

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2033

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LaCosta Rickford
Operator's Signature

10/15/03
Date

2003 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2033

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Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2033

Senate Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 01/23/03

Tape Number	Side A	Side B	Meter #
Tape 1	x		3754-end
Tape 1		x	whole tape
Tape 2			0-474
Committee Clerk Signature <i>[Signature]</i>			

Minutes:

Senator Karen Krebsbach, Chairman opens SB 2033. All senators present.

Jeff Nelson, Legislative Council goes over SB 2033 section by section to explain bill to committee. For the record he is neither for or in opposition of bill. (Information attached)

Representative Bette Grande speaks on behalf of SB 2033. She was on the interim committee of employee benefits. She offers an amendment (attached), this removes correction officers from the grouping. This takes it down to more manageable numbers.

Jeff Nelson, Legislative Council continues on explanation of SB 2033. He states that he is speaking of the bill and not the amendment that Representative Grande brought in.

Senator Lyson speaks in support of SB 2033. he feels it is extremely important to have a better retirement for these peace officers. He states that they work 24 hours a day, shift changes, work holidays, through family functions, and get called out in the middle of the night. he also states that we wouldn't want to 56 year old man out there going up against 20 to 30 year old violent

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Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2033

Hearing Date 01/23/03

criminals. We would in fact rather have a 25 year old. To ensure that we keep these younger persons in the state working for this state instead of going to another state because their benefits and retirement packages are much better.

Jeff Nelson, Legislative Council continues in explanation of SB 2033.

Senator Nelson : What is the estimate number of people moving out of one plan to another?

J. Nelson: 411, it is listed in the fiscal note.

Senator Nelson : Will this money be commingled with other funds for investment purposes or is it going into small funds?

J. Nelson: Investment purposes are coinmingled , I believed but, Mr. Collins could help on that question. This plan is optional subdivisions. It is the political subdivision that makes the election to participate, not individual political subdivisions.

Continues to go through section of bills.

Senator Nelson: Was there any discussion for political sub's to move to PERS plan?

J. Nelson: Political Sub. can be in PERS plan if they wish.

Senator Nelson : I am concerned about the way it is set up. (the DC plan). highway patrol has a fund of their own.,

Senator Krebsbach : There was an amendment to remove correctional officers. I do hear your concerns Senator Nelson.

Senator Dever : Is the definition of a peace officer apply to the political sub's as well, so that wouldn't include dispatchers, meter maids, etc.

J. Nelson: If the political sub's define them as peace officers then yes.

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Senate Government and Veterans Affairs Committee
Bill/Resolution Number SB 2033
Hearing Date 01/23/03

Senator Krebsbach : Was there any discussion on allow correctional officers to remain in define benefit PERS or to transfer to this, giving them an option?

J. Nelson: No, but yes to the extent that the committee recognized the Rule of 85.

Senator Fairfield : the correctional officers are currently under the main system and if they were deleted they would stay under that system. Also, the highway patrolmen system there is a rule of 80 and under this new system there would be a rule of 85, is that correct?

J. Nelson: Yes, age 55 seemed appropriate.

Scott Busching, North Dakota Sheriffs and Deputies Association testifying in support of bill.

He said that the bill was not defined to benefit him or anyone close to retirement however they wish someone would have done this for them years ago. He stated he has deputies that could go and retire but do not have a place or the financial ability to do so. Peace officers are very unique and it is becoming harder to maintain the level of employees. He feels this would help attract people to these jobs. He states it is very stressful job and is hard physically on these people who have done this and would like them to feel good about their futures and not worry and be able to retire when they feel they have to.

Warren Emmer, Director of Corrections and Rehabilitation spoke in favor of bill. (testimony attached)

he then spoke regarding the amendment that withdraws the correctional officers and said that they too are sworn peace officers and they should be allowed to stay in the bill. What Scott Bursching said is true that it won't help the older people but it will help the newer employees and recruiting. there are 58 sworn officers that this would cut out if you passed this bill WITH the amendment.

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Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2033

Hearing Date 01/23/03

Tim Schuetzle, Prison Division Director spoke in favor of Sb 2033 without the purposed amendment. I am supporting the correctional officers and the original part of this bill. Most will work until 60-65 and are working with younger people off the street. Along with recruitment this would help. This is a young man's game, we need to replace the older with the younger. We are 265 employees within the prisons that would transfer into this bill. 300 of 411 employees are correctional officers. This fiscal note cuts out parole officers that should be in this also.

Paul Hendrickson, Sheriff, Briggs county. We are finding a hard time getting people to come to work for us. This would help. I would encourage your support.

Senator Dever : Does your dept. have nay pension now?

Hendrickson: Yes, In the PERS plan.

Jerry Kemmet, Director.: the Attorney General's office does support this bill. We need a system so one department can transfer to another. I had a officer that couldn't physically do the work after 60 and I was able to transfer him to training unit but, most offices out there do not have that opportunity, this would help those who just physically can't do it after all those years of service.

Chris Runge, Executive Director, North Dakota Public Employees Association, we are in support of SB 2033 with the correctional officers included as stated in the original bill. This is a special and unique group of employees. My only concern is the creation of a defined contribution pension plan. We don't think it is the most secure plan and we feel that it should be the best plan for our peace officers.

Paul Shadwell, ND Game and Fish, Chief Administrative Services, spoke on a neutral position of SB 2033. We are in support of a better retirement plan but we are not able to retire at

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Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2033

Hearing Date 01/23/03

age 55. we would like to have our game wardens know as peace officers but, this bill would not help. We are contributing \$107,00 that we feel would better suite us as going toward salaries instead of a retirement plan that they would not gain from.

Senator Wardner : So you feel this is a wash for you, what your concern is the fiscal amount.

P. Shadwell: Yes, equal benefits either way. The money that we would contribute would not benefit us as we see it.

Senator Dever : If employees are eligible at age 55 doesn't the \$107,00 apply to the employees that are not eligible but become eligible because of the bill?

P. Shadwell: The \$107,000 would be the additional that we would have to pay in to the fund because our officers are eligible for this new option. It would be potential for our officers to retire earlier.

Senator Wardner : they would get a better benefit at age 55 through this system then through the PERS system?

P. shadwell: Only if the multiplier would be higher then the percent multiplier that they have now.

Senator Brown: would you like us to amend out the Game and Fish Department?

P. Shadwell: I think that a recommendation.

Senator Nelson : Average age they enter the field is 25 so by the time they are 55 they reach the rule of 85, some will be eligible before that and some will not be eligible how many are in your Department?

P.Shadwell: 30 game wardens

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Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2033

Hearing Date 01/23/03

Kathy Roll, Attorney general's office to testify in neutral position. Presents amendments (see attached)

Closed SB 2033

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10/15/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2033

Senate Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 01/31/03

Tape Number	Side A	Side B	Meter #
Tape 1	x		0-1130
Committee Clerk Signature			

Minutes:

Senator Karen Krehsbach, Chairman re opens SB 2033 and hear testimony from **Al Lick, Director of the Division of Juvenile Services (Testimony attached).**

Senator Dever : The definition of correctional officer includes certification by either the dept. of corrections rehabilitation or the peace officers standards and training board would these people apply to that?

Lick: They would have to be under the part of certified by the dept. of corrections. We would be a certified juvenile officer. Maybe we cold change the language to include these people.

Senator Dever : The people would already be in the PERS program, it would change the retirement ages?

Lick: Yes,

Senator Nelson : talking about budgets, this is where the money is coming from and is there a way to adjust your budget to help with this/

Page 2

Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2033

Hearing Date 01/31/03

Lick: We took the 5% cut and there is nothing left in our budget to do that.

Closed SB 2033

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10/15/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2033

Senate Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 02/07/03

Tape Number	Side A	Side B	Meter #
Tape 1	x		2019-2960
Committee Clerk Signature			

Minutes:

Senator Karen Krebsbach, Chairman re opens SB 2033.

Senator Dever: I did not have the fiscal note redone. Senator Nelson did not think party would have a problem with amendment. It excludes all state employees. Only includes the peace officers.

Senator Krebsbach: the risk is so much greater today as it use to be they are having a much harder time hiring new people out there. They lose them all the time also. It would be self funded by the political sub.

Senator Nelson: When did everyone else jump on the bandwagon?

Senator Krebsbach: I guess when it shows up as peace officer there are some in the state category shows up as peace officer, so then it just mushroomed?

Senator Nelson: Did the employee benefits program have everyone in?

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Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2033

Hearing Date 02/07/03

Senator Krebsbach: It was worked on through the two year process of the committee and they keep coming in at different times. We didn't know where we were going with it at first.

They wanted a program like the highway patrol. Since that is impossible for us, some counties have different things set up so we wanted it to be funded from the political sub.

Senator Nelson: I was trying to think of a way to do this next time but they have to have it in there budget. with the corrections they wanted to go down to 62 then you would have to do it for everyone.

Senator Wardner: Are we treading on thin ice, because they are state employees? They are state employees would we be able to give them more than the rest of the state employees?

Senator Brown: I think I have heard that you can with peace officers.

Senator Wardner: I think we are doing thing, hopefully they can study this further.

Senator Brown moves to adopt the amendment .0303

Senator Dever 2nd

5 Yes 1 No

Senator Brown moves a Do Pass as amended

Senator Dever 2nd

Carrier: Senator Krebsbach

FISCAL NOTE
Requested by Legislative Council
03/31/2003

Amendment to: SB 2033

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures					\$927,563	\$228,882
Appropriations					\$927,563	\$182,611

1B. County, city, and school district fiscal effect: Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

This proposal provides for the creation of a new law enforcement retirement system as part of the PERS national guard plan. Law enforcement entities of political subdivisions could join the system at their option beginning August 1 of 2003. Eligible law enforcement or correctional officers that are state employee members of PERS would be transferred to the new system in the next biennium. Since the new system provides for an earlier retirement date the required employer contributions are higher. The projected amount for the next biennium above reflect the cost of the additional employer contributions on behalf of the estimated 453 eligible participants.

3. State fiscal effect detail: For information shown under state fiscal effect in 1A, please:

A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

B. Expenditures: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

The additional expenditures for the next biennium are for the additional employer contributions required for state employees who join the system next biennium. Specifically the projected employer contribution rate increases from 4.12% to 8.31%. Total covered payroll for the 453 eligible members is \$1,150,000. The present employer contribution rate is 4.12% which is a monthly contribution of \$47,380 for this group of members. The increased contribution required under this bill is 8.31% which would be \$95,565. The difference of \$48,185 is the additional monthly contribution required. Over 24 months this is \$1,156,445. Broken down by funding source it is approximately \$927,563 in general funds and \$228,882 in other funds.

C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

The appropriations reflects the additional appropriation authority necessary for the Attorney Generals Office, Highway Patrol, Department of Corrections and Game & Fish. Higher Ed has 18 employees that would be eligible but they are not included in the appropriation amount since they have a continuing appropriation.

Name:	Sparb Collins	Agency:	PERS
Phone Number:	328-3901	Date Prepared:	03/31/2003

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FISCAL NOTE
Requested by Legislative Council
02/14/2003

Amendment to: SB 2033

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This proposal provides for the creation of a new law enforcement retirement system by expanding the eligibility of the national guard plan. Law enforcement personnel and correctional officers of political subdivisions would be members of this plan if their employer elects to participate.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

As amended this bill would have no effect on state expenditures since no state employees would be eligible.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

As amended no appropriations would be necessary since no state employees would be eligible for this plan.

Name:	Sparb Collins	Agency:	Public Employees Retirement Plan
Phone Number:	328-3901	Date Prepared:	02/16/2003

FISCAL NOTE
Requested by Legislative Council
01/29/2003

REVISION

Bill/Resolution No.: SB 2033

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$927,563	\$228,882	\$927,563	\$228,882
Appropriations			\$927,563	\$182,611	\$927,563	\$182,611

1B. County, city, and school district fiscal effect: Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

This proposal provides for the creation of a new law enforcement retirement system. Present eligible state employee members of PERS would be transferred to the new system. Since the new system provides for an earlier retirement date the required employer contributions are higher. The above amounts reflect the cost of the additional employer contributions on behalf of the estimated 453 eligible participants.

3. State fiscal effect detail: For information shown under state fiscal effect in 1A, please:

A. **Revenues:** Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

B. **Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

The additional expenditures are for the additional employer contributions required for the new system. Specifically the employer contribution rate increases from 4.12% to

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8.31%. Total covered payroll for the 453 eligible members is \$1,150,000. The present employer contribution rate is 4.12% which is a monthly contribution of \$47,380 for this group of members. The increased contribution required under this bill is 8.31% which would be \$95,565. The difference of \$48,185 is the additional monthly contribution required. Over 24 months this is \$1,156,445. Broken down by funding source it is approximately \$927,563 in general funds and \$228,882 in other funds

C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

The appropriations reflects the additional appropriation authority necessary for the Attorney Generals Office, Highway Patrol, Department of Corrections and Game & Fish. Higher Ed has 18 employees that would be eligible but they are not included in the appropriation amount since they have a continuing appropriation.

Name:	Sparb Collins	Agency:	Public Employees Retirement System
Phone Number:	328-3901	Date Prepared:	01/29/2003

FISCAL NOTE
Requested by Legislative Council
12/16/2002

Bill/Resolution No.: SB 2033

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$879,000	\$183,000	\$879,000	\$183,000
Appropriations			\$879,000	\$183,000	\$879,000	\$183,000

1B. County, city, and school district fiscal effect: Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

This proposal provides for the creation of a new law enforcement retirement system. Present eligible state employee members of PERS would be transferred to the new system. Since the new system provides for an earlier retirement date the required employer contributions are higher. The above amounts reflect the cost of the additional employer contributions on behalf of the estimated 411 eligible participants.

3. State fiscal effect detail: For information shown under state fiscal effect in 1A, please:

A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

B. Expenditures: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

The additional expenditures are for the additional employer contributions required for the new system. Specifically the employer contribution rate increases from 4.12% to 8.31%. Total covered payroll for the 411 eligible members is \$1,055,199. The present employer contribution rate is 4.12% which is a monthly contribution of \$43,474 for this group of members. The increased contribution required under this bill is 8.31% which would be

\$87,688. The difference of (87,688-43,474) \$44,214 is the additional monthly contribution required. Over 24 months this \$1,061,136. Broken down by funding source it is approximately \$879,000 in general fund and \$183,000 in other funds

C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

The appropriations of agencies with eligible employees for this system will need to be increased to pay the additional contributions. The table summarizes the required increases by agency.

Department	Biennium Increase	General Increase	Other Increase
Attorney General	\$126,096	\$95,833	\$30,263
Highway Patrol	\$10,272	\$7,807	\$2,465
Parole	\$204,120	\$200,038	\$4,082
Penitentiary (518)	\$204,384	\$204,384	
Penitentiary (519)	\$378,024	\$370,464	\$7,560
Roughrider	\$31,104		\$31,104
Game & Fish	\$107,136		\$107,136
Total	\$1,061,136	\$878,526	\$182,610

Name:	Sparb Collins	Agency:	Public Employees Retirement System
Phone Number:	328-3901	Date Prepared:	12/18/2002

30017.0301
Title.

Prepared by the Legislative Council staff for
Representative Grande
December 12, 2002

PROPOSED AMENDMENTS TO SENATE BILL NO. 2033

Page 1, line 3, remove "and correctional officers"

Page 1, line 8, remove "and correctional officers"

Page 1, line 11, replace "Two" with "A" and replace "subsections" with "subsection"

Page 1, line 12, replace "are" with "is"

Page 1, remove lines 13 through 16

Page 2, line 5, replace the first underscored comma with "and" and remove ", and correctional officers"

Page 2, line 14, remove "and correctional officers"

Page 2, line 24, remove "and correctional officers"

Page 4, line 13, remove "and correctional officers"

Page 4, line 14, remove "or correctional officer"

Page 4, line 17, remove "or correctional officer's"

Page 4, line 20, remove "or correctional"

Page 4, line 21, remove "officer's"

Page 4, line 22, remove "or"

Page 4, line 23, remove "correctional officer's"

Page 4, line 28, remove "or correctional officer"

Page 5, line 9, remove "or correctional officer"

Page 5, line 11, remove "or correctional officer"

Page 5, line 13, remove "or correctional officer"

Page 5, line 14, remove "or correctional officer"

Page 5, line 21, remove "or correctional officer"

Page 5, line 27, remove "or correctional officer"

Page 5, line 29, remove "or correctional officer"

Page 6, line 27, remove "Correctional officer" means a participating member who is certified by the

Page 6, remove lines 28 through 30

Page 7, line 1, remove "3."

Page 7, line 3, remove the overstrike over "3." and remove "4."

Page 7, line 7, remove "or correctional officer"

Page 7, line 9, remove "and correctional officer"

Page 7, line 10, remove "and correctional officers"

Page 7, line 13, remove the overstrike over "4." and remove "5."

Page 7, line 16, remove "and correctional officer"

Page 7, line 19, remove the overstrike over "5." and remove "6."

Page 7, line 20, remove "and correctional officer"

Page 7, line 21, remove the overstrike over "6." and remove "7."

Page 7, line 23, replace "8." with "7."

Page 7, line 25, replace "9." with "8."

Page 7, line 28, replace "10." with "9."

