

**FIRST ENGROSSMENT
with House Amendments**

Fifty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2033

Introduced by

Legislative Council

(Employee Benefits Programs Committee)

1 A BILL for an Act to create and enact two new subsections to section 54-52-01, a new section
2 to chapter 54-52, and two new sections to chapter 54-52.6 of the North Dakota Century Code,
3 relating to participation by peace officers and correctional officers in the defined benefit
4 retirement plan and the defined contribution retirement plan; to amend and reenact the two new
5 subsections to section 54-52-01 as created by section 1 of this Act, as approved by the
6 fifty-eighth legislative assembly, subsection 3 of section 54-52-01, section 54-52-02.1,
7 subsection 3 of section 54-52-05, the new section to chapter 54-52 as created by section 6 of
8 this Act, as approved by the fifty-eighth legislative assembly, subsection 3 of section 54-52-17,
9 subsection 3 of section 54-52-17, as amended by section 8 of this Act, as approved by the
10 fifty-eighth legislative assembly, section 54-52.6-01, section 54-52.6-01, as amended by
11 section 10 of this Act, as approved by the fifty-eighth legislative assembly, subsection 1 of
12 section 54-52.6-02, section 54-52.6-02, as amended by section 12 of this Act, as approved by
13 the fifty-eighth legislative assembly, section 54-52.6-03, and the new section to chapter 54-52.6
14 as created by section 17 of this Act, as approved by the fifty-eighth legislative assembly of the
15 North Dakota Century Code, relating to participation by peace officers and correctional officers
16 in the defined benefit retirement plan and the defined contribution retirement plan; and to
17 provide an effective date.

18 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

19 **SECTION 1.** Two new subsections to section 54-52-01 of the North Dakota Century
20 Code are created and enacted as follows:

21 "Correctional officer" means a participating member who is employed as a
22 correctional officer by a political subdivision.

"Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by a political subdivision.

SECTION 2. AMENDMENT. The two new subsections to section 54-52-01 of the North Dakota Century Code as created by section 1 of this Act, as approved by the fifty-eighth legislative assembly, are amended and reenacted as follows:

"Correctional officer" means a participating member who is certified by the department of corrections and rehabilitation or the peace officer standards and training board as a correctional officer and is employed ~~as a correctional officer~~ by the department of corrections and rehabilitation or a political subdivision.

"Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer ~~by a political subdivision~~.

SECTION 3. AMENDMENT. Subsection 3 of section 54-52-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials who elect to remain members of the retirement system; provided, that judges of the supreme and district courts eligible under section 54-52-02.3 and appointed officials who elect to participate under section 54-52-02.5 are eligible employees and shall participate in the public employees retirement system. Eligible employee does not include nonclassified state employees, peace officers, and correctional officers who elect to become members of the retirement plan established under chapter 54-52.6 but does include employees of the judicial branch and employees of the board of higher education and state institutions under the jurisdiction of the board.

SECTION 4. AMENDMENT. Section 54-52-02.1 of the North Dakota Century Code is amended and reenacted as follows:

54-52-02.1. Political subdivisions authorized to join public employees retirement system.

1. A political subdivision may, on behalf of its permanent employees, on behalf of its peace officers and correctional officers separately from its other employees, and permanent noncertified employees only in the case of school districts, enter into

1 agreements with the retirement board for the purpose of extending the benefits of
2 the public employees retirement system, as provided in this chapter, to those
3 employees. The agreement may, in accordance with this chapter, contain
4 provisions relating to benefits, contributions, effective date, modification,
5 administration, and other appropriate provisions as the retirement board and the
6 political subdivision agree upon, but the agreement must provide that:

7 a. The political subdivision will contribute on behalf of each eligible employee an
8 amount equal to that provided in section 54-52-06 or section 6 of this Act for
9 peace officers and correctional officers participating separately from other
10 political subdivision employees.

11 b. A portion of the moneys paid by the political subdivision may be used to pay
12 administrative expenses of the retirement board.

