the employer in certain cases where the employer fails to re-employ a disability benefit recipient. The penalty is assessed against the employer at a rate of $100 per day, beginning with the first day after the date the recipient requests employment and ending on the last day prior to the date the recipient is re-employed.

Fines withheld by county treasurer

The Board would certify to the county auditor of any amounts due from any employer within the county. The above fines would be withheld from the employer from any funds in the hands of the county treasurer[2] for distribution to such an employer and the county auditor would deposit the fine monies to the credit of the Fund.

Fiscal impact

There would be a cost to employers if any fines were assessed against them. There would be a revenue increase to the Fund depending on the frequency of these fines being imposed.

[2] The country treasurer pays (twice a year) to the treasurer of the municipal corporation all monies received up to that date, arising from taxes levied and assessments made, belonging to the municipal corporation.

6a.PFDPF - Formula for permanent-total disability benefit

ORC: 724.39

The bill would change the calculation for a PFDPF member who was permanently and totally (P&T) disabled from the current 72% of the member's last 12 months of salary to 72% of the member's average annual salary. "Average annual salary" is defined as the highest average annual salary of a PFDPF member during any three years of contributions determined by dividing by three the member's total salary as an employee during these years.

According to the actuarial report for PFDPF, based on the current salary increase assumptions, P&T disability benefits would decrease by about 5%. The resulting decreases in actuarial accrued liabilities and normal cost are estimated to be $9,660,000 and $830,000 respectively.

6b.PFDPF – Benefit percentage for partial disability

ORC: 742.39 (B)

According to the actuarial report for PFDPF, the current valuation assumption is that the benefit percentage for a partial disability is the larger of 60% and the accrued percentage based on the formula in Revised Code. The 1992-1996 Quinquennial indicates that approximately 25% of partials have a percentage greater than 60% (more than 25 years of service). Presumably those with 25 years would still receive the accrued percentage. For the other 75% of partials there is no basis to determine what the average benefit percentage might be under this provision. However, incremental results can be provided: for each 1% decrease in the average benefit percentage, the actuarial accrued liability and normal cost decreases are approximately $8,010,000 and $680,000, respectively.

7. PFDPF – Refund of balance of member contributions

ORC: 742.50

According to the actuarial report for PFDPF, this provision can be considered to provide a guarantee period on the retiree or survivor annuity. However, the value of this guarantee must be offset by the value of any other survivor benefits. So, actuarially, no value is added for married retirees, because the surviving spouse benefit is expected to exhaust any remaining contributions. Modest value is added for unmarried retirees and survivors of active deaths. In total, the estimated actuarial accrued liability increase is $910,000 and the estimated normal cost increase is $60,000.

8. PFDPF - Survivors elect member's contributions in lieu of benefit

ORC: 742.3721

The actuarial report for PFDPF presumes that this provision would only apply if the spouse is not eligible for the 50% J&S death benefit. Actuarially this would currently have no cost effect because the surviving spouse benefit is generally more valuable than the accumulated contributions. That is, for the valuation it would be assumed that the spouse chooses the annuity. There could be a modest savings to the Fund if some spouses actually choose the less-valuable refund. However, small losses could result if impaired spouses, who would otherwise receive annuity benefits for a short time, choose the lump sum refund. Also, as salaries, and hence contributions, grow in the future, the refund may become the more valuable option, particularly if the annuity remains at $410 per month.

9.PFDPF/HPRS - Survivors may purchase service credit

ORC: 742.3720, 5505.176

The bill establishes the provision which currently exists for PERS, STRS, and SERS regarding surviving spouses purchasing service credit for a deceased member for PFDPF and SHPRS. For PFDPF, the purchase must be made no later than 120 days after the date of the member's death.

The actuarial report for **PFDPF** assumes that this provision is designed to allow the survivor to attain eligibility for the 50% J&S death benefit. There is no basis on which to estimate the frequency of utilization for this provision, but an incremental cost can be roughly estimated. If a spouse became eligible for annual benefit of $12,000 with COLA, then this would represent approximately $165,000 in liability. The cost of the service credit would be much less, resulting in a net loss to the Fund.

According to the actuarial report for **HPRS**, the actuarial impact of this section upon HPRS is negligible.

10. New transfers to PERS-LE

ORC: 145.01, 145.33, Section 8

The bill would allow the following individuals from the regular PERS age and service retirement provisions to transfer into the special PERS provisions for law enforcement officers: special police officer for the State Highway Patrol, DNR preserve officer, metropolitan housing authority police officer, regional transit authority police officer, DPS food stamp trafficking agent, tax investigator, and audit investigator. The following table lists the number of individuals that would have the option of making this transfer.

Potential Number of Transfers from PERS-state/local to PERS-LE		
	PERS State or Local	**Number of Individuals**
Special Police Officer	State	25
DNR Preserve officer	State	13
MHA officer	Local	101 - Cuyahoga MHA**
RTA officer	Local	117 – Cleveland**
DPS - Food Stamp Trafficking Agent	State	15
Tax Investigator	State	*
Audit Investigator	State	4
Total minimum number that could potentially transfer		**275**

*Information not available.
**Complete information was not available. This number represents the minimum number that could potentially transfer.

NOTE: For the purposes of this analysis, LBO is assuming that all employees listed above would transfer from PERS to PERS-LE since there is a relatively small increase in employee contributions (0.5%) and there would be a significant increase in retirement benefits and an earlier retirement eligibility date. There are a total of 6742 active members of PERS-LE (as of 12/31/96). Section 8 of the As Introduced version of the bill gives employees who are currently in the above positions 90 days after the effective date of the bill to indicate whether or not they would transfer from PERS to PERS-LE. New employees hired for these positions after the effective date of the bill would automatically be enrolled in PERS-LE.