Page 8, line 10, remove "or"

Page 8, line 11, remove "correctional officer"

Page 8, line 17, remove "or correctional officer"

Page 8, line 19, remove "and correctional officers"

Page 8, line 21, remove "or correctional officer"

Page 8, line 24, remove "or correctional officer"

Page 9, line 3, remove "or correctional officer"

Page 9, line 15, remove "and correctional officers"

Page 10, line 25, remove "and correctional officers"

Page 10, line 26, remove "and correctional officer"

Page No. 2

30017.0301

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10/15/03
Date

Page 10, line 30, remove "or correctional officer's"

Page 10, line 31, remove "and correctional officer"

Page 11, line 3, remove "or correctional officer's"

Page 11, line 5, remove "or correctional officer's"

Page 11, line 10, remove "and correctional officers"

Page 11, remove lines 17 and 18

Page 11, line 20, replace "\$878,526" with "\$103,640" and replace "\$182,610" with "\$139,864"

Renumber accordingly

Page No. 3

30017.0301

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10/15/03
Date

Date: 2/7/03
Roll Call Vote #: 3

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate Government and Veteran Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 2033

Action Taken Adopt amendments

Motion Made By Brown Seconded By Dever

Senators	Yes	No	Senators	Yes	No
Senator Karen Krebsbach, Chr.	✓		Senator April Fairfield		✓
Senator Dick Dever, Vice Chr.	✓		Senator Carolyn Nelson	✓	
Senator Richard Brown	✓				
Senator Rich Wardner	✓				

Total (Yes) 5 No 1

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

30017.0303
Title.0400

Prepared by the Legislative Council staff for
Senator Dever
February 6, 2003

903
2-10-03
1012

PROPOSED AMENDMENTS TO SENATE BILL NO. 2033

Page 1, line 1, replace the comma with "and"

Page 1, line 2, remove ", and two new sections to chapter 54-52.6"

Page 1, line 3, after the second "officers" insert "employed by political subdivisions"

Page 1, line 4, remove "and the defined contribution retirement plan" and after the semicolon insert "and"

Page 1, line 5, remove "subsection 3 of section 54-52-01," and after the third comma insert "and"

Page 1, line 6, remove ", section 54-52.6-01, subsection 1 of section 54-52.6-02, and"

Page 1, line 7, remove "section 54-52.6-03"

Page 1, line 8, after "officers" insert "employed by political subdivisions" and remove "and the defined contribution"

Page 1, line 9, remove "retirement plan; and to provide an appropriation"

Page 1, line 13, remove "certified by the"

Page 1, remove line 14

Page 1, line 15, remove "training board as a correctional officer and is" and remove "by the department of"

Page 1, line 16, replace "corrections and rehabilitation or" with "as a correctional officer by"

Page 1, line 18, after "officer" insert "by a political subdivision"

Page 1, remove lines 19 through 23

Page 2, remove lines 1 through 8

Page 2, line 23, replace "5" with "4"

Page 3, line 22, replace "5" with "4"

Page 4, line 13, after the second "officers" insert "employed by political subdivisions"

Page 4, line 14, after the second "officer" insert "employed by a political subdivision that enters into an agreement with the retirement board on behalf of its peace officers and correctional officers separately from its other employees and"

Page No. 1

30017.0303

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Date

Page 4, line 19, remove "The employer's contribution must be paid from funds appropriated for salary"

2 of 2

Page 4, line 20, remove "or from any other funds available for such purposes."

Page 4, line 28, after the second "officer" insert "employed by a political subdivision"

Page 5, line 9, after the second "officer" insert "employed by a political subdivision"

Page 5, line 21, after the second "officer" insert "employed by a political subdivision"

Page 5, line 27, after the second "officer" insert "employed by a political subdivision"

Page 6, remove lines 22 through 30

Page 7, remove lines 1 through 31

Page 8, remove lines 1 through 31

Page 9, remove lines 1 through 31

Page 10, remove lines 1 through 31

Page 11, remove lines 1 through 20

Renumber accordingly

Date: 2/2/03
Roll Call Vote #: 4

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate Government and Veteran Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Motion Made By

Seconded By

[illegible]

Total (Yes)

No

Absent

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

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Date _____

REPORT OF STANDING COMMITTEE (410)
February 11, 2003 8:05 a.m.

Module No: SR-26-2203
Carrier: Krebsbach
Insert LC: 30017.0303 Title: .0400

REPORT OF STANDING COMMITTEE

SB 2033: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2033 was placed
on the Sixth order on the calendar.

Page 1, line 1, replace the comma with "and"

Page 1, line 2, remove ", and two new sections to chapter 54-52.6"

Page 1, line 3, after the second "officers" insert "employed by political subdivisions"

Page 1, line 4, remove "and the defined contribution retirement plan" and after the semicolon
insert "and"

Page 1, line 5, remove "subsection 3 of section 54-52-01," and after the third comma insert
"and"

Page 1, line 6, remove ", section 54-52.6-01, subsection 1 of section 54-52.6-02, and"

Page 1, line 7, remove "section 54-52.6-03"

Page 1, line 8, after "officers" insert "employed by political subdivisions" and remove "and the
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Page 1, line 9, remove "retirement plan; and to provide an appropriation"

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Renumber accordingly

2003 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2033

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2003 HOUSE STANDING COMMITTEE MINUTES
BILL/RESOLUTION NO. SB 2033
House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 3-07-03

Tape Number	Side A	Side B	Meter #
1	x		0-end
1		x	0-22.0
3	x		21.5
Committee Clerk Signature <i>Joseph Burke</i>			

Minutes: Chairman Klein: called the hearing to order on SB 2033. All committee members were present.

Representative Grande: appeared in favor of SB 2033. Our interim this past year did a study on for correctional officers and peace officers and their retirement funds across the state. This bill is the result of that study. It is in a little bit different form then our committee had put out, it is still a very good bill and we hope that when you here the testimony today you will understand why the peace officers need this bill. One thing I'd like you to keep in mind is the people that we are talking about in this retirement plan are the people that put a gun on their hip everyday before they leave work, and tell their family that they love them and have no idea if they will return, and that is because they go to work to serve us, protect us, and keep our state safe that is why they deserve this retirement plan.

Senator Lyson: appeared in favor of SB 2033. Most of you know my background in law enforcement, most of my adult life. This bill is really important to law enforcement.

Page 2

House Government and Veterans Affairs Committee

Bill/Resolution Number SB 2033

Hearing Date 3-07-03

There is no difference being in law enforcement here or in L.A. They have more of it in L.A.

Don't think that we don't have it here. I retired at 63, I could have went at 55, in my career I shot one person, I've been shot at three times, and I returned fire. We are the first responders, before the ambulance, before the fire department. We are the ones going into these burning houses, and going to the accidents and seeing the dead people, we are the ones delivering these messages to the parents of these loved ones. We see the suicides. We are delivering these messages to these parents, and I can tell you the last year of my law enforcement career I delivered a message to four parents that their child had been killed in a car accident. And I still hear this at night. And you don't think that bothers us or that we don't think about this? I can tell you the story of the little girl that went through the floor boards of a head on collision and drove down the road and was worn off all the way to her waist and she died in my arms. And that was way back, think of your armed forces, you don't see old people at 55 going out there and fighting.

These law enforcement people are the same people that have very few Christmas' with their families, very few basketball games, Thanksgiving dinner is almost a impossibility. They deserve retirement, and deserve to get out of the stressful situation that they are in at 55 years old. There is no better of an insurance for a family as social security when an officer is killed in the line of duty.

Representative Kasper: if a police officer is allowed to come into this retirement fund, would the state in any way shape or form be required to fund any part of that police officers benefits or would it be funded by the city or the police office where they come from?

Jeff Nelson, Committee Council, Legislative Council: appeared neutral and would only like to review the bill with you and answer any questions that you may have. L.C. Employee Benefits

Page 3
House Government and Veterans Affairs Committee
Bill/Resolution Number SB 2033
Hearing Date 3-07-03

Program Committee has statutory jurisdiction over Legislative measures that effect retirement, health insurance, retiree health insurance programs of public employees. The L.C. assigned a study of the feasibility and desirability of implementing a retirement program for all law enforcement and correctional officers within the state which provides retirement benefits similar to those provided to the highway patrolmen retirement system. Provided written testimony (SEE ATTACHED TESTIMONY).

Representative Klein: on page 2 line 14 is that the PERS board you are referring too?

Jeff Nelson: yes, Mr. Chairman.

Scott Fushing, Sheriff, Williams County and President of the North Dakota Sheriffs and Deputies

Association: appeared in favor of SB 2033. Of course I ask you to look favorably on to this bill which does provide us a tool for recruitment and retain ability this is going to do nothing for me, the problem I'm having right now is I have 11 deputies in my patrol division, average age being about 53 or 54, I've lost my young deputies this year to the Customs Agents. I'm looking at losing another one because they pay better and offer a better retirement, they're leaving me with a lot of experienced officers that are getting to the point where they are no longer able to do the physical part of the job. We take on the look of an old folks home in my office. That with the fact of my chosen profession, which I wouldn't trade for anything, I knew what I was getting into. Some of the younger kids coming on today will do that also but they need and incentive. The law enforcement profession also suffers from one of the highest divorce rates, suicide rates, and alcoholism of any profession. Of all the people that I work with, the street cops working the

Page 4

House Government and Veterans Affairs Committee

Bill/Resolution Number SB 2033

Hearing Date 3-07-03

small towns or the big towns, sheriffs deputies that are out there till 3 or 4 in the morning

breaking up fights, are very special to me and I hope that we can provide something for them.

It is very important to me to be able to offer something to a young officer to have them stay with

my department, within the state and our system, the quality of our law enforcement is going to

suffer if we lose them in the long run.

Paul Hendrickson, Sheriff, Griggs County: appeared in favor of SB 2033.

Tim Schutzle, Director of Prisons Divisions, North Dakota Department of Corrections and

Rehabilitation: appeared in support of SB 2033 and provided written statement (SEE

ATTACHED TESTIMONY).

Warren Emmer, Director, Department of Corrections and Rehabilitation Field Services Division:

appeared in support of SB 2033 and provided written statement (SEE ATTACHED

TESTIMONY).

Al Lick, Director of Division of Juvenile Services: appeared in support of SB 2033 and provided

a written statement (SEE ATTACHED TESTIMONY).

Jeff White, Chief Agent, Bureau Criminal Investigation: appear here in support of SB 2033 as

written. We understand the fiscal note responsibilities that the committees all face and

legislature. It's getting to be more of a young mans game. I believe you should support the bill as

written and I don't think state agencies should be coming in here and trying to add on with an

amendment. Pat Clause, Fargo Police Department: appeared in support of SB 2033. My fellow

officers of the city of Fargo are in support of this bill, we think it brings our brothers and sisters

in law enforcement on the same playing field as some of the larger cities can afford and that is to

allow our officers to retire at an age that is more suitable.

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House Government and Veterans Affairs Committee

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Hearing Date 3-07-03

Andy Zachmeier, Paternal Order of Police: I want to testify in support of this bill. I'm a patrol officer but in my career I've worked for the State Penitentiary, Prison Guard, Dickinson Police, and I'm currently working for the Bismarck Police the last 3 years. I hope this bill would protect them.

Hearing adjourned.

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Lacosta Rickford

Date

10/15/03

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2033

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 3-27-03

Tape Number	Side A	Side B	Meter #
1	x		0-42.8
Committee Clerk Signature			

Minutes:

Representative Grande: this bill has been through a study for 2 years and we have been working on it the entire time with the counties in put as to the numbers and the counties have never taken a position as far as the counties officials that your referring to they didn't actually wish to participate, as far as an opinion, the deputies have been very active in pursuing this and I think they had every opportunity in the senate and in this chambers and they chose not, and that side of that issue take it for what you want, my county commissioners have not spoken at all about it the other side of that it is my turn for my soap box, yes they are a different group of people and yes they deserve a separate plan, they deserve that because they lay their lives on the line every night over the last week we have gone home and watched TV and we see our soldiers out there laying they lives on the line, we pray for them we have sympathy for them, we feel for their lives and we feel for their families, they are there on a volunteer basis, they chose that, yes does that mean we care less for them, because they chose that for their lively hood? The same goes for these

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Page 2

House Government and Veterans Affairs Committee
Bill/Resolution Number SB 2033
Hearing Date 3-27-03

guys they chose this, yes, they chose this profession, nobody held a gun to their head as it was referred to before, to chose this job, they did it because they love their country, the people they want to be with and they want to keep us safe.

Representative Klein: Representative Grande and Representative Tieman were on the interim committee and this has been an ongoing thing, it didn't just come out, so they have been talking about this, the prior interim committee this has been going on for 5 or 6 years to my knowledge and maybe even before that.

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2033

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 3-27-03

Tape Number	Side A	Side B	Meter #
1	x		0-42.8
Committee Clerk Signature <i>James Benke</i>			

Minutes: Chairman Klein: Let's take up SB 2033. All committee members were present.

Representative Grande: I am going to give you the main comments behind the amendments on SB 2033. Basically this is a hog house, what we are doing is putting in intent language that says the state law enforcement will come into the plan as next biennium, we need to put that type of language in because if we don't those departments will not budget for it.

Jeff Nelson, Attorney, Legislative Council: presented amendments for SB 2033 (SEE

ATTACHED TESTIMONY). What these amendments do are to provide a peace officer and correctional officer retirement program options for political subdivisions beginning in 2003.

It is optional for political subdivisions they would have the opportunity to determine whether or not they wanted to provide this for their corrections and peace officer employees, again the election would be made by the political subdivision not the individual employee.

In 2005 it will be mandatory for state agencies to apply this. The reason to do this now, is to put the state agencies on notice now so that they can prepare for their own budgets.

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Representative Kasper: what we have then as far as I grasp is, we are mandating after 2005, that they will be in this new plan, which is an enhancement of the current plan they are under which also will be an enhancement from other state employees retirement plan benefits because of their early retirement ages, which will then have an increase cost of the State of North Dakota because of the enhancements, and we don't know what those increased costs will be? Do we know what the projected increased costs will be?

Jeff Nelson: I think there is information on the fiscal note, these are an estimation on the next biennium.

Representative Grande: I move the engrossed amendments.

Representative Haas: **SECOND** the motion to amend SB 2033 as presented by L.C.

VOTE: 14-YES 0-NO 0-ABSENT.

Representative Tieman: made a **DO PASS AS AMENDED** motion on SB 2033.

Representative Meier: **SECOND** the motion.

Representative Kasper: are we obligating money for 2005?

Representative Kasper: I will vote against this, right now in this biennium were looking for \$100,000,000.00 and we are talking about not being able to fund a retirement long term care facilities, we don't know what our fiscal situation will be in 2 years, regardless of what we will do this biennium.

Representative Klein: If they don't have this authority they can't budget for it.

Representative Haas: this is sound long range planning, rather than going into the unknown.

Page 3

House Government and Veterans Affairs Committee

Bill/Resolution Number SB 2033

Hearing Date 3-27-03

Representative Williams: as you become older, retirement and hospitalization plans become

increasingly more important then salary I think that this plan has merit, it is optional, I think that

it is good that we mandate it at the state level, and I will support it.

VOTE: 11-YES 2-NO 1-ABSENT (Klein).

Motion carried.

Representative Grande: will carry the bill to the floor.

Meeting adjourned.

30017.0403
Title.

Prepared by the Legislative Council staff for
Representative Grande
March 27, 2003

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2033

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact two new subsections to section 54-52-01, a new section to chapter 54-52, and two new sections to chapter 54-52.6 of the North Dakota Century Code, relating to participation by peace officers and correctional officers in the defined benefit retirement plan and the defined contribution retirement plan; to amend and reenact the two new subsections to section 54-52-01 as created by section 1 of this Act, as approved by the fifty-eighth legislative assembly, subsection 3 of section 54-52-01, section 54-52-02.1, subsection 3 of section 54-52-05, the new section to chapter 54-52 as created by section 6 of this Act, as approved by the fifty-eighth legislative assembly, subsection 3 of section 54-52-17, subsection 3 of section 54-52-17, as amended by section 8 of this Act, as approved by the fifty-eighth legislative assembly, section 54-52.6-01, section 54-52.6-01, as amended by section 10 of this Act, as approved by the fifty-eighth legislative assembly, subsection 1 of section 54-52.6-02, section 54-52.6-02, as amended by section 12 of this Act, as approved by the fifty-eighth legislative assembly, section 54-52.6-03, and the new section to chapter 54-52.6 as created by section 17 of this Act, as approved by the fifty-eighth legislative assembly of the North Dakota Century Code, relating to participation by peace officers and correctional officers in the defined benefit retirement plan and the defined contribution retirement plan; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

- ★ "Correctional officer" means a participating member who is employed as a 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 agreements with the retirement board for the purpose of extending the benefits of the public employees retirement system, as provided in this chapter, to those employees. The agreement may, in accordance with this chapter, contain provisions relating to benefits, contributions, effective date, modification, administration, and other appropriate provisions as the retirement board and the political subdivision agree upon, 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 54-52-06 or section 6 of this Act for peace officers and correctional officers participating separately from other political subdivision employees.
 - b. A portion of the moneys paid by the political subdivision may be used to pay administrative expenses of the retirement board.
2. Notwithstanding any other provision of law, a political subdivision having an existing police pension plan may merge that plan into the public employees retirement system under rules adopted by and in a manner determined by the board.
3. Notwithstanding any other provision of this chapter, no a political subdivision of this state not currently participating in the public employees retirement system on June 30, 1977, may thereafter not become a participant in the retirement system until an actuarial study is performed under the direction of the board to calculate the cost of that portion of benefits to be paid by the retirement system to the employees of the political subdivision based on any prior service or on any service after June 30, 1977, and before the date of initial participation in the retirement system, or both; and the political subdivision has adopted a method, approved by the board, to pay the costs determined in this subsection over a period not to exceed twenty five years from June 30, 1977. No political subdivision may discontinue participation in the fund without first making such payment to the fund as may be necessary for the fund to pay the future benefits of the eligible employees of the political subdivision as determined on the basis of rules adopted by the board required employer contribution. The required employer contribution must be an amount determined sufficient to fund the normal cost and amortize any past service liability over a period not to exceed thirty years as determined by the board. Any fees incurred in performing the actuarial study must be paid for by the political subdivision in a manner determined by the board.