13 2. Notwithstanding any other provision of law, a political subdivision having an
14 existing police pension plan may merge that plan into the public employees
15 retirement system under rules adopted by and in a manner determined by the
16 board.

17 3. Notwithstanding any other provision of this chapter, ~~no~~ a political subdivision of
18 this state not currently participating in the public employees retirement system ~~on~~
19 ~~June 30, 1977, may thereafter not~~ become a participant in the retirement system
20 until an actuarial study is performed under the direction of the board to calculate
21 the cost of that portion of benefits to be paid by the retirement system to the
22 employees of the political subdivision based on any prior service or on any service
23 after June 30, 1977, and before the date of initial participation in the retirement
24 system, or both; and the political subdivision has adopted a method, approved by
25 the board, to pay the costs determined in this subsection over a period not to
26 exceed twenty five years from June 30, 1977. No political subdivision may
27 discontinue participation in the fund without first making such payment to the fund
28 as may be necessary for the fund to pay the future benefits of the eligible
29 employees of the political subdivision as determined on the basis of rules adopted
30 by the board required employer contribution. The required employer contribution
31 must be an amount determined sufficient to fund the normal cost and amortize any

1 past service liability over a period not to exceed thirty years as determined by the
2 board. Any fees incurred in performing the actuarial study must be paid for by the
3 political subdivision in a manner determined by the board.

4 **SECTION 5. AMENDMENT.** Subsection 3 of section 54-52-05 of the North Dakota
5 Century Code is amended and reenacted as follows:

- 6 3. Each employer, at its option, may pay the employee contributions required by
7 subsection 2 and sections 54-52-06.1 ~~and~~ 54-52-06.2, and section 6 of this Act.
8 The amount paid must be paid by the employer in lieu of contributions by the
9 employee. If the state determines not to pay the contributions, the amount that
10 would have been paid must continue to be deducted from the employee's
11 compensation. If contributions are paid by the employer, they must be treated as
12 employer contributions in determining tax treatment under this code and the
13 federal Internal Revenue Code. If contributions are paid by the employer, they
14 may not be included as gross income of the employee in determining tax treatment
15 under this code and the Internal Revenue Code until they are distributed or made
16 available. The employer shall pay these employee contributions from the same
17 source of funds used in paying compensation to the employee or from the levy
18 authorized by subsection 5 of section 57-15-28.1. The employer shall pay these
19 contributions by effecting an equal cash reduction in the gross salary of the
20 employee or by an offset against future salary increases or by a contribution of a
21 reduction in gross salary and offset against future salary increases. If employee
22 contributions are paid by the employer, they must be treated for the purposes of
23 this chapter in the same manner and to the same extent as employee contributions
24 made prior to the date on which employee contributions were assumed by the
25 employer. An employer exercising its option under this subsection shall report its
26 choice to the board, in writing, by June fifteenth of each odd-numbered year.

27 **SECTION 6.** A new section to chapter 54-52 of the North Dakota Century Code is
28 created and enacted as follows:

29 **Contribution by peace officers and correctional officers employed by political**
30 **subdivisions - Employer contribution.** Each peace officer or correctional officer employed
31 by a political subdivision that enters into an agreement with the retirement board on behalf of its

1 peace officers and correctional officers separately from its other employees and who is a
2 member of the public employees retirement system is assessed and shall pay monthly four
3 percent of the employee's monthly salary. The assessment must be deducted and retained out
4 of the employee's salary in equal monthly installments. The peace officer's or correctional
5 officer's employer shall contribute an amount determined by the board to be actuarially required
6 to support the level of benefits specified in section 54-52-17. If the peace officer's or
7 correctional officer's assessment is paid by the employer under subsection 3 of section
8 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace
9 officer's or correctional officer's assessment.

