

**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.

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

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

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

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

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

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

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

27           **54-52-02.1. Political subdivisions authorized to join public employees retirement**  
28 **system.**

29           1. A political subdivision may, on behalf of its permanent employees, on behalf of its  
30           peace officers and correctional officers separately from its other employees, and  
31           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. 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

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

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

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

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

25           **SECTION 9. AMENDMENT.** Subsection 3 of section 54-52-17 of the North Dakota  
26           Century Code as amended by section 8 of this Act, as approved by the fifty-eighth legislative  
27           assembly, 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 retirement date is the first day of the month next following the month in which  
2 the peace officer or correctional officer attains the age of fifty years and has  
3 completed at least three years of eligible employment.

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

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

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

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

27 **54-52.6-01. Definition of terms.** As used in this chapter, unless the context otherwise  
28 requires:

- 29 1. "Board" means the public employees retirement system board.
- 30 2. "Correctional officer" means a participating member who is employed as a  
31 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

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

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

9 **54-52.6-01. Definition of terms.** As used in this chapter, unless the context otherwise  
10 requires:

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

- 1 term also means a peace officer or correctional officer employed by a political  
2 subdivision that elects to participate in the defined contribution retirement plan  
3 established under this chapter.
- 4 6. "Employer" means the state of North Dakota and a political subdivision that elects  
5 to participate on behalf of its peace officer and correctional officer employees.
- 6 7. "Participating member" means an eligible employee who elects to participate in the  
7 defined contribution retirement plan established under this chapter.
- 8 8. "Peace officer" means a participating member who is a peace officer as defined in  
9 section 12-63-01 and is employed as a peace officer ~~by a political subdivision~~.
- 10 9. "Permanent employee" means an employee whose services are not limited in  
11 duration and who is filling an approved and regularly funded position and is  
12 employed twenty hours or more per week and at least five months each year.
- 13 10. "Wages" and "salaries" means earnings in eligible employment under this chapter  
14 reported as salary on a federal income tax withholding statement plus any salary  
15 reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h),  
16 or 457. "Salary" does not include fringe benefits such as payments for unused sick  
17 leave, personal leave, vacation leave paid in a lump sum, overtime, housing  
18 allowances, transportation expenses, early retirement, incentive pay, severance  
19 pay, medical insurance, workers' compensation benefits, disability insurance  
20 premiums or benefits, or salary received by a member in lieu of previously  
21 employer-provided fringe benefits under an agreement between an employee and  
22 a participating employer. Bonuses may be considered as salary under this section  
23 if reported and annualized pursuant to rules adopted by the board.

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

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

1           54-52.6-03, an election made by an eligible employee under this section is  
2           irrevocable. The board shall accept written elections under this section from  
3           eligible employees during the period beginning on July 1, 1999, and ending  
4           12:01 a.m. December 14, 2001. An eligible employee who does not make a  
5           written election or who does not file the election during the period specified in this  
6           section continues to be a member of the public employees retirement system. An  
7           eligible employee who makes and files a written election under this section ceases  
8           to be a member of the public employees retirement system effective twelve  
9           midnight December 31, 2001; becomes a participating member in the defined  
10          contribution retirement plan under this chapter effective 12:01 a.m. January 1,  
11          2002; and waives all of that person's rights to a pension, annuity, retirement  
12          allowance, insurance benefit, or any other benefit under the public employees  
13          retirement system effective December 31, 2001. This section does not affect a  
14          person's right to health benefits or retiree health benefits under chapter 54-52.1.  
15          An eligible employee who is first employed and entered upon the payroll of that  
16          person's employer after September 30, 2001, and a peace officer or correctional  
17          officer employed by a political subdivision who is first employed and entered upon  
18          the payroll of that person's employer after the effective date of this Act, may make  
19          an election to participate in the defined contribution retirement plan established  
20          under this chapter at any time during the first six months after the date of  
21          employment. If the board, in its sole discretion, determines that the employee was  
22          not adequately notified of the employee's option to participate in the defined  
23          contribution retirement plan, the board may provide the employee a reasonable  
24          time within which to make that election, which may extend beyond the original  
25          six-month decision window.

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

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

1 has not made a written election under this section to transfer to the defined  
2 contribution retirement plan before October 1, ~~2004~~ 2005, to elect in writing to  
3 terminate membership in the public employees retirement system and elect to  
4 become a participating member under this chapter. Except as provided in section  
5 54-52.6-03, an election made by ~~an eligible employee~~ a peace officer of  
6 correctional officer employed by a state agency or department under this section is  
7 irrevocable. The board shall accept written elections under this section from  
8 ~~eligible employees~~ peace officers and correctional officers employed by a state  
9 agency or department during the period beginning on July 1, 1999, and ending  
10 ~~12:01 a.m. 5:00 p.m. December 14, 2004~~ 16, 2005. ~~An eligible employee~~ A peace  
11 officer or correctional officer employed by a state agency or department who does  
12 not make a written election or who does not file the election during the period  
13 specified in this section continues to be a member of the public employees  
14 retirement system. ~~An eligible employee~~ A peace officer or correctional officer  
15 employed by a state agency or department who makes and files a written election  
16 under this section ceases to be a member of the public employees retirement  
17 system effective twelve midnight December 31, ~~2004~~ 2005; becomes a  
18 participating member in the defined contribution retirement plan under this chapter  
19 effective 12:01 a.m. January 1, ~~2002~~ 2006; and waives all of that person's rights to  
20 a pension, annuity, retirement allowance, insurance benefit, or any other benefit  
21 under the public employees retirement system effective December 31, ~~2004~~ 2005.  
22 This section does not affect a person's right to health benefits or retiree health  
23 benefits under chapter 54-52.1. An eligible employee who is first employed and  
24 entered upon the payroll of that person's employer after September 30, 2001, and  
25 a peace officer or correctional officer employed by a political subdivision who is  
26 first employed and entered upon the payroll of that person's employer after the  
27 effective date of this Act, and a peace officer or correctional officer employed by a  
28 state agency or department who is first employed and entered upon the payroll of  
29 that person's employer after September 30, 2005, may make an election to  
30 participate in the defined contribution retirement plan established under this  
31 chapter at any time during the first six months after the date of employment. If the

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

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

8 **Political subdivisions authorized to join defined contribution retirement plan.**

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

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

26 **54-52.6-03. Transfer of accumulated fund balances.** For an individual who elects to  
27 terminate membership in the public employees retirement system under chapter 54-52, the  
28 board shall transfer a lump sum amount from the retirement fund to the participating member's  
29 account in the defined contribution retirement plan under this chapter. However, if the  
30 individual terminates employment prior to receiving the lump sum transfer under this section,  
31 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.