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

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

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

Contribution by peace officers and correctional officers employed by political subdivisions - Employer contribution. Each peace officer or correctional officer employed by a political subdivision that enters into an agreement with the retirement board on behalf of its peace officers and correctional officers separately from its other employees and who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's or correctional officer's employer shall contribute an amount determined by the board to be actuarially required to support the level of benefits specified in section 54-52-17. If the peace officer's or correctional officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace officer's or correctional officer's assessment.

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

Contribution by peace officers and correctional officers employed by political subdivisions - Employer contribution. Each peace officer or correctional officer employed by a political subdivision that enters into an agreement with the retirement board on behalf of its peace officers and correctional officers separately from its other employees and who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's or correctional officer's employer shall contribute an amount determined by the board to be actuarially required to support the level of benefits specified in section 54-52-17. The employer's contribution must be paid from funds appropriated for salary or from any other funds available for such

purposes. If the peace officer's or correctional officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace officer's or correctional officer's assessment.

SECTION 8. AMENDMENT. Subsection 3 of section 54-52-17 of the North Dakota Century Code 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.

- 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.
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 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 ~~a state~~ 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 11. AMENDMEN". Section 54-52.6-01 of the North Dakota Century Code as amended by section 10 of the 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, ~~2001~~ 2005, and who has not made a written election under this section to transfer to the defined contribution retirement plan before October 1, ~~2001~~ 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 or 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, 2001 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:

employed by state agency only.

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 of the public employees retirement system under chapter 54-52 and retains all the rights and benefits provided under that chapter. *Peace Officer Correctional Officer* The board shall calculate the amount to be transferred for persons employed before October 1, 2004 2005, using the two following formulas, and shall transfer the greater of the two amounts obtained:

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

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

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

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

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

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

Page No. 11

30017.0403

peace officer's or correctional officer's assessment is paid by the employer under subsection 3 of section 54-52.6-09, the employer shall contribute, in addition, an amount equal to the required peace officer's or correctional officer's assessment.

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

Renumber accordingly

Roll Call Vote #:

Date: 3-27-03

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTE
SENATE BILL/RESOLUTION NO. 2033

House GOVERNMENT AND VETERANS AFFAIRS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 30017.0404

Action Taken Move Engrass Amend as Presented by H.C.

Motion Made By Rep. Enranda Seconded By Rep. Haas

Representatives	Yes	No	Representatives	Yes	No
Chairman M.M. Klein			B. Amerman		
Vice Chairman B.B. Grande			L. Potter		
W.R. Devlin			C. Williams		
C.B. Haas			L. Winrich		
J. Kasper					
L.R. Klemin					
L. Meier					
M. Sitte					
W.W. Tieman					
R.H. Wikenheiser					

Total (Yes) 14 No 0

Absent amend passed

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Roll Call Vote #:

Date: 3-27-03

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTE
SENATE BILL/RESOLUTION NO. 2033

House GOVERNMENT AND VETERANS AFFAIRS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 20017.0404

Action Taken Do Pass As Amended

Motion Made By Rep. Tieman Seconded By Rep. Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman M.M. Klein	X		B. Amerman	X	
Vice Chairman B.B. Grande	X		L. Potter	X	
W.R. Devlin		X	C. Williams	X	
C.B. Haas	X		L. Winrich	X	
J.Kasper		X			
L.R. Klemm	A	A			
L. Meier	X				
M. Sitte	X				
W.W. Tieman	X				
R.H. Wikenheiser	X				

Total (Yes) 11 No 2

Absent (1) Klemm

Floor Assignment Rep. Grande

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 28, 2003 8:21 a.m.

Module No: HR-56-5990
Carrier: Grande
Insert LC: 30017.0404 Title: .0500

REPORT OF STANDING COMMITTEE

SB 2033, as engrossed: Government and Veterans Affairs Committee (Rep. M. Klein, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2033 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact two new subsections to section 54-52-01, a new section to chapter 54-52, and two new sections to chapter 54-52.6 of the North Dakota Century Code, relating to participation by peace officers and correctional officers in the defined benefit retirement plan and the defined contribution retirement plan; to amend and reenact the two new subsections to section 54-52-01 as created by section 1 of this Act, as approved by the fifty-eighth legislative assembly, subsection 3 of section 54-52-01, section 54-52-02.1, subsection 3 of section 54-52-05, the new section to chapter 54-52 as created by section 6 of this Act, as approved by the fifty-eighth legislative assembly, subsection 3 of section 54-52-17, subsection 3 of section 54-52-17, as amended by section 8 of this Act, as approved by the fifty-eighth legislative assembly, section 54-52.6-01, section 54-52.6-01, as amended by section 10 of this Act, as approved by the fifty-eighth legislative assembly, subsection 1 of section 54-52.6-02, section 54-52.6-02, as amended by section 12 of this Act, as approved by the fifty-eighth legislative assembly, section 54-52.6-03, and the new section to chapter 54-52.6 as created by section 17 of this Act, as approved by the fifty-eighth legislative assembly of the North Dakota Century Code, relating to participation by peace officers and correctional officers in the defined benefit retirement plan and the defined contribution retirement plan; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

"Correctional officer" means a participating member who is employed as a 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 agreements with the retirement board for the purpose of extending the benefits of the public employees retirement system, as provided in this chapter, to those employees. The agreement may, in accordance with this chapter, contain provisions relating to benefits, contributions, effective date, modification, administration, and other appropriate provisions as the retirement board and the political subdivision agree upon, 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 54-52-06 or section 6 of this Act for peace officers and correctional officers participating separately from other political subdivision employees.
 - b. A portion of the moneys paid by the political subdivision may be used to pay administrative expenses of the retirement board.
2. Notwithstanding any other provision of law, a political subdivision having an existing police pension plan may merge that plan into the public employees retirement system under rules adopted by and in a manner determined by the board.
3. Notwithstanding any other provision of this chapter, no a political subdivision of this state not currently participating in the public employees retirement system on June 30, 1977, may thereafter not become a participant in the retirement system until an actuarial study is performed under the direction of the board to calculate the cost of that portion of benefits to be paid by the retirement system to the employees of the political subdivision based on any prior service or on any service after June 30, 1977, and before the date of initial participation in the retirement system, or both; and the political subdivision has adopted a method, approved by the board, to pay the costs determined in this subsection over a period not to exceed twenty five years from June 30, 1977. No political subdivision may discontinue participation in the fund without first making such payment to the fund as may be necessary for the fund to pay the future benefits of the eligible employees of the political subdivision as determined on the basis of rules adopted by the board required employer

contribution. The required employer contribution must be an amount determined sufficient to fund the normal cost and amortize any past service liability over a period not to exceed thirty years as determined by the board. Any fees incurred in performing the actuarial study must be paid for by the political subdivision in a manner determined by the board.

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

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

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

Contribution by peace officers and correctional officers employed by political subdivisions - Employer contribution. Each peace officer or correctional officer employed by a political subdivision that enters into an agreement with the retirement board on behalf of its peace officers and correctional officers separately from its other employees and who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's or correctional officer's employer shall contribute an amount determined by the board to be actuarially required to support the level of benefits specified in section 54-52-17. If the peace officer's or correctional officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace officer's or correctional officer's assessment.

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

Contribution by peace officers and correctional officers employed by political subdivisions - Employer contribution. Each peace officer or correctional

REPORT OF STANDING COMMITTEE (410)
March 28, 2003 8:21 a.m.

Module No: HR-56-5990
Carrier: Grande
Insert LC: 30017.0404 Title: .0500

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

SECTION 8. AMENDMENT. Subsection 3 of section 54-52-17 of the North Dakota Century Code 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.

d. 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.

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.

REPORT OF STANDING COMMITTEE (410)
March 28, 2003 8:21 a.m.

Module No: HR-56-5990
Carrier: Grande
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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.
3. "Deferred member" means a person who elected to receive deferred vested retirement benefits under chapter 54-52.
3. 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 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.
4. 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.
5. 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.
6. 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.
7. 9. "Permanent employee" means ~~a state~~ 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.

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

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

REPORT OF STANDING COMMITTEE (410)
March 28, 2003 8:21 a.m.

Module No: HR-56-5990
Carrier: Grande
Insert LC: 30017.0404 Title: .0500

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

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

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

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

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

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

Renumber accordingly

2003 SENATE GOVERNMENT AND VETERANS AFFAIRS
CONFERENCE COMMITTEE
SB 2033

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10/15/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2033

Senate Government and Veterans Affairs Committee

☒ Conference Committee

Hearing Date 04/08/03

Tape Number	Side A	Side B	Meter #
Tape 1	x		0
Committee Clerk Signature <i>[Signature]</i>			

Minutes:

Senator Karen Krebsbach, Chairman begins conference committee on SB 2033. **Senators Krebsbach, Nelson, and Brown. Representatives Grande, Williams, and Devlin** were all present.

Senator Krebsbach asks the house to explain what has been done to the bill since they received it. Rep. Grande explains that amendment that the house attached to the bill.

Senator Krebsbach: What will be the effect if the agencies don't have the funds the next biennium?

Rep. Grande: As it comes to us this bill is put forth so that they will have the opportunity to put that in their budgets if there is to be some problem where there is budget shortfalls we have the opportunity to change those entrance dates as we come in next session. So we just bump it back two more years or eliminate it. Without it there is no way to budget for it.

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Senator Krebsbach : I guess I would question it on the basis that if there were a bill introduced by our deadline of introduction to the employee benefits committee in the interim by the April 1st deadline, they would then become aware that they should do that.

Rep. Grande: I would like Mr. Nelson to address this.

Jeff Nelson, Legislative Council, You are correct that a bill can be submitted to the employee benefits program committee through the interim. But, I don't believe that state agencies when they make the budget requests that they do so on an interim bill or bills that are not law or have not become law.

Senator Krebsbach: Can we obligate future legislative sessions?

Jeff Nelson: That is correct, but I think the house amendments work in the way that you are not really obligating another legislative assembly because you passed the law now and that is the law now and this plan will come into effect in the next biennium. Similar to the contribution levels that the legislative assembly has established for the retired assistance now future legislative assemblies are required to pay those.

Senator Krebsbach : Had the bill as originally introduced including the peace officers and correctional officers, it would have gone through appropriations, so we wouldn't have needed it this current session, so why do we need to put it in for the next session?

Jeff Nelson: You don't need to, I think what Rep. Grande's thoughts are when the bill came through the interim process since the required contribution levels have not been provided for the consecutive budget the bill required an appropriation. My understanding and my feeling that there was some opposition to that appropriation. So if the bill is submitted again, it would again pertain that appropriation and it may look the same as it did this time. Whereas if the bill as it left

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the house is enacted then they agencies would be placed on notice that this would come into place in 2005.

Senator Krebsbach : It would be an automatic that it would go into effect in 2005.

Senator Brown: So we are obligating the future legislature?

Jeff Nelson: Yes

Rep. Devlin: In reality you aren't obligating them to anything just for the budget to take place?

Senator Nelson: Do these amendments mandate then the other state correctional officers to go into this plan?

Jeff Nelson: No, it is required by state agency state agencies employee peace officers and correctional officers

Senator Nelson: It is stated that each agency must move as a whole.

Rep. Grande: That was not the intent, define contribution is always been stated as an individual option that no group would ever come in as a group for define contribution. I think Mr. Collins can address that because he is the one who has worked with that in all other aspects of define contributions. Each individual has the option to do one or the other.

Senator Nelson goes to Page 9 Line 15 of Version .0300 and shows where they read their interpretation of the define contribution involving the whole group

Rep. Grande: If we go back onto Section 5 page 4 each peace officer or correction officer has their own option, each person takes their own option. I believe in Section 9 it is also the same thing.

Senator Krebsbach : My problem is we are making a judgment for the state to add a category for our peace and correction officers to be changed from a 65 retirement to a 55 retirement

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obligating the state to an additional cost. By putting it on this bill we are saying that this happens and if the body declines that, which it could happen, but if they decline to do that then we have lost the enabling legislation that this was initially intended for and that was for the peace officers and correctional officers of the political subdivisions. that is how they original legislation came to the interim committee. The addition of the state came in at a later time. We have had an agency come in and say that they don't want it. And by putting it in here in this fashion I feel we are saying that you must have it.

Rep. Grande: I felt the state had been involved in this throughout the interim. That is why you have studies. We worked with agencies and political subs. I think we did a good job of setting up a plan. The reason we ended up this way is the study included looking at the state's around us and found that they did it this way and it works out well. I think if we should not have the state peace officers in the retirement of 55 then we should look at what the highway patrol is at and maybe consider moving them up to 65.

Senator Krebsbach : I think the highway patrol had its own program different from the others before they came into the PERS program. I am not opposed to the agencies adding these in the next interim. Give it time and the agencies time and then we could come forward with a bill similar to this.

Rep. Grande: I think along with what you said there if there is a problem that some agencies may not wish to participate, would you be willing to amend as each agency goes through its budget process, if they do not wish to make that move then they don't need to. Would that work?

Sparb Collins, PERS : He explains it may and how it may work.

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Sandi Tabor, Attorney General's Office, If we get a 5% budget reduction from the governor's office and this stays the way it is, I was asking if we would have to find the money or would the governor include that in his budget?

Senator Nelson: The IRS, does treating each agency differently, does it effect the IRS?

Sparb Collins: I could check, but I don't think so?

Senator Nelson: Weren't we moving these people into the National Guard plan?

Sparb Collins: The PERS plan is established in chapter 54-52 and it has 3 sub eliminates. One is the National Guard chapter. But, the National Guard falls under a different one.

Sandi Tabor: Would we have to find the money or would the governor mandate it?

Senator Krebsbach: It would think it would have to go to our appropriations committee.

Rep. Grande: There is no appropriation.

Senator Krebsbach: But then we are obligating the future of it. I have a difficulty in the fact that we are adding a benefit at a time when our budget dollars are in question. We are reducing dollars in education, in human services and how are we going to explain this to the public and justify this in our minds. I look as an employer and if I promise the benefit and then come down the road two years later and say sorry I can't afford it, it doesn't set you too well with your employees.

Rep. Grande: I think the AG's office was thinking that we have a problem with law enforcement and corrections getting new employees and keeping them. This could draw them and keep them. We have the ability to say next time around this may have to wait another two years.

Senator Krebsbach : I am looking at this from another approach that we put this in the interim and look at it again next session.

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Senator Brown: I think that is a very significant difference and I like Madam Chairman's idea first.

Senator Krebsbach : I think we should recess until a later time and think some of this over.

SB 2033 recessed until further notice.

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10/15/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2033

Senate Government and Veterans Affairs Committee

☒ Conference Committee

Hearing Date 04/11/03

Tape Number	Side A	Side B	Meter #
Tape 1	x		0-1127
Committee Clerk Signature			

Minutes:

Senator Karen Krebsbach begins conference committee on SB 2033. Senators Krebsbach, Brown, and Nelson, and Representatives Grande, Devlin, and Williams are all present.

Senator Brown passes out an amendment (Attached). He goes through this amendment and makes a motion to adopt this amendment. **Senator Nelson** 2nd..

Representative Grande asks what exactly the committee is looking for in the study involved.

Senator Krebsbach explains she feels this would be an overall study of the whole procedure.

Senator Nelson explains that there was a point when the Senate was just going to kill the whole bill because there wasn't enough money for everyone to be involved. They believed though that there was an emergency for some and they could take a look at the others next session after the study.

Rep. Grande states that they did spend two years on a study already and North Dakota is one of the few places that doesn't have the 55 retirement. She feels the study should be and ongoing

Page 2

Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2033

Hearing Date 04/11/03

thing and that they should all be put at the age of 55 now. The Senate took out the state employees. If there is nothing in statue to budget for it then will not get done. (information attached)

Senator Krebsbach: The legislative body should be able to vote if we want to reduce our age for state employees to 55. When it is attached to this bill it does not give the body an opportunity to decide on just that proponent

Rep. Grande: The house has reviewed this and voted on it and this is what they want to do.

Senator Krebsbach: I have spoke to some and they don't feel that way.

Rep. Grande: The majority has stated this is the way they want to go.

Senator Krebsbach calls for the vote on the amendment presented by Senator Brown

Yes- Senator Krebsbach, Nelson, Brown and Representative Grande

No- Representative Devlin and Williams.

Motion fails.

The house takes a 5 minute recess.

Rep. Devlin: The house believes that study has been done and we think it is correct the way the house has voted.

Senator Krebsbach calls that SB 2033 is recessed until further notice.

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2033

~~Senate~~ Government and Veterans Affairs Committee

☒ Conference Committee

Hearing Date 04/15/03

Tape Number	Side A	Side B	Meter #
Tape 1	x		0-91
Committee Clerk Signature			

Minutes:

Senator Karen Krebsbach, Chairman calls conference committee on SB 2033 back to order.

Senators Krebsbach, Brown, and Nelson and Representatives Grande, Devlin, and Williams are present.

Representative Grande makes the motion that the house recede from their amendments.

5 yes 1 No

Motions carries

Carrier: Senator Krebsbach

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La Costa Rickford
Operator's Signature

10/15/03
Date

30017.0405
Title.

Prepared by the Legislative Council staff for
Conference Committee
April 9, 2003

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2033

That the House recede from its amendments as printed on pages 1032 through 1041 of the Senate Journal and pages 1110 through 1120 of the House Journal and that Engrossed Senate Bill No. 2033 be amended as follows:

Page 1, line 4, remove the first "and"

Page 1, line 7, after "plan" insert "; and to provide for a legislative council study"

Page 6, after line 9, insert:

"SECTION 6. LEGISLATIVE COUNCIL STUDY OF LAW ENFORCEMENT AND CORRECTIONAL OFFICER RETIREMENT ISSUES. During the 2003-04 Interim, the legislative council shall consider studying law enforcement and correctional officer retirement issues. If conducted, the study must include law enforcement and correctional officer retirement eligibility, contribution, benefit, defined benefit and defined contribution, and funding issues. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-ninth legislative assembly."