10 **SECTION 7. AMENDMENT.** The new section to chapter 54-52 of the North Dakota
11 Century Code as created by section 6 of this Act, as approved by the fifty-eighth legislative
12 assembly, is amended and reenacted as follows:

13 **Contribution by peace officers and correctional officers ~~employed by political~~**
14 **~~subdivisions~~ - Employer contribution.** Each peace officer or correctional officer ~~employed~~
15 ~~by a political subdivision that enters into an agreement with the retirement board on behalf of its~~
16 ~~peace officers and correctional officers separately from its other employees and who is a~~
17 member of the public employees retirement system is assessed and shall pay monthly four
18 percent of the employee's monthly salary. The assessment must be deducted and retained out
19 of the employee's salary in equal monthly installments. The peace officer's or correctional
20 officer's employer shall contribute an amount determined by the board to be actuarially required
21 to support the level of benefits specified in section 54-52-17. The employer's contribution must
22 be paid from funds appropriated for salary or from any other funds available for such purposes.
23 If the peace officer's or correctional officer's assessment is paid by the employer under
24 subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to
25 the required peace officer's or correctional officer's assessment.

26 **SECTION 8. AMENDMENT.** Subsection 3 of section 54-52-17 of the North Dakota
27 Century Code is amended and reenacted as follows:

28 3. Retirement dates are defined as follows:

29 a. Normal retirement date, except for a national guard security officer or
30 firefighter or a peace officer or correctional officer employed by a political
31 subdivision, is:

- 1 (1) The first day of the month next following the month in which the
2 member attains the age of sixty-five years; or
- 3 (2) When the member has a combined total of years of service credit and
4 years of age equal to eighty-five and has not received a retirement
5 benefit under this chapter.
- 6 b. Normal retirement date for a national guard security officer or firefighter is the
7 first day of the month next following the month in which the national guard
8 security officer or firefighter attains the age of fifty-five years and has
9 completed at least three consecutive years of employment as a national
10 guard security officer or firefighter immediately preceding retirement.
- 11 c. Normal retirement date for a peace officer or correctional officer employed by
12 a political subdivision is:
- 13 (1) The first day of the month next following the month in which the peace
14 officer or correctional officer attains the age of fifty-five years and has
15 completed at least three consecutive years of employment as a peace
16 officer or correctional officer immediately preceding retirement; or
- 17 (2) When the peace officer or correctional officer has a combined total of
18 years of service credit and years of age equal to eighty-five and has not
19 received a retirement benefit under this chapter.
- 20 d. Postponed retirement date is the first day of the month next following the
21 month in which the member, on or after July 1, 1977, actually severs or has
22 severed the member's employment after reaching the normal retirement date.
- 23 ~~e.~~ e. Early retirement date, except for a national guard security officer or firefighter
24 or a peace officer or correctional officer employed by a political subdivision, is
25 the first day of the month next following the month in which the member
26 attains the age of fifty-five years and has completed three years of eligible
27 employment. For a national guard security officer or firefighter, early
28 retirement date is the first day of the month next following the month in which
29 the national guard security officer or firefighter attains the age of fifty years
30 and has completed at least three years of eligible employment. For a peace
31 officer or correctional officer employed by a political subdivision, early

retirement date is the first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty years and has completed at least three years of eligible employment.

e. f. Disability retirement date is the first day of the month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules of the board, and has completed at least one hundred eighty days of eligible employment. For supreme and district court judges, permanent and total disability is based solely on a judge's inability to perform judicial duties arising out of physical or mental impairment, as determined pursuant to rules adopted by the board or as provided by subdivision a of subsection 3 of section 27-23-03. A member is eligible to receive disability retirement benefits only if the member:

- (1) Became disabled during the period of eligible employment; and
- (2) Applies for disability retirement benefits within twelve months of the date the member terminates employment.

A member is eligible to continue to receive disability benefits as long as the permanent and total disability continues and the member submits the necessary documentation and undergoes medical testing required by the board, or for as long as the member participates in a rehabilitation program required by the board, or both. If the board determines that a member no longer meets the eligibility definition, the board may discontinue the disability retirement benefit. The board may pay the cost of any medical testing or rehabilitation services it deems necessary and these payments are appropriated from the retirement fund for those purposes.