For those 57+ individuals transferring from the PERS-state to PERS-LE, there would be a 0.50% employee rate increase and a 3.39% employer rate increase (state agencies). For those 218+ individuals transferring from PERS-local to PERS-LE, there would be a 0.50% employee rate increase and a 3.15% employer rate increase (local government entities). Since there is no distinction within PERS-LE between state and local members, LBO is assuming that the employer contribution rate of 16.7% would be the same for both groups. The employer's share of the liability for transferring the 57+ PERS-state members could be carried by their respective state agency (State Highway Patrol, Departments of Natural Resources, Public Safety, Taxation, and the State Auditors office). The liability for transferring the 218+ PERS-local members could be passed on to the local government entities. According to a spokesperson for PERS, the board would have to determine how credit for service already performed under PERS-state/local would be handled. Once the full liability for these transfers was determined, it would be up to the board to decide how to assume that liability. If the board were to decide to increase the employer contribution rates, then there would be a cost to all local government entities who are part of PERS-LE, not just those local entities who are transferring employees. Since there is a *potential* for the costs of this liability to be passed on to local government entities, the LBO, according to guidelines in statute, must make the determination that there *could* be a local government cost attached to this provision. PERS-LE would assume the greatest liability for those individuals who chose to transfer to PERS-LE and shortly thereafter, retired. [See Comment 1 on the LSC Bill Analysis-HB 648 As Introduced version, pages 27-28, for Eligibility Requirements for PERS and PERS-LE.]

11. Univ. of Akron law enforcement officers- SERS to PERS-LE

ORC: 145.011, 3309.011, 3309.312

The bill provides that a SERS member employed full-time by the University of Akron as a state university law enforcement officer may elect to transfer to the PERS-LE division. The bill provides that for each year or portion of a year of credit, SERS must transfer to PERS all of the following: the member's contributions, the total employer contributions paid on behalf of the member, and any amount paid by the member or employer to SERS for the purchase of service credit. There are currently 32 University of Akron law enforcement officers. There is no difference between the PERS-LE employee contribution rate (9.0%) and the SERS employee contribution rate (9.0%). Therefore, there would be no increase in employee contribution rates. There is a 2.7% increase from the SERS employer contribution rate (14.0%) to the PERS-LE employer contribution rate (16.70%). Therefore, it would be 2.7% of covered payroll for those 32 University of Akron police officers, i.e. it would mean a liability increase to PERS-LE. The board would have to determine how to assume this liability. If the board determined that PERS-LE employer contribution rates needed to be increased to cover this liability, then there would be a cost to local government entities since they are one component of employers under PERS-LE.

12. PERS – Fines against employer

ORC: 145.362

Failure to re-employ a recipient

Under the bill, the board will assess a penalty against the employer in certain cases where the employer fails to re-employ a disability benefit recipient. The penalty is assessed against the employer at a rate of $100 per day, beginning with the first day after the date the recipient requests employment and ending on the last day prior to the date the recipient is re-employed.

Fines withheld by county treasurer

The Board would certify to the county auditor of any amounts due from any employer within the county. The above fines would be withheld from the employer from any funds in the hands of the county treasurer[3] for distribution to such an employer and the county auditor would deposit the fine monies to the credit of the Fund.

Fiscal impact

There would be a cost to employers if any fines were assessed against them. There would be a revenue increase to the Fund depending on the frequency of these fines being imposed.

❑ *LBO staff: Joni Leone, Budget/Policy Analyst*

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Attachment A – Listing of Provisions which have a potential financial impact on the 5 State Retirement Systems

[3] The country treasurer pays (twice a year) to the treasurer of the municipal corporation all monies received up to that date, arising from taxes levied and assessments made, belonging to the municipal corporation.

Attachment A - HB 648 Provisions which have a potential financial impact on the 5 State Retirement Systems				
	PERS	**SERS**	**STRS**	**HPRS**
1a.Worker's Compensation offset	Insufficient data	Insufficient data	Savings would be negligible	Savings would negligible
2. Administrative or operational changes	Potential increase in operating expenditures	Potential minimal increase in operating expenditures	Potential minimal increase in operating expenditures	Potential mi increase in ope expenditures
3. Uniform-non-uniform inter-system transfers	Unknown	Insufficient data	None	Insufficient data
4. Elimination of "remarriage penalty"	$834,000 liability increase	None	Negligible	None
5. PFDPF – Penalties/fines against employer	N/A	N/A	N/A	N/A
6a. PFDPF -Formula for permanent-total disability benefit	N/A	N/A	N/A	N/A
6b. PFDPF - Benefit percentage for partial disability	N/A	N/A	N/A	N/A
7. PFDPF - Refund of balance of member contributions	N/A	N/A	N/A	N/A
8. PFDPF - Survivors elect contributions in lieu of benefit	N/A	N/A	N/A	N/A
9. PFDPF/HPRS – Survivors purchase service credit	N/A	N/A	N/A	Negligible
10. Transfers from PERS to PERS-LE	Insufficient data to determine liability	N/A	N/A	N/A
11.Univ. of Akron SERS to PERS-LE	2.7% of covered payroll for 32 SERS employees. PERS-LE would assume this liability.	Offsetting negligible – 32 employees and their contributions would be transferred to PERS-LE.	N/A	N/A
12. PERS-Fines	Potential cost to employers, Potential revenue gain to Fund	N/A	N/A	N/A

N/A = Not applicable