Renumber accordingly

Date: 04/14/03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2033

Senate Government and Veterans' Affairs Committee

☒ Check here for Conference Committee

Legislative Council Amendment Number 30017.0405

Action Taken adopt amendment

Motion Made By Brown Seconded By Nelson

Senators	Yes	No	Senators	Yes	No
Senator Karen Krebsbach	✓		Representative B. Grande	✓	
Senator Richard Brown	✓		Representative W. Devlin		✓
Senator Carolyn Nelson	✓		Representative C. Williams		✓

Total (Yes) 4 No 2

Absent 0

Floor Assignment Failed

If the vote is on an amendment, briefly indicate intent:

Date: 04/05/03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2033

Senate Government and Veterans' Affairs Committee

☒ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken house recedes their amendments

Motion Made By Rep. Grande Seconded By Rep. Williams

[illegible]

Total (Yes) 5 No 1

Absent 0

Floor Assignment Krebsbach

If the vote is on an amendment, briefly indicate intent:

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Operator's Signature

10/15/03
Date

REPORT OF CONFERENCE COMMITTEE (420)
April 16, 2003 8:55 a.m.

Module No: SR-69-7778

Insert LC: .

REPORT OF CONFERENCE COMMITTEE

SB 2033, as engrossed: Your conference committee (Sens. Krebsbach, Brown, Nelson and Reps. Grande, Devlin, Williams) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1032-1041 and place SB 2033 on the Seventh order.

Engrossed SB 2033 was placed on the Seventh order of business on the calendar.

(2) DESK, (2) COMM

Page No. 1

SR-69-7778

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Operator's Signature

10/15/03
Date

2003 TESTIMONY

SB 2033

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10/15/03
Date

**REPORT OF THE LEGISLATIVE COUNCIL'S
EMPLOYEE BENEFITS PROGRAMS COMMITTEE
PROPOSED AMENDMENTS TO SENATE BILL NO. 2033 (30017.0301)**

Sponsor: Representative Bette B. Grande

Proposal: Removes correctional officers from Senate Bill No. 2033 which includes peace officers and correctional officers in the National Guard retirement plan.

Actuarial Analysis: The amendment reduces the required general fund appropriation to fund the proposal from \$878,526 to \$104,862 and the other funds appropriation from \$182,610 to \$141,522.

Committee Report: Favorable recommendation.

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LaCosta Rickford
Operator's Signature

10/15/03
Date

reported that both conditional annual benefit adjustments authorized by Section 15-39.1-10.11 became effective, one payable July 1, 2001, and the second payable on July 1, 2002. The committee was not notified by the Public Employees Retirement System Board that it received a letter ruling from the Internal Revenue Service that the section allowing a member to purchase service credit with pretax or aftertax money does not jeopardize the qualified status of the Highway Patrolmen's retirement system, nor that the board received a letter ruling from the Internal Revenue Service that the section allowing a member to purchase service credit with pretax or aftertax money does not jeopardize the qualified status of the Public Employees Retirement System.

LAW ENFORCEMENT AND CORRECTIONAL OFFICER RETIREMENT PROGRAM STUDY

Senate Concurrent Resolution No. 4017 directs a study of the feasibility and desirability of implementing a retirement program for all law enforcement and correctional officers within the state of North Dakota which provides retirement benefits similar to those provided to the members of the Highway Patrolmen's retirement system pursuant to NDCC Chapter 39-03.1. The resolution noted that recruiting and retaining quality law enforcement and correctional officers within the state of North Dakota are integral to maintaining the safety and quality of life of all North Dakota residents; that the nature of the work performed by law enforcement and correctional officers takes a physical toll on those officers which exceeds that experienced by workers in the vast majority of occupations and necessitates that law enforcement and correctional officers leave their employment at a younger age than for most occupations; and that other than for members of the Highway Patrolmen's retirement system, a retirement program does not exist that is uniform across the state which allows law enforcement and correctional officers to retire at an age at which they might enjoy their retirement prior to experiencing the physical effects of their work as law enforcement and correctional officers.

North Dakota Highway Patrolmen's Retirement System

The North Dakota Highway Patrolmen's retirement system is governed by NDCC Chapter 39-03.1. A member of the Highway Patrolmen's retirement system is eligible for a normal service retirement at age 55 with at least 10 years of eligible employment or with age plus service equal to at least 80--the Rule of 80. The normal service retirement benefit is 3.6 percent of final average salary for the first 25 years of service and 1.75 percent for service in excess of 25 years. A member is eligible for an early service retirement at age 50 with 10 years of eligible employment. The early service retirement benefit is the normal service retirement benefit; however, a benefit that begins before age 55 or the Rule of 80, if earlier, is reduced by one-half of 1 percent for each

month before age 55. A member is eligible for a disability benefit at six months of service and an inability to engage in substantial gainful activity. The disability benefit is 70 percent of the member's final average salary at disability less workers' compensation, with a minimum of \$100 per month. Members are eligible for deferred retirement benefits upon 10 years of eligible employment. The deferred retirement benefit is the normal service retirement benefit payable at age 55 or the Rule of 80, if earlier. Vested benefits are indexed at a rate set by the Public Employees Retirement System Board based upon the increase in final average salary from the date of termination to the benefit commencement date. Reduced early retirement benefits may be elected upon attainment of age 50.

Preretirement death benefits are available to a surviving spouse of a deceased member of the Highway Patrolmen's retirement system who had accumulated at least 10 years of service in one of three forms--a lump sum payment of accumulated contributions, monthly payment of the member's accrued benefit for 60 months, or 50 percent of the member's accrued benefit, not reduced on account of age, for the spouse's lifetime. If the deceased member had accumulated less than 10 years of service or if there is no surviving spouse, then a death benefit equal to the member's accumulated contribution is paid in a lump sum.

The normal form of benefit for the Highway Patrolmen's retirement system is a monthly benefit for life with 50 percent of the benefit continuing for the life of the surviving spouse, if any. Optional forms of payment are a 100 percent joint and survivor annuity, 5-year certain and life annuity, and 10-year certain and life annuity. The monthly benefit amount is adjusted under the optional forms of payment so the total value of benefits is actuarially equivalent. Final average salary is the highest salary received by the member for any 36 consecutive months employed during the last 120 months of employment, and the member's contribution is 10.30 percent of monthly salary. The state contributes 16.70 percent of the monthly salary for each participating member.

Law Enforcement and Correctional Officer Retirement Programs in Surrounding States South Dakota

The laws governing the South Dakota retirement system are codified in South Dakota Codified Laws Annotated Chapter 3-12. The South Dakota retirement system is composed of Class A members and Class B members. Class A members are all members other than Class B members, and Class B members are justices, judges, state law enforcement officers, magistrates, judges, municipal police officers, municipal firefighters, county sheriffs, deputy county sheriffs, Penitentiary correctional staff, parole agents, air rescue firefighters, campus security officers, court services officers, conservation officers, and park rangers.

Air rescue firefighters are employees of the Department of Military and Veterans Affairs who are stationed

at Joe Foss Field, Sioux Falls, and who are directly involved in firefighting activities on a daily basis. Campus security officers are employees of the South Dakota Board of Regents whose positions are subject to the minimal educational training standards established by the South Dakota Law Enforcement Standards Commission and who satisfactorily complete the training required within one year of employment and whose primary duty as sworn law enforcement officers is to preserve the safety of the students, faculty, staff, visitors, and property of the University of South Dakota and South Dakota State University. Conservation officers are employees of the South Dakota Department of Game, Fish and Parks and the Division of Wildlife or Division of Custer State Park. Deputy county sheriffs are employees of a county that is a participating governmental unit, appointed by the board of county commissioners, who are permanent full-time employees and whose positions are subject to the minimum educational training standards established by the South Dakota Law Enforcement Standards Commission. Deputy county sheriffs do not include jailers or clerks unless the participating governmental unit has requested that the jailer be considered as a deputy county sheriff and the South Dakota Retirement System Board of Trustees has approved the request. Law enforcement officers are agents of the State Division of Criminal Investigation, officers of the South Dakota Highway Patrol, municipal policemen, county sheriffs, deputy county sheriffs, or municipal firemen. Park rangers are employees of the Department of Game, Fish and Parks within the Division of Parks and Recreation, whose positions are subject to the requirements as to education and training provided by South Dakota law, and whose primary duty is law enforcement in the state park system. Parole agents are employees of the South Dakota Department of Corrections who are actually involved in direct supervision of parolees on a daily basis. Penitentiary correctional staff include the warden, deputy warden, guards, correctional supervisors, correctional officers, and their immediate supervisors of the South Dakota State Penitentiary and any other classification of Penitentiary employees approved by the South Dakota Retirement System Board of Trustees. Policemen are employees of the police department of a participating municipality holding the rank of patrolman, including probationary patrolmen, or higher rank, and whose position is subject to the minimum educational and training standards established by the South Dakota Law Enforcement Officers Standards Commission. A policeman does not include any person employed by a municipality whose service as a policeman requires less than 20 hours per week and six months per year. If a municipality that is a participating governmental unit operates a city jail, the participating unit may request that jailers be considered policemen, subject to the approval of the board of trustees.

The required member contribution for Class B members is 8 percent of compensation which is matched by the employer. However, the employer is required to pay the member's contribution. The normal

retirement age for a Class B member is age 55. The normal retirement allowance for a Class B member other than a justice, judge, and magistrate judge is 2.325 percent of final compensation for each year of Class B credited service other than as a justice, judge, or magistrate judge before July 1, 2002, plus 2 percent of final compensation for each year of Class B credited service other than as a justice, judge, or magistrate judge after July 1, 2002. The normal retirement allowance for a Class A member is the larger of 1.625 percent of final compensation for each year of Class A credited service before July 1, 2002, plus 1.3 percent of final compensation for each year of Class A credited service after July 1, 2002, or 2.325 percent of final compensation for each year of Class A credited service before July 1, 2002, plus 2 percent of final compensation for each year of Class A credited service after July 1, 2002, less other public benefits.

For purposes of determining the benefits of Penitentiary correctional staff for credited service earned prior to July 1, 1978, benefits are calculated the same as for Class A members, and for credited service after July 1, 1978, benefits are calculated the same as for Class B members. For purposes of determining the benefits of county sheriffs and deputy county sheriffs for credited service earned before January 1, 1980, benefits are calculated the same as for Class A members, and for credited service after January 1, 1980, benefits are calculated using the formula for Class B members. For purposes of determining the benefits of parole agents for credited service earned before July 1, 1991, benefits are calculated using the formula applicable to Class A members, and for credited service after June 30, 1991, benefits are calculated using the formula applicable to Class B members. For purposes of determining the benefits of air rescue firefighters for credited service earned before July 1, 1992, benefits are calculated the same as for Class A members and for credited service after June 30, 1992, benefits are calculated using the formula applicable to Class B members.

South Dakota Codified Laws Annotated Section 3-12-92.6 provides for adjustments in allowance for retirees based on time and circumstances of retirement. Each member who retired before July 1, 2000, and each beneficiary of a deceased member who retired before July 1, 2000, is entitled to receive a retirement allowance based on the current law as applicable based on the member's final compensation, credited service, and other public benefits at retirement and the benefit formulas contained in current law when improved by the improvement factor from the date of retirement to July 1, 2000. In addition, each member or beneficiary of a member who retired before July 1, 1974, who is receiving benefits pursuant to a prior consolidated system is entitled to have that person's benefit increased by an additional 2 percent on July 1, 2000, in lieu of the increase provided in Section 3-12-92.6.

South Dakota Codified Laws Annotated Section 3-12-99 provides that the disability allowance for the first 36 months of the period of disability is 50 percent of the

highest annual compensation earned in any one of the three years immediately preceding the date of disability, increased by 10 percent of compensation for each child to a maximum of four children. Beginning with the 37th month of disability, if the member is eligible for and receiving disability benefits from Social Security, the disability allowance is equal to the greater of the amount paid during the first 36 months less the amount of primary Social Security or the amount of a member's unreduced accrued retirement allowance as of the date of disability. The annual amount of a disability allowance may not be less than 20 percent of the compensation on which the initial disability allowance was based. Beginning with the 37th month of disability, if the member is not eligible for and receiving disability benefits from Social Security, the disability allowance is equal to the greater of 20 percent of the compensation on which the initial disability allowance was based or the amount of the member's unreduced accrued retirement allowance as of the date of disability.

Final compensation is the highest average annual compensation earned by a member during any period of 12 consecutive calendar quarters during the member's last 40 calendar quarters of membership in the system, including time during which the member was not a member but for which the member received credit under the system. However, if the compensation received in the last calendar quarter considered exceeds 125 percent of the amount in the highest previous calendar quarter or if the average compensation received in the last four calendar quarters exceeds 115 percent of the amount earned in the highest calendar quarter prior to the last four calendar quarters considered, only the lesser amount may be considered in computing the final compensation and the excess must be excluded in the computation.

Montana

The Montana Public Employees Retirement Board administers eight separate and distinct retirement systems. Four of the systems, excluding two firefighters' systems, may be characterized as public safety retirement systems--the Game Wardens' and Peace Officers' Retirement System, the Sheriffs' Retirement System, the Highway Patrol Officers' Retirement System, and the Municipal Police Officers' Retirement System.

The Sheriffs' Retirement System is governed by Montana Code Annotated Chapter 19-7. The Sheriffs' Retirement System is a multiple-employer, cost-sharing defined benefit plan that covers all Montana sheriffs and Department of Justice criminal investigators hired after July 1, 1993. The plan was established in 1974. Member rights are vested after five years of service.

For purposes of the Sheriffs' Retirement System, a sheriff is any elected or appointed county sheriff or undersheriff or any appointed, lawfully trained, appropriately salaried, and regularly acting deputy sheriff. An investigator is a person who is employed as a criminal investigator or as a gambling investigator for the Department of Justice. Each member is required to contribute 9.245 percent of the member's monthly compensation,

and each employer is required to contribute monthly 9.535 percent of each member's gross compensation. However, the employer is required to pick up and pay the contributions for the member. A member who has completed at least 20 years of membership service may retire on a service retirement benefit. The amount of the service retirement benefit granted to a member is 2.5 percent of the member's final average salary for each year of service credited.

A member is entitled to a disability benefit based on the actuarial equivalent of the member's service retirement benefit standing to the member's credit at the time of the member's disability retirement. However, if the disability is a direct result of the member's service as a member in the line of duty, then the member is entitled to a benefit of one-half of the member's final average salary. A member is entitled to a postretirement annual benefit adjustment of 1.5 percent of the member's permanent monthly benefit.

The Game Wardens' and Peace Officers' Retirement System is governed by Montana Code Annotated Chapter 19-8. The Game Wardens' and Peace Officers' Retirement System is a multiple-employer, cost-sharing defined benefit plan that covers state game wardens and state peace officers not eligible to join the Public Employees Retirement System, Sheriffs' Retirement System, Highway Patrol Officers' Retirement System, or the Municipal Police Officers' Retirement System. This plan was established in 1963. Member rights are vested after five years of membership service.

Eligible members of the Game Wardens' and Peace Officers' Retirement System include game wardens who are assigned to law enforcement in the Department of Fish, Wildlife, and Parks; motor carrier officers employed by the Department of Transportation; campus security officers employed by the University System; wardens and deputy wardens employed by the Department of Corrections; corrections officers employed by the Department of Corrections; probation and parole officers employed by the Department of Corrections; stock inspectors and detectives employed by the Department of Livestock; motor vehicle inspectors employed by the Department of Justice; and drill instructors employed by the Department of Corrections. Game wardens include state fish and game wardens hired by the Department of Fish, Wildlife, and Parks and include all warden supervisory personnel whose salaries or compensation is paid out of Department of Fish, Wildlife, and Parks money. Motor carrier officers are defined as employees of the Department of Transportation appointed as a peace officer, and a peace officer or a state peace officer is defined as a person who by virtue of that person's employment with the state is vested by law with a duty to maintain public order or make arrests for offenses while acting within the scope of that person's authority or who is charged with specific law enforcement responsibilities on behalf of the state.

Each member is required to contribute 8.5 percent of the member's monthly compensation between July 1, 2001, and September 30, 2001. Beginning October 1, 2001, the member contribution is increased to

10.56 percent of the member's monthly compensation. State employers are required to contribute 9 percent of the total compensation paid to their covered employees. However, the employer is required to pick up and pay the member's contribution. A member who has completed at least 20 years of membership service and reached age 50 is entitled to a service retirement benefit of 2.5 percent of the member's final average salary for each year of service credit. A member who is determined by the Montana Public Employees Retirement Board to be disabled is entitled to a disability retirement benefit in an amount calculated based on the actuarial equivalent of the service retirement benefits standing to the member's credit at the time of the member's disability retirement. However, if the disability is a direct result of service to the state in the line of duty and the member has at least five years of membership service, the member who is disabled must be retired on a disability retirement benefit of not less than one-half of the member's final average salary. An eligible recipient is entitled to a guaranteed annual benefit adjustment of 1.5 percent of the member's permanent monthly benefit.

The Municipal Police Officers' Retirement System is governed by Montana Code Annotated Chapter 19-9. The Municipal Police Officers' Retirement System is a multiple-employer, cost-sharing defined benefit plan that covers police officers employed by first-class and second-class cities and other cities that wish to adopt the plan. The plan was established in 1975. Membership rights are vested after five years of membership service.