SECTION 9. AMENDMENT. Subsection 3 of section 54-52-17 of the North Dakota Century Code as amended by section 8 of this Act, as approved by the fifty-eighth legislative assembly, is amended and reenacted as follows:

3. Retirement dates are defined as follows:

- a. Normal retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer ~~employed by a political subdivision~~, is:

- (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
 - (2) When the member has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- b. Normal retirement date for a national guard security officer or firefighter is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty-five years and has completed at least three consecutive years of employment as a national guard security officer or firefighter immediately preceding retirement.
- c. Normal retirement date for a peace officer or correctional officer ~~employed by a political subdivision~~ is:
- (1) The first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty-five years and has completed at least three consecutive years of employment as a peace officer or correctional officer immediately preceding retirement; or
 - (2) When the peace officer or correctional officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- d. Postponed retirement date is the first day of the month next following the month in which the member, on or after July 1, 1977, actually severs or has severed the member's employment after reaching the normal retirement date.
- e. Early retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer ~~employed by a political subdivision~~, is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed three years of eligible employment. For a national guard security officer or firefighter, early retirement date is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty years and has completed at least three years of eligible employment. For a peace officer or correctional officer ~~employed by a political subdivision~~, early

retirement date is the first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty years and has completed at least three years of eligible employment.

f. Disability retirement date is the first day of the month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules of the board, and has completed at least one hundred eighty days of eligible employment. For supreme and district court judges, permanent and total disability is based solely on a judge's inability to perform judicial duties arising out of physical or mental impairment, as determined pursuant to rules adopted by the board or as provided by subdivision a of subsection 3 of section 27-23-03. A member is eligible to receive disability retirement benefits only if the member:

- (1) Became disabled during the period of eligible employment; and
- (2) Applies for disability retirement benefits within twelve months of the date the member terminates employment.

A member is eligible to continue to receive disability benefits as long as the permanent and total disability continues and the member submits the necessary documentation and undergoes medical testing required by the board, or for as long as the member participates in a rehabilitation program required by the board, or both. If the board determines that a member no longer meets the eligibility definition, the board may discontinue the disability retirement benefit. The board may pay the cost of any medical testing or rehabilitation services it deems necessary and these payments are appropriated from the retirement fund for those purposes.

SECTION 10. AMENDMENT. Section 54-52.6-01 of the North Dakota Century Code is amended and reenacted as follows:

54-52.6-01. Definition of terms. As used in this chapter, unless the context otherwise requires:

1. "Board" means the public employees retirement system board.
2. "Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.

1 3. "Deferred member" means a person who elected to receive deferred vested
2 retirement benefits under chapter 54-52.

3 ~~3.~~ 4. "Eligible employee" means a permanent state employee, except an employee of
4 the judicial branch or an employee of the board of higher education and state
5 institutions under the jurisdiction of the board, who is eighteen years or more of
6 age and who is in a position not classified by the central personnel division. The
7 term also means a peace officer or correctional officer employed by a political
8 subdivision that elects to participate on behalf of its peace officers and correctional
9 officers separately from its other employees in the defined contribution retirement
10 plan established under this chapter.

11 4. 5. "Employee" means any person employed by the state, whose compensation is
12 paid out of state funds, or funds controlled or administered by the state or paid by
13 the federal government through any of its executive or administrative officials. The
14 term also means a peace officer or correctional officer employed by a political
15 subdivision that elects to participate in the defined contribution retirement plan
16 established under this chapter.

17 ~~5.~~ 6. "Employer" means the state of North Dakota and a political subdivision that elects
18 to participate on behalf of its peace officer and correctional officer employees.

19 ~~6.~~ 7. "Participating member" means an eligible employee who elects to participate in the
20 defined contribution retirement plan established under this chapter.

21 8. "Peace officer" means a participating member who is a peace officer as defined in
22 section 12-63-01 and is employed as a peace officer by a political subdivision.