A member's contribution is based upon the date the member was first employed as a police officer. For members first employed on or before June 30, 1975, the contribution rate is 5.8 percent; for members first employed after June 30, 1975, the contribution rate is 7 percent; for members first employed after June 30, 1979, but before July 1, 1997, the contribution rate is 8.5 percent; and for members first employed on and after July 1, 1997, the contribution rate is 9 percent. The employer contribution is 14.41 percent of the compensation paid to all active members. The employer is required to pick up and pay the member contributions. In addition to the member and employer contribution, the state of Montana contributes 29.3 percent of compensation paid to members of the Municipal Police Officers' Retirement System. A member is eligible to receive a service retirement benefit when the member has completed 20 years or more of membership service and has terminated service. A member who terminates service after completing at least five years of membership service is eligible to receive a service retirement benefit when the member has reached age 50. The monthly benefit formula is 2.5 percent of final average compensation for each year of service credit. If a member is determined by the Montana Public Employees Retirement Board to be disabled, the member is entitled to a disability retirement benefit regardless of the length of the member's service, commencing on the day following the member's

termination from service. A member who becomes disabled before earning 20 years of service credit is entitled to receive a disability retirement benefit equal to one-half of the member's final average compensation. A member who becomes disabled but who, at the time of the member's injury or disability, was eligible at the member's option to be retired but had elected to serve years in excess of 20 years of service credit and was then serving additional years is entitled to be paid for the additional years. A retiree is entitled to a guaranteed annual benefit adjustment of 1.5 percent of the retiree's permanent monthly benefit.

The Highway Patrol Officers' Retirement System is governed by Montana Code Annotated Chapter 19-6. The Highway Patrol Officers' Retirement System is a single-employer, defined benefit plan that covers all Montana Highway Patrol officers, including supervisory personnel. The plan was established in 1971. Member rights are vested after five years of membership service.

All members of the Montana Highway Patrol, including the supervisor and assistant supervisors, are required to be members of the Highway Patrol Officers' Retirement System. Members hired before July 1, 1997, are required to contribute 9 percent of the member's monthly compensation, and members hired after June 30, 1997, are required to contribute 9.05 percent of the member's monthly compensation. The state is required to contribute 36.33 percent of the total compensation paid to the members, 26.15 percent of this amount is payable from the same source that is used to pay compensation to the members, and 10.18 percent is payable from a portion of the fees from driver's licenses and duplicate driver's licenses. However, the state is required to pick up and pay the member contributions. A member is eligible to receive a service retirement benefit after completing 20 years or more of membership service. The service retirement benefit is 2.5 percent of the member's final average salary for each year of service credit. A member is entitled to a disability retirement benefit that is the actuarial equivalent of the service retirement benefit standing to the member's credit at the time of the member's disability retirement. However, if the disability is a direct result of service to the Montana Highway Patrol in the line of duty, then the member who is disabled must be retired on a disability retirement benefit of one-half of the member's final average salary regardless of the member's length of service. A retiree is entitled to a guaranteed annual benefit adjustment of 1.5 percent.

Minnesota

Minnesota has several retirement systems governing various categories of public safety personnel. These include the correctional plan within the Minnesota state retirement system, the State Patrol plan within the Minnesota state retirement system, the police and fire plan within the Minnesota Public Employees Retirement Association, and the correctional plan within the Minnesota Public Employees Retirement Association.

The Minnesota correctional plan within the Minnesota state retirement system is governed by Minnesota Statutes Sections 352.90 through 352.97. Section 352.90 outlines the legislative policy concerning correctional employees. This section states that it:

Is the policy of the legislature to provide special retirement benefits and contributions for certain correctional employees who may be required to retire at an early age because they lose the mental or physical capacity required to maintain the safety, security, discipline, and custody of inmates at state correctional facilities or of patients at the Minnesota security hospital or at the Minnesota sexual psychopathic personality treatment center or of patients in the Minnesota extended treatment options on-campus program at the Cambridge regional human services center.

Employees employed at a state correctional facility, the Minnesota security hospital, or the Minnesota sexual psychopathic personality treatment center as a corrections officer 1, corrections officer 2, corrections officer 3, corrections officer supervisor, corrections officer 4, corrections captain, security counselor, or security counselor lead are eligible members. In addition, employees employed at correctional facilities as maintenance or trade personnel, special teachers, security guards, nursing personnel, and various other classifications of employment are members.

Employees are required to contribute 5.69 percent of salary and employers are required to contribute 7.98 percent of salary. Employees who have reached age 55 and have credit for at least three years of covered correctional service are entitled to a retirement annuity based on covered correctional service. The monthly annuity is determined by multiplying the average monthly salary by the number of years or completed months of covered correctional service by 2.4 percent. A covered correctional employee who is at least 50 years old and who has at least three years of allowable service is entitled to early retirement at a retirement annuity reduced by two-tenths of 1 percent for each month that the correctional employee is under age 55 at the time of retirement. A covered correctional employee who has become disabled and physically unfit to perform the duties of the position as a direct result of injury, sickness, or other disability incurred in or arising out of an act of duty is entitled to a disability benefit based on covered correctional service. The disability benefit is 50 percent of the average salary plus an additional percent equal to 2.4 percent for each year of covered correctional service in excess of 20 years, 10 months, prorated for completed months. A covered correctional employee who has at least one year of covered correctional service and who becomes disabled and physically or mentally unfit to perform the duties of the position because of sickness or injury occurring while not engaged in covered employment is entitled to a disability benefit based on covered correctional service only.

The Minnesota State Patrol plan is governed by Minnesota Statutes Chapter 352B. Eligible members

include state troopers, conservation officers currently employed by the state, crime bureau officers, certain employees of the Department of Public Safety, and public safety employees defined as peace officers and employed with the Division of Alcohol and Gambling Enforcement. Members are required to contribute 8.40 percent of salary while employers are required to pay 12.60 percent of salary. Members who are credited with three or more years of allowable service are entitled to normal retirement at age 55. The normal retirement annuity is determined by multiplying the average monthly salary of the member by 3 percent for each year and pro rata for completed months of service. A member who is age 50 and who has at least three years of allowable service is entitled to an early retirement benefit equal to the normal retirement annuity reduced by one-tenth of 1 percent for each month the member is under age 55 at the time of retirement. A member who becomes disabled and physically or mentally unfit to perform duties as a direct result of an injury, sickness, or other disability incurred in or arising out of an act of duty is entitled to receive a disability benefit while disabled. The disability benefit is equal to the member's average monthly salary multiplied by 60 percent, plus an additional 3 percent for each year and pro rata for completed months of service in excess of 20 years. If a member with at least one year of service becomes disabled because of sickness or injury occurring while not on duty and not engaged in state work, the member is entitled to a disability benefit based upon the normal retirement annuity. However, if the member with a non-work-related disability has less than 15 years of service, the disability benefit must be computed as though the member had 15 years of service.

The Minnesota Public Employees Retirement Association includes a police and fire retirement plan and a correctional plan. The police and fire plan is governed by Minnesota Statutes Sections 353.63 through 353.88. Section 353.63 outlines the policy of the state regarding retirement benefits for public safety personnel. This section provides that it:

Is the recognized policy of the state that special consideration should be given to employees of governmental subdivisions who devote their time and skills to protecting the property and personal safety of others. Since this work is hazardous, special provisions are hereby made for retirement pensions, disability benefits and survivors benefits based on the particular dangers inherent in those occupations. The benefits provided . . . are more costly than similar benefits for other public employees since they are computed on the basis of a shorter working lifetime taking into account experience which has been universally recognized. This extra cost should be borne by the employee and employer alike at the ratio of 40 percent employee contributions and 60 percent employer contributions.

The police and fire plan was established in 1959. Beginning in 1980, all new police officers and firefighters

In Minnesota were automatically enrolled in the police and fire plan. In 1987 the Public Employees Retirement Association police and fire consolidated plan was formed, and most of Minnesota's local police and fire relief associations joined. This plan was merged into the Public Employees Retirement Association police and fire plan in 1999. The Public Employees Retirement Association police and fire plan has more than 10,000 members.

Full-time police officers or persons in charge of a designated police or sheriff's department who by virtue of that employment are required by the employing governmental subdivision to be and are licensed by the Minnesota Peace Officer Standards and Training Board and who are charged with the prevention and detection of crime, who have the full power of arrest, who are assigned to a designated police or sheriff's department, and whose primary job is the enforcement of the general criminal laws of the state, and full-time firefighters or persons in charge of a designated fire company or companies who are engaged in the hazards of fire-fighting are eligible to join the police and fire plan. Other employees that may be eligible to be members of the police and fire plan include certain public safety employees of the Metropolitan Airports Commission, certain metropolitan transit police officers, certain State Military Affairs Department firefighters, certain sheriffs' association employees, Hennepin County paramedics and emergency medical technicians, and certain tribal police officers exercising state arrest powers.

Employees are required to contribute 6.2 percent of total salary, and employers are required to contribute 9.3 percent of the total salary of each member. Upon separation from public service, a police officer or firefighter member who has attained age 55 and who has received credit for not less than three years of allowable service is entitled to a normal retirement annuity. The normal retirement annuity is the average salary multiplied by 3 percent per year of allowable service. A police officer or firefighter who is at least 50 years old and who has at least three years of allowable service is entitled to an early retirement annuity equal to the normal annuity reduced by one-tenth of 1 percent for each month that the member is under age 55 at the time of retirement. If a member becomes disabled in the line of duty, the member is entitled to a disability benefit of 60 percent of the average salary plus an additional 3 percent of average salary for each year of service in excess of 20 years. However, if the disability occurs before the member has at least five years of allowable service credit in the police and fire plan, the disability benefit is computed on the average salary from which deductions were made for contributions to the police and fire fund.

Recognizing the special, demanding nature of the work correctional officers perform every day in inmate facilities across the state of Minnesota, the Minnesota Legislature created a new Public Employees Retirement Association plan for correctional officers in 1999. This plan has over 2,500 members. The correctional plan is governed by Minnesota Statutes Chapter 353E. The

Public Employees Retirement Association correctional plan covers local government correctional service employees. Eligible members are employees employed in a county correctional institution as a correctional guard or officer, a joint jailer/dispatcher, or as a supervisor of correctional guards or officers or of joint jailers/dispatchers; directly responsible for the direct security, custody, and control of the county correctional institution and its inmates; expected to respond to incidents within the county correctional institution as part of that person's regular employment duties and is trained to do so; and is a public employee but not a member of the public employees police and fire fund. A county correctional institution is defined as a jail administered by a county, a correctional facility administered by a county, or regional correctional facility administered by or on behalf of multiple counties.

Members are required to contribute 6.01 percent of salary, and employers are required to contribute 9.02 percent of salary. Employees who have attained at least age 55 and have credit of not less than three years of coverage in the local government correctional service plan are entitled to a normal retirement annuity. The normal retirement annuity is the employee's average salary multiplied by 1.9 percent for each year of allowable service. An employee who has attained at least age 50 and has credit for not less than three years of coverage in the local government correctional service plan is entitled to a reduced retirement annuity equal to the normal annuity amount reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable if the employee deferred receipt of the annuity from the day the annuity begins to accrue until age 55. A member who becomes disabled and physically or mentally unfit to perform the duties of the position as a direct result of an injury, sickness, or other disability that was incurred or arose out of any act of duty entitled to a disability benefit. The disability benefit is based on covered service and is an amount equal to 47.5 percent of the average salary plus an additional 1.9 percent for each year of covered service in excess of 25 years. A local government correctional employee who has at least one year of covered service and who becomes disabled and physically or mentally unfit to perform the duties of the position because of sickness or injury that occurs while not engaged in covered employment is also entitled to a disability benefit. This disability benefit must be computed in the same manner as the normal retirement annuity as though the employee had at least 10 years of covered correctional service.

Kansas

Kansas has one retirement plan that may be characterized as a law enforcement retirement plan. Kansas Statutes Annotated Section 74-49-51 provides that the purpose of the Kansas Police and Firemen's Retirement System is to provide an orderly means whereby police and firemen employed by participating employers and who have attained retirement age or who have become disabled may be retired from active service without

prejudice and without inflicting a hardship on the employees retired and to enable them to accumulate reserves for themselves and their dependents to provide for old age, disability, death, and termination of employment, and for the purpose of effecting economy and efficiency in the administration of governmental affairs.

Employees of the Kansas Highway Patrol and Kansas Bureau of Investigation are required to be members of the Kansas Police and Firemen's Retirement System. Board of Regents institutions and any county, city, township, or other political subdivision of the state which employs one or more employees as police officers, firefighters, emergency medical technicians, or campus police are eligible to affiliate with the system. The system currently has 10,175 members from 69 state and local agencies. For purposes of the system, police officer means an employee assigned to a police department whose principal duties are engagement in the enforcement of law and maintenance of order within the state and its political subdivisions, including sheriffs and sheriffs' deputies, and who has successfully completed the required course of instruction for law enforcement officers approved by the Kansas Law Enforcement Training Center. In addition, members are classified as either Tier I or Tier II members. Tier I members are members who were employed prior to July 1, 1989, and who did not elect Tier II coverage. Tier II members are members who were employed prior to July 1, 1989, who did elect Tier II coverage as well as all members employed on or after July 1, 1989. Finally, some current members may also be considered either Tier I or Tier II transfer or Brazelton members. Transfer members are members who are former members of a local plan who elected to participate in the Kansas Police and Firemen's Retirement System. Brazelton members are members who participated in a class action lawsuit, *Brazelton v. Kansas Public Employees Retirement System*, 227 K.443, 607 P.2d 510 (1980), whose contributions are lower and whose benefits are offset by Social Security. Corrections employees are members of the Kansas Public Employees Retirement System, but their benefits are calculated differently from those of noncorrections employees.

Contribution rates vary according to the classification of membership. Tier I and Tier II members contribute 7 percent of compensation, except in the case of a member whose employment is covered by Social Security and the member is a member of the class certified in the case of *Brazelton v. Kansas Public Employees Retirement System*, 227 K.443, 607 P.2d 510 (1980), the employee contribution is reduced by the amount of the member's contribution to Social Security. The current contribution rate for Brazelton members is .008 percent. Also, the employee contribution for Tier I and Tier II members is reduced to 2 percent after attaining 32 complete years of service.

Employer contribution rates fluctuate and are determined separately for each employer. Kansas Statutes Annotated Section 74-49-67 provides that upon the basis of an annual actuarial valuation and appraisal of the system, the Kansas Public Employees Retirement

System Board of Trustees shall certify, on or before July 15 of each year, to each participating employer an actuarially determined estimate of the rate of contribution that is required to be paid by each participating employer to pay all the liabilities that are to accrue under the system from and after the entry date as determined by the board upon recommendation of the actuary. The rate must be uniform for all participating employers and must be comprised of a rate for benefits accruing after June 30, 1993, and a rate for amortization of the additional liability for benefits provided by the system which is attributable to service rendered before July 1, 1993. Additional liability must be amortized over a period of 40 years commencing on July 1, 1993, by annual payments that increase 4 percent for each year remaining in the amortization. The employer's rate of contribution determined under this section does not include the cost of administration of the system. For fiscal year 2002, July 1, 2001, through June 30, 2002, the employer contribution rates are 9.13 percent for the Kansas Highway Patrol, 7.76 percent for the Kansas Bureau of Investigation, 6.65 percent for the Kansas Board of Regents, and various rates for local employers.

Tier I members vest after 20 years of service credit, and Tier II members vest after 15 years of service credit. The retirement benefit is calculated using a formula of final average salary times a statutory multiplier times years of service. The current statutory multiplier is 2.5 percent. Final average salary for members who were hired before July 1, 1993, is the average of the three highest years of the last five years of employment, including additional compensation such as sick leave and annual leave. Final average salary for members hired on or after July 1, 1993, is the average of the three highest of the last five years of employment with no additional compensation included.

A member is not permitted to retire for age and service and receive retirement benefits before having contributed to the retirement system for at least 12 months. Age and service retirement benefits cannot exceed 80 percent of final average salary. The normal retirement age and service requirement for a Tier I member is 55 years with 20 years of service credit, and the early retirement date for a Tier I member is 50 years with 20 years of service credit. The normal retirement date for a Tier II member is 50 years with 25 years of service credit, 55 years with 20 years of service credit, or 60 years with 15 years of service credit. The early retirement date for a Tier II member is 50 years with 20 years of service credit. The retirement date for a transfer member is age 50 with 25 years of service and reduced benefits are available at age 50 with 20 years of service.

A member may choose several retirement options, including a maximum benefit with no survivor, joint and survivor, life certain, and partial lump sum options. Disability benefits are based upon whether the disability was job-related, the classification of the member, and whether the member has children. For a Tier I member whose disability is job-related, the disability benefit is 50 percent of final average salary plus 10 percent for each eligible dependent to a maximum benefit of

75 percent of final average salary. If there is no dependent, the disability benefit is the higher of 50 percent of final average salary or 2.5 percent for each year of service credit, to a maximum of 80 percent of final average salary. For a Tier II member, the disability benefit is 50 percent of final average salary with service credit to normal retirement. However, benefits are offset \$1 for every \$2 of earnings over \$10,000.

Death benefits are based upon whether the member was active or inactive, whether the death was service or non-service-connected, and whether the member was receiving disability benefits at the time of death. If the death was job-related and there is a surviving spouse or children, the spouse receives 50 percent of final average salary until death. Each child, up to age 18 or up to age 23 if a full-time student, receives 10 percent of final average salary. The total may not exceed 75 percent of final average salary. If the death was non-job-related and there is a surviving spouse or children, the spouse receives a lump sum payment of 100 percent of final average salary plus a monthly benefit of final average salary times 2.5 percent times years of service up to a maximum of 50 percent of final average salary. If there is no surviving spouse or child, the death benefit is 100 percent of current annual salary less refundable contributions and interest to a named beneficiary.

Correctional officers are members of the Kansas Public Employees Retirement regular system, but their benefits are calculated differently. For purposes of determining benefits, correctional officer members are classified as either Group A or Group B members. Group A members are persons certified to the board of trustees by the Secretary of Corrections and who are employees of the Department of Corrections and who are in a position in a job class in the corrections officer class series, including corrections officer I, corrections officer II, corrections supervisor I, corrections supervisor II, and corrections supervisor III or in a position in the corrections counselor I, corrections counselor II, unit team supervisor, or corrections classification administrator job class, or who are promoted from one of these positions to a position in a job class of warden or deputy warden of a correctional institution, work release supervisor, training officer correctional institutions, or corrections administrator security specialist if the person was employed and had at least three consecutive years of service in any one or more positions in the job classes described above immediately preceding promotion to the position in a job class of warden, deputy warden, work release supervisor, training officer, or corrections administrator security specialist. Group B members are persons certified to the board by the Secretary of Corrections who are employed by the Department of Corrections and who are in a position for which the duties and responsibilities directly and primarily involve operation of power plant facilities within a correctional institution and involve regular contact with inmates, who are in a position for which the duties and responsibilities directly and primarily involve the operation of the correctional

industries activity of the Department of Corrections within a correctional institution and involve regular contact with inmates, who are in a position for which the duties and responsibilities directly and primarily involve supervision of food service operations within a correctional institution and involve regular contact with inmates, or who are in a position for which the duties and responsibilities directly and primarily involve supervision of maintenance operations within a correctional institution and involve regular contact with inmates.

A member is required to contribute 4 percent of gross earnings and, as with the Police and Firemen's Retirement System, the employer contribution rate is set by the board. For fiscal year 2002, the employer rate is 7.44 percent for Group A members and 6.27 percent for Group B members. The retirement benefit formula is final average salary times a statutory multiplier times years of service. The statutory multiplier is 1.75 percent for participating service and 1 percent for prior service. For members hired on or after July 1, 1993, final average salary is the average of the three highest years of employment excluding additional compensation such as sick leave and annual leave. For members hired before July 1, 1993, final average salary is the greater of either a four-year final average salary, including additional compensation, such as sick leave and annual leave, or a three-year final average salary excluding additional compensation.

A Group A member is entitled to a normal retirement benefit at age 55 or at any age when the member's age and years of service combined equal 85. An early retirement benefit is available at age 50 with 10 years of service. The early retirement reduction factor is .2 percent for each month under age 55. A member must have been employed for three years immediately before retirement to receive a benefit. A Group B member is entitled to normal retirement benefits to age 60 or at any age when the member's age and years of service combined equal 85. An early retirement benefit is available at age 55 with 10 years of service. The early retirement reduction factor is .2 percent for each month under age 60. A Group B member must have been employed for three years immediately before retirement.

Disability benefits are available to members who are totally disabled for 180 consecutive days and who no longer receive compensation from their employer. The annual benefit is equal to two-thirds of the member's annual salary less Social Security and any other employer-provided disability benefits. The minimum monthly benefit is \$100. The member is also entitled to service credit for the period of approved disability, and when determining retirement benefits, the final average salary is recalculated if the member is disabled for at least five years.

If death is not job-related, the named beneficiary is entitled to the actual contributions and interest and employer-provided life insurance equal to 150 percent of the member's salary at the time of death. If the member met the age and service requirements to retire at the time of death and the spouse is the sole named

beneficiary, the spouse may elect to receive monthly benefits under a survivor option in lieu of receiving a return of the contributions plus interest in a lump sum. If a member with 15 or more years of service dies and was not of retirement age and the spouse is the sole beneficiary, then the spouse can elect one of the survivor options at the time the member would have first been of retirement age. If the death is job-related, the spouse and children under age 18, or up to age 23 if full-time students, or dependent parents, in this order of preference, are entitled to a \$50,000 lump sum payment and a monthly amount based on 50 percent of the member's final average salary subject to reduction for benefits received under workers' compensation. This benefit is in addition to the insured death benefit and the return of contributions plus interest as for non-job-related deaths. The minimum job-related death benefit is \$100 per month.

Effective July 1, 2001, at retirement, a member may elect to receive a lump sum payment of up to 50 percent of the actuarial present value of the member's monthly retirement benefit. The monthly retirement benefit is then reduced accordingly. There are six different survivor options available at retirement, with "pop-up options" to the maximum amount allowed when a survivor predeceases the retired member. If survivor benefits are not payable, the named beneficiary is entitled to the return of any contributions and interest remaining in the member's account.

There is a 30-day waiting period following a member's effective date of retirement before the member may go back to work for a participating employer. If a retired member returns to work for the same employer for whom the member worked during the last two years of participation, the retired member may continue to receive retirement benefits and continue to work until earnings equal \$15,000 in a calendar year. At that point, the retired member must either forfeit retirement benefits for the remainder of the calendar year or stop working for the remainder of the calendar year.

Nebraska

The Nebraska Public Employees Retirement Systems administers five statewide retirement plans and one deferred compensation plan for the state of Nebraska. Three of the five statewide plans are defined benefit plans and the other two are defined contribution plans. However, only one of the plans may be characterized as a law enforcement retirement plan--the Nebraska State Patrol Retirement System.

The Nebraska State Patrol Retirement System is a defined benefit retirement plan. Every sworn officer of the Nebraska State Patrol who is employed on or after September 7, 1947, is a member of the system. Employees are required to contribute 11 percent of their gross salary which is matched by the state. The maximum retirement benefit payable is 75 percent of the retiree's final average monthly salary. Therefore, 25 years is the maximum number of years that apply toward retirement benefit calculations. If employees work more than 25 years, the extra years do not

increase retirement benefits, but if during those years the salary increases, the final average monthly salary used to calculate benefits increases.

Members are entitled to a normal retirement at age 55 with 10 or more years of service. The retirement formula is 3 percent times years of service equals percent of final average monthly salary (or $3\% \times \text{service} = \% \text{ of final average salary}$). Members are entitled to early retirement if they are at least age 50 but not yet age 55 and if they have 10 or more years of service. Benefits are calculated using the normal formula reduced by five-ninths of 1 percent for each month the member's age precedes age 55 or five-ninths of 1 percent for each month the member's years of service precedes 25 years, whichever provides the member with the greater benefit.

Members who are disabled are entitled to a disability retirement benefit. Disability is defined as the complete inability of the patrol officer, for reasons of accident or illness, to perform the duties of a patrol officer. There is no age reduction for disability benefits, and the disability retirement benefit is 50 percent of the member's regular monthly salary at the date the member became disabled if the member had 17 years of service or less. If the member had more than 17 years of service at the time of disability, the amount of the disability benefit is calculated based upon a formula of years of service times 3 percent times salary at date of disablement equals the calculated benefit amount (or $\text{service} \times 3\% \times \text{salary} = \text{benefit}$). However, by law, the calculated benefit amount may not exceed 75 percent of the final average monthly salary, which is the maximum benefit for a normal retirement.

Members are also entitled to death benefits. If death occurs before retirement, benefits are calculated as if the member had retired under disability. The surviving spouse and dependent children under age 19, in the spouse's care, are entitled to receive 100 percent of the member's benefit as calculated for disability retirement until the youngest dependent child reaches age 19. At that time the spouse's benefit is reduced to 75 percent of the member's benefit for the spouse's life or until the spouse remarries. If the spouse remarries or dies before the youngest dependent child reaches age 19, the child's benefit is reduced to 75 percent of the member's benefit until age 19. If there is no spouse living at the date of the member's death, either because of death or divorce, the member's children under age 19, if any, are entitled to receive 75 percent of the member's benefit until the youngest child attains the age of 19. If there is more than one child under age 19 at the date of the member's death, the benefit is divided equally among the children. If there are no children under age 19 living at the time of the member's death, the surviving spouse receives 75 percent of the member's benefit for life or until remarriage. If there is no spouse or children under age 19, a lump sum payment of the member's contributions and interest is paid to a designated beneficiary, or the member's estate if there is no designated beneficiary. If death occurs after retirement, the member's regular benefit continues to the member's

spouse and or children at the same percentages that apply to death before retirement. A surviving spouse is eligible to receive benefits only if married to the member at the time the member retires. If the member does not have a spouse or children under age 19, the balance is paid to the member's beneficiary or estate. Members are not covered by Social Security.

Wyoming

Wyoming has two retirement plans that apply to law enforcement officers. Certain law enforcement officers are entitled to enhanced benefits under the Wyoming Retirement Act, and law enforcement officers employed as highway patrolmen, game and fish wardens, and criminal investigators may be members of the Wyoming State Highway Patrol, Game and Fish Warden, and Criminal Investigator Retirement System. For purposes of the enhanced benefits under the Wyoming Retirement Act, law enforcement officers are members who are employed as county sheriffs, deputy county sheriffs, municipal police officers, University of Wyoming campus police officers, jailers, or dispatchers for law enforcement agencies. Law enforcement members pay an additional 3.73 percent of their salary in addition to the 5.67 percent contribution rate required by the Wyoming retirement system. The additional 3.73 percent is an employee-only contribution not matched by the employer and is refundable along with regular contributions and interest if the member chooses to withdraw from the retirement system at termination. The employer contribution is 5.68 percent of salary. In addition, the state is required to pick up and pay the employees' contributions, and political subdivisions may pay their employees' contributions.

Normal retirement benefits for a law enforcement officer are payable when the officer has at least four years of service credit as a law enforcement officer and is at least 60 years of age, has at least 25 years of service credit as a law enforcement officer and is at least 50 years of age, or is at least 55 years of age and has a combined total years of service credit and years of age that equals at least 75. Early retirement benefits are payable to a law enforcement officer who has at least four but less than 25 years of service credit and is at least age 50 but not yet 60 years of age or is less than 50 years of age and has at least 25 years of service credit as a law enforcement officer.

The normal retirement benefit for a member who first becomes covered under the Wyoming Retirement Act after June 30, 1981, is equal to 2.125 percent of the highest average salary multiplied by the member's years of service credit for the first 15 years of service credit and 2.25 percent of the highest average salary multiplied by the member's years of service credit for any years of service credit exceeding 15 years. The retirement benefit for a member with service after March 31, 1953, but before July 1, 1981, is equal to a monthly benefit amount based on the actuarial equivalent of double the member's account with any applicable increase or 2.125 percent of the member's highest average salary

multiplied by the member's years of service credit for the first 15 years of service credit and 2.25 percent of the member's highest average salary multiplied by the member's years of service credit for years of service credit exceeding 15 years.

The Wyoming Retirement Act also provides for retirement benefit adjustments. Effective July 1, 2001, and on each July 1 thereafter, any retirement benefit, survivor benefit, or disability benefit received by eligible individuals is to be adjusted. Before each July 1, the Retirement Board is to determine the percentage increase in the cost of living for the preceding calendar year. The percentage increase in the cost of living for a calendar year is equal to the annual percentage increase in the cost of living as of the immediately following January 1 as shown by the Wyoming cost-of-living index as determined by the Division of Economic Analysis of the Department of Administration and Information. The benefits existing on each July 1 for each eligible individual must be increased by the lesser of the percentage increase in the cost of living as determined by the board or 3 percent. The amount of any percentage increase in the cost of living that exceeds 3 percent must be accumulated and added to the percentage increases in the cost of living for future years. An individual who has been receiving applicable benefits, for at least two years, either alone or in combination with a member, if the individual is a survivor, is eligible for these benefits. An increase in benefits under this provision is effective only upon a determination by the system's actuary that the increase is actuarially sound. The actuary must annually report its determination pursuant to this provision to the Governor and the joint appropriations interim committee, and the total benefit adjustment under this provision may not exceed 3 percent in any one year.

If a member dies before retirement under the system, the member's account plus an additional amount equal to the member's account must be paid to the member's designated beneficiaries or in the absence of designated beneficiaries to the member's estate. If the member is vested, instead of a lump sum payment, a beneficiary may elect to receive the actuarial equivalent of the lump sum of any benefit for life which is available to a retired member. A beneficiary who is the surviving spouse of the deceased member and who elects to receive the actuarial equivalent of the lump sum as a life benefit may, within 18 months of the death of the member, elect to receive the lump sum death benefit otherwise provided plus interest accumulated on that account less any payments received by the surviving spouse. If a member receiving benefits or the member's beneficiary receiving retirement benefits dies before the total amount of benefits paid to either the member or the member's beneficiary or both equals the amount of the member's account at retirement, then the excess, if any, must be paid to any other named beneficiary, if any, or to the member's estate.

A member in service who has 10 or more years of service credit during which contributions have been paid because of illness or injury outside of or in the scope of

employment or any law enforcement officer in service for whom contributions have been paid because of injury in the scope of employment may retire on account of a total or partial disability in accordance with rules adopted by the board. Upon retirement for a total disability, a member is entitled to receive a monthly disability retirement benefit for the period of the member's disability equal to 100 percent of the member's service retirement benefit as if the member were eligible for normal retirement benefits. Upon retirement for a partial disability, a member is entitled to receive a monthly disability retirement benefit for the period of disability equal to 50 percent of the normal retirement benefit payable to the member as if the member were eligible for normal retirement benefits. Disability benefits are payable for the life of the member or until the member is no longer disabled.

Persons employed by the Wyoming State Highway Patrol Division as sworn law enforcement officers, persons commissioned as full-time law enforcement officers of the Wyoming State Game and Fish Department, criminal investigators, and persons designated and appointed as capitol police are entitled to participate in the Wyoming State Highway Patrol, Game and Fish Warden, and Criminal Investigator Retirement System. For purposes of this plan, criminal investigator means a full-time special agent employed by the Division of Criminal Investigation of the Attorney General's office who is a sworn peace officer. Employees covered by this plan contribute 11.02 percent of salary. However, contributions are picked up by the member's employer. Employers are required to contribute 11.33 percent of all salaries paid to their employees.

Employees retiring with 25 or more years of service may elect to retire and receive a benefit upon attaining age 50. Employees in service who have attained age 65 must be retired not later than the last day of the calendar month in which their 65th birthday occurs.

The service retirement allowance payable to an employee at age 50 is equal to 2.5 percent of the employee's highest average salary for each year of credited service in the program, provided the retirement allowance does not exceed 75 percent of the highest average salary. Effective July 1, 2001, and on each July 1 thereafter, any service retirement allowance, survivor benefit, or disability benefit received by eligible individuals under the Wyoming State Highway Patrol, Game and Fish Warden, and Criminal Investigator Retirement System must be adjusted. Before each July 1, the board is required to determine the percentage increase in the cost of living for the preceding calendar year. The percentage increase in the cost of living for a calendar year is equal to the annual percentage increase in the cost of living as of the immediately following January 1 as shown by the Wyoming cost-of-living index as determined by the Division of Economic Analysis of the Department of Administration and Information. The benefits existing on each July 1 for each eligible individual must be increased by the lesser of the percentage increase in the cost of living as determined by the board or by 2.25 percent. The amount of any percentage

increase in the cost of living that exceeds 2.25 percent must be accumulated and added to the percentage increases in the cost of living for future years. Individuals who have been receiving applicable benefits for at least two years, either alone or in combination with an eligible employee if the individual is a survivor, are eligible for the increased benefit. An increase in benefits under this provision is effective only upon a determination by the actuary of the Wyoming retirement system that the increase is actuarially sound. The actuary is required to report its annual determination under this provision to the Governor and Joint Appropriations Interim committee. The total benefit adjustment under this provision may not exceed 2.25 percent in any one year.

A member who suffers a partial or total disability resulting from an individual and specific act, the type of which would normally occur only while employed as an employee, is eligible for a duty-connected disability allowance. If the specific act involves a traumatic event that directly causes an immediate cardiovascular condition resulting in partial or total disability, the employee is eligible for a partial or total duty-connected disability allowance. An employee with 10 years of credited service who suffers a partial or total disability and who is not eligible for a duty-connected disability allowance is eligible for an ordinary partial or total disability allowance. The determination of disability and its cause must be made by the board after receiving the recommendation of its medical committee. A disability allowance is 50 percent of the highest average salary for duty-connected or ordinary total disability, 35 percent of the highest average salary for duty-connected partial disability, or 25 percent of the highest average salary for ordinary partial disability.

If a member of the State Highway Patrol, Game and Fish Warden, and Criminal Investigator Retirement System dies as a result of an activity related to official duty as an employee prior to retirement, a monthly death benefit equal to 50 percent of the member's final actual salary at the time of death is paid to the surviving spouse. In addition, an amount equal to 5 percent of the final actual salary is paid as a benefit for each unmarried child under age 18, provided the total death benefit paid to the surviving spouse and children does not exceed the employee's final actual salary.

If a member dies before retirement and the member's death is not related to official duty as an employee, a monthly nonduty death benefit is paid to the surviving spouse, equal to 2 percent of the member's final actual salary at the time of death for each year of credited service. The maximum nonduty death benefit payable to a spouse may not exceed 50 percent of the member's final actual salary. In addition, an amount equal to 5 percent of the final actual salary must be paid as a benefit for each unmarried child under age 18. The total nonduty death benefit paid to the surviving spouse and children may not exceed 60 percent of the employee's final actual salary.

If a retired member of the retirement program dies, the spouse of the deceased member is entitled to receive a benefit equal to 50 percent of the retirement

allowance. In determining the benefit to be paid to the spouse, no reduction due to Social Security may be taken into account. In addition, an amount equal to percent of the final actual salary is paid as a benefit for each unmarried child under the age of 18 years. The total benefit paid to the surviving spouse and children on the death of the retired member in accordance with this provision may not exceed 60 percent of the employee's final actual salary.

Testimony and Committee Activities

The committee surveyed state agencies with law enforcement and corrections responsibilities to determine the number of employees who may be eligible to participate in a separate law enforcement and correctional officer retirement program. The committee learned that 37 employees of the Attorney General, three employees of the Highway Patrol, 71 employees of the Field Services Division of the Department of Corrections and Rehabilitation, 257 employees of the Prisons Division of the Department of Corrections and Rehabilitation, 12 employees of Roughrider Industries, and 31 employees of the Game and Fish Department--a total of 411 state employees--would be eligible to participate in a separate law enforcement and correctional officer retirement program.