23 ~~7.~~ 9. "Permanent employee" means ~~a state~~ an employee whose services are not limited
24 in duration and who is filling an approved and regularly funded position and is
25 employed twenty hours or more per week and at least five months each year.

26 ~~8.~~ 10. "Wages" and "salaries" means earnings in eligible employment under this chapter
27 reported as salary on a federal income tax withholding statement plus any salary
28 reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h),
29 or 457. "Salary" does not include fringe benefits such as payments for unused sick
30 leave, personal leave, vacation leave paid in a lump sum, overtime, housing
31 allowances, transportation expenses, early retirement, incentive pay, severance

pay, medical insurance, workers' compensation benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between an employee and a participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the board.

SECTION 11. AMENDMENT. Section 54-52.6-01 of the North Dakota Century Code as amended by section 10 of this Act, as approved by the fifty-eighth legislative assembly, is amended and reenacted as follows:

54-52.6-01. Definition of terms. As used in this chapter, unless the context otherwise requires:

1. "Board" means the public employees retirement system board.
2. "Correctional officer" means a participating member who is certified by the department of corrections and rehabilitation or the peace officer standards and training board as a correctional officer and is employed as a correctional officer by a political subdivision by the department of corrections and rehabilitation or a political subdivision.
3. "Deferred member" means a person who elected to receive deferred vested retirement benefits under chapter 54-52.
4. "Eligible employee" means a permanent state employee, except an employee of the judicial branch or an employee of the board of higher education and state institutions under the jurisdiction of the board, who is eighteen years or more of age and who is in a position not classified by the central personnel division. The term also means a peace officer or correctional officer employed by the state of North Dakota who elects to become a participating member and a peace officer or correctional officer employed by a political subdivision that elects to participate on behalf of its peace officers and correctional officers separately from its other employees in the defined contribution retirement plan established under this chapter.
5. "Employee" means any person employed by the state, whose compensation is paid out of state funds, or funds controlled or administered by the state or paid by the federal government through any of its executive or administrative officials. The

term also means a peace officer or correctional officer employed by a political subdivision that elects to participate in the defined contribution retirement plan established under this chapter.

6. "Employer" means the state of North Dakota and a political subdivision that elects to participate on behalf of its peace officer and correctional officer employees.

7. "Participating member" means an eligible employee who elects to participate in the defined contribution retirement plan established under this chapter.

8. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer ~~by a political subdivision~~.

9. "Permanent employee" means an employee whose services are not limited in duration and who is filling an approved and regularly funded position and is employed twenty hours or more per week and at least five months each year.

10. "Wages" and "salaries" means earnings in eligible employment under this chapter reported as salary on a federal income tax withholding statement plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement, incentive pay, severance pay, medical insurance, workers' compensation benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between an employee and a participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the board.

SECTION 12. AMENDMENT. Subsection 1 of section 54-52.6-02 of the North Dakota Century Code is amended and reenacted as follows:

1. The board shall provide an opportunity for each eligible employee who is a member of the public employees retirement system on September 30, 2001, and who has not made a written election under this section to transfer to the defined contribution retirement plan before October 1, 2001, to elect in writing to terminate membership in the public employees retirement system and elect to become a participating member under this chapter. Except as provided in section

54-52.6-03, an election made by an eligible employee under this section is irrevocable. The board shall accept written elections under this section from eligible employees during the period beginning on July 1, 1999, and ending 12:01 a.m. December 14, 2001. An eligible employee who does not make a written election or who does not file the election during the period specified in this section continues to be a member of the public employees retirement system. An eligible employee who makes and files a written election under this section ceases to be a member of the public employees retirement system effective twelve midnight December 31, 2001; becomes a participating member in the defined contribution retirement plan under this chapter effective 12:01 a.m. January 1, 2002; and waives all of that person's rights to a pension, annuity, retirement allowance, insurance benefit, or any other benefit under the public employees retirement system effective December 31, 2001. This section does not affect a person's right to health benefits or retiree health benefits under chapter 54-52.1. An eligible employee who is first employed and entered upon the payroll of that person's employer after September 30, 2001, and a peace officer or correctional officer employed by a political subdivision who is first employed and entered upon the payroll of that person's employer after the effective date of this Act, may make an election to participate in the defined contribution retirement plan established under this chapter at any time during the first six months after the date of employment. If the board, in its sole discretion, determines that the employee was not adequately notified of the employee's option to participate in the defined contribution retirement plan, the board may provide the employee a reasonable time within which to make that election, which may extend beyond the original six-month decision window.