The committee surveyed counties and cities to determine whether they participate in Social Security, whether they have an existing retirement plan separate from the Public Employees Retirement System, whether they would consider merging their plan with a new state law enforcement and correctional officer retirement plan, and the number of peace and correctional officers employed by that political subdivision. The committee learned that most counties participate in the Social Security system but not nearly as many cities participate, that most counties do not have an existing retirement plan separate from the Public Employees Retirement System, that whether a political subdivision would merge its retirement plan with a new state plan depends upon the cost of the plan and the benefits available under that plan, and that there are approximately 755.25 peace and correctional officers employed by political subdivisions who may be eligible to participate in a law enforcement and correctional officer retirement plan. However, the survey results were incomplete.

The Attorney General testified that the state must take steps to retain well-qualified and experienced peace officers in North Dakota. North Dakota law enforcement officials are well-respected in the law enforcement community, and out-of-state law enforcement agencies are actively recruiting North Dakota peace officers, often using better benefit packages to do so. The Attorney General testified that this actually increases law enforcement costs to North Dakota residents because of the training costs that are spent on officers who later leave the state. The Attorney General testified that providing additional salaries for law enforcement officers may be difficult, but that one solution to the recruitment and retention problem would be to review enhanced

retirement benefits for law enforcement personnel in North Dakota.

The warden and director of the Prisons Division of the Department of Corrections and Rehabilitation testified that a retirement system that allows employees to retire after 20 years of service would increase public safety and aid the public safety agencies in the recruitment and retention of employees. Even though corrections officers must stay in good physical condition, a 60-year-old officer is no physical match for a young inmate. The committee received testimony that an earlier retirement age would permit older staff to retire once their physical skills diminish and would allow correctional and law enforcement agencies to replenish their workforce and keep it physically strong. The warden and director testified that the Department of Corrections and Rehabilitation has had 11 correctional officers retire during the past five years, with their average age at retirement being 62.9 years. Most of these employees remained in the workforce in order to attain the Rule of 85 and be able to retire with full retirement benefits. The average age of the inmate population is 29 years. The warden and director testified that the Prisons Division is having a difficult time attracting and retaining correctional officers at state facilities and a better retirement package would help in recruiting and retaining officers. Testimony indicated that an enhanced retirement program would also allow the Prisons Division to compete with other prison systems to keep their younger trained staff within the state system as it is losing employees to the Federal Bureau of Prisons and other state prison systems. Also, testimony indicated that older than average workers bring, on average, more workers' compensation claims for employment at the Prisons Division.

Representatives of the Game and Fish Department testified that game wardens perform physically demanding work, much of it outdoors and in inclement weather. Two game wardens have suffered fatal heart attacks while on the job in the last 10 years. Testimony indicated that a separate retirement system with a lower normal retirement age for law enforcement officers would enhance the morale and efficiency of the Game and Fish Department.

A representative of the North Dakota Sheriffs and Deputies Association testified that it is becoming increasingly difficult to attract quality applicants and to retain these individuals once they are employed in North Dakota, and a representative of the North Dakota Chiefs of Police Association testified that allowing law enforcement officers to retire earlier would result in lower workers' compensation rates because of fewer injuries on the job and also lessen a political subdivision's liability because older law enforcement officers are more likely to cause liability problems for political subdivisions.

The committee received testimony from the president of the North Dakota County Commissioners Association that a law enforcement and correctional officer retirement program may result in increased costs to counties and that the state should not mandate participation by

political subdivisions without providing the financial resources to do so.

The committee reviewed the existing Public Employees Retirement System retirement plans to determine whether peace officers and correctional officers could be included in an existing plan. The committee determined the main system is not appropriate because the normal retirement age is 65 or the Rule of 85. The committee determined that the Highway Patrolmen's retirement system is not appropriate because members of the Highway Patrolmen's retirement system do not participate in the federal Social Security system, and thus their benefits as well as contributions are much higher than for the main system. The committee noted the normal retirement age for the National Guard retirement system is 55 and that these members participate in the federal Social Security system, the same as state law enforcement and correctional officers who would be eligible for a separate plan.

The committee considered a bill draft relating to participation by peace officers and correctional officers in the defined benefit retirement plan and the defined contribution retirement plan. The bill draft provided that peace officers and correctional officers participating in the defined benefit retirement plan or the defined contribution retirement plan who have completed at least three consecutive years of employment as a peace officer or correctional officer immediately preceding retirement would be able to retire at age 55. Under the bill draft, peace officers and correctional officers would be included in the National Guard retirement plan because members of the National Guard retirement plan have a normal retirement age of 55 and they participate in the federal Social Security system. The multiplier would be the same as that for other members of the defined benefit retirement plan, 2.0 percent. Participants would be required to contribute 4 percent of monthly salary and employers would be required to contribute an amount determined by the Retirement Board to be actuarially required to support the level of benefits provided. Employers would be authorized to "pick up" and pay the employee's assessment. For purposes of the bill draft, peace officer is defined as a participating member who is a peace officer as defined in NDCC Section 12-63-01 and is employed as a peace officer. Section 12-63-01(4) defines a peace officer as a public servant authorized by law or by a government agency or branch to enforce the law and to conduct or engage in investigations of violations of the law. The bill draft defined a correctional officer as 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 by the Department of Corrections and Rehabilitation or a political subdivision. The bill draft provided that political subdivisions, on behalf of their peace officers and correctional officers separately from their other employees, may enter an agreement with the Retirement Board for the purpose of extending the benefits of the Public Employees Retirement System to those employees. In addition, political subdivisions having existing police pension plans may

merge those plans into the Public Employees Retirement System under rules adopted by and in a manner determined by the Retirement Board. Eligible employees could join the defined contribution retirement plan with the same contributions that apply to the defined benefit retirement plan.

The consulting actuary for the Public Employees Retirement System determined the value of the current benefits of the 411 members of the Public Employees Retirement System who would become peace officer or correctional officer members of the National Guard retirement system. The consulting actuary then determined the normal cost and accrued liability, as of July 1, 2001, for these members under both plans. The following table sets forth these calculations:

	Current (Main)		Proposed (National Guard)	
	Amount	Percentage of Payroll	Amount	Percentage of Payroll
Total normal cost	\$969,727	8.33%	\$1,158,232	9.94%
Employee contribution	\$465,916	4.00%	\$465,916	4.00%
Employer normal cost	\$503,811	4.33%	\$692,316	5.94%
Actuarial accrued liability	\$15,915,203	-	\$18,267,044	-

The table shows there is an increase in both the normal cost and accrued liability for the participants affected. This is due to the earlier retirement eligibility provisions of the National Guard retirement plan.

The consulting actuary reported that assuming all eligible members participate in the National Guard retirement plan and that all past service is credited under the plan, an asset transfer representing the value of service accrued under the main system would occur. The consulting actuary reported there are two methods commonly used when determining the value of this asset transfer. The first considers a transfer equal to the actuarial accrued liability of the group transferring to the National Guard retirement plan. Of the 411 participants identified by the Public Employees Retirement System staff, the consulting actuary found 381 members with benefits accrued under the main system as of July 1, 2001. Under the first asset transfer calculation method, the asset transfer equals the actuarial accrued liability for the eligible group, that is \$15,915,203 as of July 1, 2001. This amount would need to be adjusted for the actual transfer date as well as any changes in the eligible group. Under the alternative method an amount equal to the accrued liability adjusted by the current funded ratio would be transferred. As of July 1, 2001, the plan had a funded ratio of 110.6 percent, resulting in a transfer amount of \$17,602,215. The consulting actuary reported that it is important to note, due primarily from investment performance, that the funded ratio of the system at the actual date of the transfer may be materially different. Under the second method the consulting actuary said it would recommend that either the transfer coincide with the next actuarial valuation, when a full remeasurement

of the funded ratio would occur, or that the latest valuation liabilities be rolled forward to the transfer date and used with the latest asset information to develop an interim estimate of the funded position as of the transfer date.

The consulting actuary reported that under either of the asset transfer methods, the transfer is less than the value of the benefits accrued under the National Guard retirement plan and results in an unfunded actuarial accrued liability. The following table shows the contributions required of employers of the transferring participants under both asset transfer calculation methods and varying amortization periods. These rates are determined without reflecting the current surplus position of the National Guard retirement plan and assuming the administrative expense allowance of the main system.

	Asset Transfer Method 1		Asset Transfer Method 2	
	Amount	Percentage of Payroll	Amount	Percentage of Payroll
Total normal cost	\$1,158,232	9.94%	\$1,158,232	9.94%
Employee contribution	\$465,916	4.00%	\$465,916	4.00%
Employer normal cost	\$692,316	5.94%	\$692,316	5.94%
Actuarial accrued liability	\$18,267,044	-	\$18,267,044	-
Asset transfer	\$15,916,203		\$17,802,215	
Unfunded actuarial accrued liability	\$2,351,841		\$664,829	
10-year amortization of the unfunded actuarial accrued liability	\$282,203	2.42%	\$79,774	0.68%
20-year amortization of the unfunded actuarial accrued liability	\$164,136	1.41%	\$46,399	0.40%
30-year amortization of the unfunded actuarial accrued liability	\$126,166	1.08%	\$35,665	0.31%
Administrative expense allowance	\$19,801	0.17%	\$19,801	0.17%
Total required contribution with 10-year amortization (3 + 7 + 10)	\$994,320	8.54%	\$791,891	6.80%
Total required contribution with 20-year amortization (3 + 8 + 10)	\$876,253	7.52%	\$758,516	6.51%
Total required contribution with 30-year amortization (3 + 9 + 10)	\$838,283	7.20%	\$747,782	6.42%

This table demonstrates that the Public Employees Retirement System Retirement Board mandated employer contribution rate of 8.33 percent is sufficient to meet the funding requirements under all variations except that using the first asset transfer calculation method and the 10-year amortization of the resulting unfunded liability. These results reflect an approach that would differentiate future employer costs between the current membership and the transferring group. This approach results in additional administrative work, data, and actuarial expense due to developing two specific employer contribution requirements, one for the current participants, and one for the transferring group.

The consulting actuary reported that if the transfer occurs without regard to the difference in normal costs and accrued liabilities of the current and transferring groups, the resulting employer-required contribution rate determined using the current funding policy is 7.32 percent of payroll under the first asset transfer calculation method and 6.35 percent of payroll under the second asset calculation method. These results are comparable to item 12 in the previous table as all reflect a 20-year amortization of unfunded liabilities. The consulting actuary reported this approach would prospectively treat all employers the same as it is similar to a weighted average cost of current and transferring participants. Regardless of the asset transfer calculation method, a funding margin would exist as of July 1, 2001. The consulting actuary reported that a criticism of this approach is that the surplus position of the pretransfer plan is subsidizing some of the cost of the transfer. However, payroll of the current plan members is only 4.0 percent of the total payroll of both groups and the consulting actuary expects this percentage to decrease in the future. On a prospective basis there would be no material impact to the main system due to the proposal as reflected by the match of the normal cost rates of the transferring group to the main system as a whole. Depending upon the asset transfer calculation method utilized and the funded status of the main system, a small gain or loss may result at the transfer date. The magnitude of this gain or loss would likely be immaterial to the system. Finally, the consulting actuary reported the earlier retirement eligibility of the transferring participants also results in increased retiree health liabilities. The consulting actuary did not determine the impact of this increase in the scope of its review, however, because of the relatively small number of participants affected; the consulting actuary estimated the impact to the overall program to be minimal.

The executive director of the Public Employees Retirement System testified that one issue that should be addressed by the committee is whether the employer contribution rate for the law enforcement and correctional officer retirement program should be blended with the National Guard employer contribution rate or whether a separate rate should be established. If a separate rate is established, two additional issues are whether the assets should be transferred based upon the accrued liability for the member or whether the assets should be

transferred based upon the accrued liability for the member plus any gains. One reason not to blend the contribution rate with the National Guard rate is because National Guard employer contributions are paid by the federal government, and if the contribution rates were blended, the issue of whether the federal government is subsidizing the state employees in the system would be raised. If the National Guard and law enforcement rates are blended and only accrued liability is transferred, the employer contribution rate would be 7.32 percent. If accrued liability plus gains based upon last year's actuarial report are transferred, the employer contribution rate would be 6.35 percent as compared to 4.12 percent for the main system under current law. If a separate rate is established and accrued liability only is transferred, the contribution rate would be 8.54 percent using a 10-year amortization period, 7.52 percent using a 20-year amortization period, and 7.20 percent using a 30-year amortization period. If accrued liability and gain is transferred, the contribution rate would be 6.80 percent using a 10-year amortization period, 6.51 percent using a 20-year amortization period, and 6.42 percent using a 30-year amortization period. The cost increase for the state would be \$1,066,000 if the employer contribution rate is 8.33 percent, \$861,100 if the employer contribution rate is 7.52 percent, \$810,400 if the employer contribution rate is 7.32 percent, \$678,700 if the employer contribution rate is 6.8 percent, and \$582,500 if the employer contribution rate is 6.42 percent. Representatives of the Public Employees Retirement System testified that it will probably employ a blended employer contribution rate and use the asset transfer method. The committee agreed that the asset transfer methodology should be determined by the Public Employees Retirement System Board.

A representative of the North Dakota Sheriffs and Deputies Association testified the bill draft contained a normal retirement date of age 55 with at least three consecutive years of employment as a peace officer or correctional officer immediately preceding retirement. Many law enforcement and correctional officers are eligible to retire under the Rule of 85 under the current retirement system before they reach age 65. Thus, if this system becomes law, members may actually have to work longer than they would under current law. The representative suggested the committee include a Rule of 85 and a normal retirement date of age 50 with 20 years of service in the bill draft.

The director of the Bureau of Criminal Investigation testified that several Bureau of Criminal Investigation employees will reach the Rule of 85 before age 55. Thus, if this bill draft is enacted with a normal retirement age of age 55, these employees will have to work longer than they would have under the existing system to receive a normal retirement benefit. The director proposed the committee include a Rule of 85 along with the normal retirement age of 55 to solve this problem.

The consulting actuary reported that using asset transfer method 1 and a 20-year amortization schedule the Rule of 85 will cost an additional \$91,473 or .79% of compensation, a normal retirement date of age 50 with

20 years of service will cost an additional \$230,923 or 1.99 percent of compensation, a multiplier of 2.20 percent will cost an additional \$336,111 or 2.89 percent of compensation, a multiplier of 2.50 percent will cost an additional \$774,933 or 6.66 percent of compensation. The actuarial results for the Rule of 85 are summarized in the following table:

	Asset Transfer Method 1		Rule of 85	
	Amount	Percentage of Payroll	Amount	Percentage of Payroll
Total normal cost	\$1,158,232	9.94%	\$1,195,494	10.26%
Employee contributions	\$465,918	4.00%	\$465,918	4.00%
Employer normal cost	\$692,316	5.94%	\$729,576	6.26%
Actuarial accrued liability	\$18,267,044	-	\$19,043,824	-
Asset transfer	\$15,915,203		\$15,915,203	
Unfunded actuarial accrued liability	\$2,351,841		\$3,128,621	
20-year amortization of the unfunded actuarial accrued liability	\$164,136	1.41%	\$218,347	1.87%
Administrative expense allowance	\$19,801	0.17%	\$19,801	0.17%
Total required contribution with 20-year amortization (3 + 7 + 8)	\$876,253	7.52%	\$967,726	8.31%
Increase in required contribution	-	-	\$91,473	0.79%

Representatives of the City of Minot testified that the City of Minot offers a defined benefit retirement program for all city employees which provides a fair and equal retirement benefit for all employees regardless of profession. The representatives testified that to single out law enforcement employees and to provide a separate and different retirement benefit would create an inequity among the city's employees. They testified that another concern is funding such a program while still providing for current retired personnel.

A representative of the North Dakota League of Cities testified that if one group of employees receives an improved benefit, other employee groups will also want it. The representative noted that improved benefits result in increased costs, and cities should not be given an unfunded mandate. Finally, the representative testified that city officials are in the best position to determine the type of employee benefits that can be provided within a city's budget limitations.

Recommendation

The committee recommends Senate Bill No. 2033 to include peace officers and correctional officers in the National Guard retirement plan. Peace officers and correctional officers would be assessed 4 percent of

their monthly pay and employers would be required to contribute an amount determined by the Retirement Board to be actuarially required to support the level of benefits specified by law. The multiplier is the same as that for other members of the defined benefit retirement plan, but the normal retirement date for a peace officer or correctional officer is the first day of the month next following the month in which the peace officer or correctional officer attains the age of 55 years and has completed at least three consecutive years of employment as a peace officer or correctional officer immediately preceding retirement or when the peace officer or correctional officer has a combined total of years of service credit and years of age equal to 85 and has not received a retirement benefit. Political subdivisions, on behalf of their peace officers and correctional officers separately from their other employees, may enter agreements with the Retirement Board for the purpose of

extending the benefits of the National Guard retirement system to those employees. Political subdivisions having an existing police pension plan may merge that plan into the Public Employees Retirement System under rules adopted by and in a manner determined by the Retirement Board. Under the bill, members eligible to transfer to the National Guard retirement system may elect to transfer to the defined contribution retirement system. The bill appropriates \$126,096 to the Attorney General, \$10,272 to the Highway Patrol, \$817,632 to the Department of Corrections and Rehabilitation, and \$107,136 to the Game and Fish Department to defray the cost of participation by peace officers and correctional officers in the defined benefit retirement plan and the defined contribution retirement plan for the 2003-05 biennium. Of these funds, \$878,526 are general fund money and \$182,610 are other fund money.

Lacosta Rickford
Operator's Signature

10/15/03
Date

SENATE GOVT AND VETERANS AFFAIRS COMMITTEE
Representative Karen Krebsbach, Chairman
January 23, 2003

Warren R. Emmer, Director
Department of Corrections and Rehabilitation
Field Services Division
Presenting Testimony Re: SB 2033

The Department of Corrections, Field Services Division, supports the implementation of a new law enforcement retirement benefit system that would assist North Dakota peace officers and correctional officers to retire at the age of 55 or a rule of 85. The Division further supports a system that enables law enforcement officers and correctional officers to access early retirement at the age of 50.