SECTION 13. AMENDMENT. Subsection 1 of section 54-52.6-02 of the North Dakota Century Code as amended by section 12 of this Act, as approved by the fifty-eighth legislative assembly, is amended and reenacted as follows:

1. The board shall provide an opportunity for each ~~eligible employee~~ peace officer or correctional officer employed by a state agency or department who is a member of the public employees retirement system on September 30, ~~2004~~ 2005, and who

has not made a written election under this section to transfer to the defined contribution retirement plan before October 1, ~~2004~~ 2005, to elect in writing to terminate membership in the public employees retirement system and elect to become a participating member under this chapter. Except as provided in section 54-52.6-03, an election made by ~~an eligible employee~~ a peace officer of correctional officer employed by a state agency or department under this section is irrevocable. The board shall accept written elections under this section from ~~eligible employees~~ peace officers and correctional officers employed by a state agency or department during the period beginning on July 1, 1999, and ending ~~12:01 a.m. 5:00 p.m. December 14, 2004~~ 16, 2005. ~~An eligible employee~~ A peace officer or correctional officer employed by a state agency or department who does not make a written election or who does not file the election during the period specified in this section continues to be a member of the public employees retirement system. ~~An eligible employee~~ A peace officer or correctional officer employed by a state agency or department who makes and files a written election under this section ceases to be a member of the public employees retirement system effective twelve midnight December 31, ~~2004~~ 2005; becomes a participating member in the defined contribution retirement plan under this chapter effective 12:01 a.m. January 1, ~~2002~~ 2006; and waives all of that person's rights to a pension, annuity, retirement allowance, insurance benefit, or any other benefit under the public employees retirement system effective December 31, ~~2004~~ 2005. This section does not affect a person's right to health benefits or retiree health benefits under chapter 54-52.1. An eligible employee who is first employed and entered upon the payroll of that person's employer after September 30, 2001, and a peace officer or correctional officer employed by a political subdivision who is first employed and entered upon the payroll of that person's employer after the effective date of this Act, and a peace officer or correctional officer employed by a state agency or department who is first employed and entered upon the payroll of that person's employer after September 30, 2005, may make an election to participate in the defined contribution retirement plan established under this chapter at any time during the first six months after the date of employment. If the

board, in its sole discretion, determines that the employee was not adequately notified of the employee's option to participate in the defined contribution retirement plan, the board may provide the employee a reasonable time within which to make that election, which may extend beyond the original six-month decision window.

SECTION 14. A new section to chapter 54-52.6 of the North Dakota Century Code is created and enacted as follows:

Political subdivisions authorized to join defined contribution retirement plan.

1. A political subdivision, on behalf of its peace officers and correctional officers, may enter an agreement with the retirement board for the purpose of extending the benefits of the defined contribution retirement plan, as provided in this chapter, to those employees. The agreement may contain, in accordance with this chapter, provisions relating to contributions, effective date, modification, administration, and other appropriate provisions as the retirement board and the political subdivision may agree, but the agreement must provide that:
 - a. The political subdivision will contribute on behalf of each eligible employee an amount equal to that provided in section 6 of this Act.
 - b. A portion of the moneys paid by the political subdivision may be used to pay administrative expenses of the retirement board.
2. A political subdivision that merges an existing police pension plan into the public employees retirement system must provide an opportunity for its members to elect to participate in the defined contribution retirement plan under rules adopted by and in a manner determined by the board.

SECTION 15. AMENDMENT. Section 54-52.6-03 of the North Dakota Century Code is amended and reenacted as follows:

54-52.6-03. Transfer of accumulated fund balances. For an individual who elects to terminate membership in the public employees retirement system under chapter 54-52, the board shall transfer a lump sum amount from the retirement fund to the participating member's account in the defined contribution retirement plan under this chapter. However, if the individual terminates employment prior to receiving the lump sum transfer under this section, the election made under section 54-52.6-02 is ineffective and the individual remains a member

1 of the public employees retirement system under chapter 54-52 and retains all the rights and
2 benefits provided under that chapter. The board shall calculate the amount to be transferred
3 for ~~persons~~ peace officers and correctional officers employed by a state agency or department
4 before October 1, ~~2004~~ 2005, using the two following formulas, and shall transfer the greater of
5 the two amounts obtained:

- 6 1. The actuarial present value of the individual's accumulated benefit obligation under
7 the public employees retirement system based on the assumption that the
8 individual will retire under the earliest applicable normal retirement age, plus
9 interest from January 1, ~~2004~~ 2006, to the date of transfer, at the rate of one-half
10 of one percent less than the actuarial interest assumption at the time of the
11 election; or
- 12 2. The actual employer contribution made, less vested employer contributions made
13 pursuant to section 54-52-11.1, plus compound interest at the rate of one-half of
14 one percent less than the actuarial interest assumption at the time of the election
15 plus the employee account balance.

16 The board shall calculate the amount to be transferred for persons employed after
17 September 30, ~~2004~~ 2005, using only the formula contained in subsection 2.

18 **SECTION 16.** A new section to chapter 54-52.6 of the North Dakota Century Code is
19 created and enacted as follows:

20 **Contribution by peace officers and correctional officers employed by political**
21 **subdivisions - Employer contribution.** Each peace officer and correctional officer employed
22 by a political subdivision who participates in the defined contribution retirement plan established
23 under this chapter is assessed and shall pay monthly four percent of the employee's monthly
24 salary or wage paid to the participant. The assessment must be deducted and retained out of
25 the employee's salary in equal monthly installments. The peace officer's or correctional
26 officer's employer shall contribute an amount equal to that paid by the employer under section 6
27 of this Act for peace officer and correctional officer members of the public employees retirement
28 system defined benefit retirement plan. The employer's contribution must be paid from funds
29 appropriated for salary or from any other funds available for such purposes. If the peace
30 officer's or correctional officer's assessment is paid by the employer under subsection 3 of

1 section 54-52.6-09, the employer shall contribute, in addition, an amount equal to the required
2 peace officer's or correctional officer's assessment.

3 **SECTION 17. AMENDMENT.** The new section to chapter 54-52.6 of the North Dakota
4 Century Code as created by section 17 of this Act, as approved by the fifty-eighth legislative
5 assembly, is amended and reenacted as follows:

6 **Contribution by peace officers and correctional officers ~~employed by political~~**
7 **~~subdivisions~~ - Employer contribution.** Each peace officer and correctional officer ~~employed~~
8 ~~by a political subdivision~~ who participates in the defined contribution retirement plan established
9 under this chapter is assessed and shall pay monthly four percent of the employee's monthly
10 salary or wage paid to the participant. The assessment must be deducted and retained out of
11 the employee's salary in equal monthly installments. The peace officer's or correctional
12 officer's employer shall contribute an amount equal to that paid by the employer under section 6
13 of this Act for peace officer and correctional officer members of the public employees retirement
14 system defined benefit retirement plan. The employer's contribution must be paid from funds
15 appropriated for salary or from any other funds available for such purposes. If the peace
16 officer's or correctional officer's assessment is paid by the employer under subsection 3 of
17 section 54-52.6-09, the employer shall contribute, in addition, an amount equal to the required
18 peace officer's or correctional officer's assessment.

19 **SECTION 18. EFFECTIVE DATE.** Sections 2, 7, 9, 11, 13, 15, and 17 become
20 effective on July 1, 2005.