Law enforcement and correctional officers' duties are inherently dangerous. The danger increases for the officer, over time. This is due in part to the natural aging process of the officer and it is also due in part to the officer's years of service to law enforcement or corrections. By age 55, the offenders that officers are encountering are usually 20-30 years their junior and the officers have worked on the front lines, serving their community and state, for over 20 years.

The Department of Corrections supports passage of SB 2033.

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- 1 -

LaCosta Rickford 10/15/03
Operator's Signature Date

PREPARED BY THE OFFICE OF
ATTORNEY GENERAL
FOR SENATE GOVERNMENT AND
VETERAN AFFAIRS
January 22, 2003

PROPOSED AMENDMENTS TO SENATE BILL NO. 2033

Page 11, line 15, replace "\$95,833" with "\$101,163", and replace "\$30,263" with "\$26,762"

Page 11, line 20, replace "\$878,526" with "\$883,856" and replace "\$182,610" with "\$179,109"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

125 – Office of Attorney General

This amendment corrects the amount needed to fund this retirement program for law enforcement officers in the Office of Attorney General.

39196

2033

Prepared by the North Dakota Legislative Council
staff for the Employee Benefits Programs
Committee

December 2001

**STATE AGENCIES WITH LAW ENFORCEMENT OR CORRECTIONS
RESPONSIBILITIES - NUMBER OF EMPLOYEES**

Agency	Number of Employees That May Be Eligible for a Separate Law Enforcement and Correctional Officer Retirement Plan
Attorney General	3
Bureau of Criminal Investigation	34
Department of Corrections and Rehabilitation - Field Services Division	71
Department of Corrections and Rehabilitation - Prisons Division	274
Game and Fish Department	31
Highway Patrol (there are currently 129 active members of the Highway Patrolmen's retirement system)	3
Parks and Recreation Department	0
Total	416

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10/15/03
Date

39184

2033

Prepared by the North Dakota Legislative Council
staff for the Employee Benefits Programs
Committee

December 2001

POLITICAL SUBDIVISION LAW ENFORCEMENT AND CORRECTIONAL OFFICER SURVEY RESULTS

Political Subdivision Name	Social Security	Existing Retirement Plan Separate From PERS	Would Your Political Subdivision Merge With New State Plan	How Many Peace and Correctional Officers Employed by Your Political Subdivision
Counties				
Adams	Yes	No		4
Barnes				
Benson	Yes	No		4
Billings	Yes	No		3
Bottineau				
Bowman				
Burke				
Burleigh	Yes	No		58
Cass				
Cavaler	Yes	No		6
Dickey	Yes	No		5
Divide	Yes	No		2
Dunn	Yes	No		4
Eddy	Yes	No		5
Emmons	Yes	No		3
Foster	Yes	No		2
Golden Valley	Yes	No		3
Grand Forks				
Grant				
Griggs				
Hettinger	Yes	No		5
Kidder	Yes	No		2
LaMoure				
Logan				
McHenry				
McIntosh	Yes	No		2
McKenzie				
McLean	Yes	No		25
Mercer	Yes	Yes	Depends	19
Morton	Yes	No		31
Mountrail	Yes	No		10
Nelson	Yes	No		4
Oliver	Yes	No		2
Pembina	Yes	No		13
Pierce	Yes	No		3
Ramsey	No	No		5

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La Costa Rickford

Date

10/15/03

Political Subdivision Name	Social Security	Existing Retirement Plan Separate From PERS	Would Your Political Subdivision Merge With New State Plan	How Many Peace and Correctional Officers Employed by Your Political Subdivision
Ransom	Yes	No		5
Renville				
Richland	Yes	No	457 plan	20
Rollette	Yes	Yes		12
Sargent	Yes	No		4
Sheridan	Yes	No		2
Sioux	Yes	No		1
Slope				
Stark	Yes	No		10
Steele	Yes	No		3
Stutsman	Yes	No	Older employee - Deferred compensation	37
Towner	Yes	No		2
Trail	Yes	No		4
Walsh	Yes	No		17
Ward	Yes	No		48
Wells	Yes	No		3
Williams	Yes	No		26
Total Counties				414
Cities				
Abercrombie				
Adams				
Alamo				
Alexander				
Alice				
Almont				
Alsen				
Ambrose				
Amenia	Yes	No		0
Amidon				0
Anamoose	Yes			
Aneta				
Antler				
Ardoch				
Argusville				
Armegard				0
Arthur	Yes	No		1.5
Ashley	Yes	No		
Ayr				
Belfour				
Balta				
Bantry				

Political Subdivision Name	Social Security	Existing Retirement Plan Separate From PERS	Would Your Political Subdivision Merge With New State Plan	How Many Peace and Correctional Officers Employed by Your Political Subdivision
Bamey				
Barton				
Bathgate				
Beach				
Belfield	Yes	No		1
Benedict				
Bergen				
Berlin				0
Berthold				
Beulah				
Blanford				
Bisbee				
Blismarck				
Bottineau	Yes			0
Bowbells				
Bowdon				
Bowman	Yes	No		3
Braddock				
Brianwood				
Brinsmade				
Brocket				
Buchanan				
Bucyrus				
Buffalo				
Burlington				
Butte				
Buxton				
Callo				
Calvin				
Cando	Yes	Yes	SEP plan	3
Carplo				
Carrington				
Carson				
Casselton	Yes			0
Cathay				
Cavaller	Yes	No		4
Cayuga	Yes	No		
Center				
Christine				
Churchs Ferry				
Cleveland				
Clifford				

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Operator's Signature

10/15/03
Date

Political Subdivision Name	Social Security	Existing Retirement Plan Separate From PERS	Would Your Political Subdivision Merge With New State Plan	How Many Peace and Correctional Officers Employed by Your Political Subdivision
Cogswell	Yes	No	All employees nationwide	0
Colt Harbor				
Colfax				
Columbus				
Conway				0
Cooperstown	Yes	No	All employees nationwide	2.6
Courtenay				
Crary				
Crosby				
Crystal				
Davenport	Yes	Yes	All employees nationwide	14
Dawson				
Daze				
Diering				
Das Lacs				
Devils Lake	Yes	No	All employees nationwide	2
Dickey				
Dickinson				
Dodge				
Donnybrook				
Douglas	No	No	All employees nationwide	0
Drake				
Drayton				
Dunn Center				
Dunseith				
Dwight	Yes	No	All employees nationwide	1
Edgeley				
Edinburg				
Edmore				
Egeland				
Elgin	No	No	All employees nationwide	0
Ellendale				
Elliott				
Emerado				
Enderlin				
Epping	No	No	All employees nationwide	
Esmond				
Fairdale				
Fairmount				
Fargo				
Fessenden	No	No	All employees nationwide	0
Fingal				

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La Costa Rickford

10/15/03

Date

Political Subdivision Name	Social Security	Existing Retirement Plan Separate From PERS	Would Your Political Subdivision Merge With New State Plan	How Many Peace and Correctional Officers Employed by Your Political Subdivision
Finley	Yes	No		0
Flasher				
Flaxton				
Forbes				
Fordville				
Forest River				
Forman				0
Fort Ransom				
Fort Yates				
Fortuna	Yes	No		0
Fredonia				
Frontier				
Fullerton	No			0
Gackle				
Galesburg				
Gardena				
Gardner				
Garrison				
Gascoyne				
Gilby				
Gladstone				
Glenburn				
Glenfield	Yes	No		0
Glen Ullin				
Golden Valley				
Golva	Yes			0
Goodrich				
Grace City				
Grafton				
Grand Forks				
Grandin				
Grano				0
Granville				
Great Bend				
Grenora	Yes	No		
Gwinner				
Hague				
Halliday				
Hamberg				
Hamilton				
Hampden				
Hankinson				

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Salvatore Rickford
Operator's Signature

10/15/03
Date

Political Subdivision Name	Social Security	Existing Retirement Plan Separate From PERS	Would Your Political Subdivision Merge With New State Plan	How Many Peace and Correctional Officers Employed by Your Political Subdivision
Hannaford				
Hannah				
Hansboro				
Harvey	Yes	No		3
Harwood				
Hatton				
Havana				
Haynes				
Hazelton				
Hazen	Yes	Yes	457 plan - No	4
Hebron				
Hensel				0
Hettinger				
Hillsboro				
Hoople				
Hope				
Horace				0
Hove Mobile Park	No	No		
Hunter				
Hurdsfield				
Inkster				
Jamestown	Yes	Yes	Depends - Cost	28
Jud				
Karlsruhe				
Kathryn				
Kenmare				
Kensel				
Kief				
Killdeer	Yes	Yes	AMEX - No	2
Kindred				
Knox				0
Kramer	Yes	No		
Kulm				
Lakota	Yes	No		1.5
LaMoure				
Landa				
Langdon				
Lankin				
Lansford				
Larimore	Yes	No		2
Larson				
Lawton				

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10/15/03
Date

Political Subdivision Name	Social Security	Existing Retirement Plan Separate From PERS	Would Your Political Subdivision Merge With New State Plan	How Many Peace and Correctional Officers Employed by Your Political Subdivision
Leal				
Leeds				
Lehr	Yes	No		0
Leith				
Leonard				
Lidgerwood				
Lignite				
Lincoln				
Linton	Yes	No		2
Lisbon	Yes	No		3
Litchville				
Loma				
Loraine				
Ludden				
Liveme				
Maddock	Yes	No		.25
Makoti				
Mandan	Yes	Yes	Depends	28
Mantador				
Manvel				
Mapleton				
Marion				
Marmarth				
Martin				
Max				
Maxbass				
Mayville				
Maza				
McClusky				
McHenry				
McVillie				
Medina				
Medora				
Mercer				
Michigan City				
Milnor				
Milton				0
Minnewaukan				71
Minot	No	Yes	Depends - Cost-benefits	
Minto	Yes	No		0
Mohall				
Monango				

Political Subdivision Name	Social Security	Existing Retirement Plan Separate From PERS	Would Your Political Subdivision Merge With New State Plan	How Many Peace and Correctional Officers Employed by Your Political Subdivision
Montpellier				
Mooreton				
Mott				
Mountain				
Munich				
Mylo				
Napoleon				
Nèche				0
Nekoma	No			
New England				
New Leipzig				0
New Rockford				
New Salem				2
New Town	Yes	No		
Newburg				
Niagara				
Nome				0
Noonan	Yes	No		
North River				2
Northwood	Yes	No		3
Oakes	Yes	No		0
Oberon	Yes			
Oriska				
Osnabrock				
Overly				
Oxbow				
Page				
Palermo				0
Park River	Yes	No		
Parshall				
Pekin				1
Pembina	Yes	No		
Perth				
Petersburg				
Pettibone				1
Pick City	Yes	Yes	Depends	
Pillsbury				
Pingree				
Pisak				
Plaza				
Portal				
Portland				

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Operator's Signature

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Date

Political Subdivision Name	Social Security	Existing Retirement Plan Separate From PERS	Would Your Political Subdivision Merge With New State Plan	How Many Peace and Correctional Officers Employed by Your Political Subdivision
Powers Lake				
Prairie Rose				
Rawson				
Ray				
Reeder				
Regan				
Regent				
Relle's Acres	Yes	No		0
Roynolds				
Rhame				
Richardton				
Riverdale				
Robinson				
Rock Lake				
Rogers				
Rollette				
Rolla				
Ross				
Rugby	Yes	No		4.5
Ruso				
Rutland				
Ryder				
St. John				
St. Thomas				
Sanborn				
Sarles				
Sawyer				
Scranton	Yes	No		1
Selfridge				
Sentinel Butte				
Sharon				
Sheldon				
Sherwood	Yes	Yes	Depends	1
Sheyenne				
Sibley				
Solen				
Souris				
South Heart				
Spiritwood Lake				
Spring Brook				
Stanley	Yes	No		2
Stanton				

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Political Subdivision Name	Social Security	Existing Retirement Plan Separate From PERS	Would Your Political Subdivision Merge With New State Plan	How Many Peace and Correctional Officers Employed by Your Political Subdivision
Starkweather	Yes	No		0
Steele				
Strasburg				
Streeter				
Surrey				
Sykeston				
Tappen				
Taylor				
Thompson				
Tioga				
Tolley	Yes	No		0
Tolna				
Tower City				
Towner				
Turtle Lake				
Tuttle				
Underwood				
Upham				
Valley City				
Velva				
Venturia	Yes	Yes	Depends	12
Verona				
Voltaire				
Wahpeton				
Walcott				
Wales				
Walhalla				
Warwick				
Washburn				
Watford City				
West Fargo	Yes	No		30
Westhope				
White Earth				
Wildrose				
Williston				
Willow City				
Wilton				
Wimbledon				
Wing				
Wishek				
Wolford	Yes	Yes	Depends	2
Woodworth				

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Political Subdivision Name	Social Security	Existing Retirement Plan Separate From PERS	Would Your Political Subdivision Merge With New State Plan	How Many Peace and Correctional Officers Employed by Your Political Subdivision
Wyndmere				
York				
Zap				
Zeeland				
Total Cities				283.25
Total Counties and Cities				697.25

NOTE: Blanks indicate the political subdivision did not respond to the survey or the information submitted was not complete.

NORTH DAKOTA YOUTH CORRECTIONAL CENTER

NEW EMPLOYEE ORIENTATION

I. The Department of Corrections

- a. History, mission and philosophy
- b. Organizational structure
- c. Code of Ethics

II. The Juvenile Justice System in North Dakota

- a. . Diversion programs - early interventions
 - . Police - citations and referral
 - . Courts - formal or informal
 - . DJS

- b. Holding facilities
 - . Attendant care/detention units - maps

- c. Placements
 - . Private families
 - . Foster families
 - . Group home
 - . Residential child care facility
 - . Residential treatment facility

* The Division of Juvenile Services and the Department of Human Services cooperate in a joint Foster Care System. All child care placements and pre-placement planning works through local permanency planning teams. The Department of Human Services licenses and oversees all child care facilities, at the county and regional level.

- d. Agencies with Child Placing Authority
 - . Department of Human Services
 - . County Social Services
 - . Division of Juvenile Services
 - . District Courts/ Tribal Courts
 - . Department of Public Instruction

e. Agencies which can place youth at NDYCC

- . Bureau of Prisons
- . Bureau of Indian Affairs
- . Juvenile Courts
- . Division of Juvenile Services

f. Community-based programs

- . Day Treatment
- . Diversified Occupations
- . Intensive Tracking Services
- . Therapeutic Foster Care - PATH
- . Intensive In-home
- . DJS Casemanagers

III. NDYCC Policy and Program Highlights

a. NDYCC/DJS - Policy and Procedure Manual, Employee Handbook

b. Classification - SJS - Risk Assessment

c. Programs at NDYCC - EDUCATION AND RESIDENT CARE

- . Accredited High School/Vocational Programs
- . Evaluation 30 to 60 days
- . Treatment - Time out - Regular
- . Drug and Alcohol Services, education and treatment
- . Detention Services
- . Community Service and Restitution Programs

* The North Dakota Youth Correctional Center uses a Multi-faceted treatment approach which consists of a Reality Therapy/Control Theory ground with bio-psychosocial assessments, aggression replacement training, clinical counseling and behavior management components. Recreation, work force and challenge trek opportunities exist for all students.

d. NDYCC Organizational Chart, Administrative Team

- . Superintendent - duty and scope
- . Assistant Superintendent
- . Education Director
- . Fiscal Officer/Business Office
- . Food Services Director
- . Administrative Assistant
- . Day Treatment/Aftercare Coordinator
- . Director of Training

. Building and Grounds Director
. Director of Resident Care

* End orientation with a tour of the campus and all facilities for all employees.

IV. Additional New Employee Training

- a. Employee assistance
- b. AWOL procedures - lecture and handout policy and call list
- c. Radio use
- d. Sexual harassment - policy and definition (course from Central Personnel as available)
- e. Gas slips, vehicle check-out, key control, fire safety, right to know hazardous materials, emergency procedures
- f. Purchasing, ordering and time sheets
- g. Phone system, support services, mailing, file system
- h. Child abuse reporting law
- i. Incident report writing
- j. Infectious Disease Control, Blood Borne Pathogens, Universal Precautions
- k. Suicide - ACA Video "Suicide in Juvenile Justice Facilities: The Preventable Tragedy"
- l. CPR/First Aid
- m. The American with Disabilities Act
- n. General Safety

**SUPPORT STAFF STOP HERE
TRAINING NOW MOVES TO DEPARTMENTAL AND
JOB SPECIFIC MODULES
TOTAL HOURS ORIENTATION 18**

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ADDITIONAL ORIENTATION FOR RESIDENTIAL CARE

V. Resident Counselors

- a. Search Procedures - policy - demonstration (pat down, strip and room searches)
- b. Supervision of Students - sight and sound
- c. Use of Behavior Management - level system, progressive discipline, natural consequences vs. punishment, de-escalation utilizing RT/CT skills.
- d. Report Writing - extra-ordinary incidents, log entries, quarterly reports.
- e. Common Clinical Diagnosis and psychotropic medications - video and handouts - Dr. Atwood
- f. Suicide assessment, policy and plan.
- g. Legal Issues and liability - ACA video
- h. Detention Protocol - detention pamphlet
- i. Disciplinary Process - lock-up, room restrictions, grievance process, placement review /appeals, discipline meetings.
- j. Use of Force - Use of Restraints - Policy - least restrictive continuum. Overview of Non-violent self-defense.

32 hours to this point.

- h. Eight hour observation of activities of daily living in a cottage.

Completes 40 hour pre-service requirement for resident care

VI. Cottage Counselors - Must complete requirements for resident care

- a. Group Dynamics
- b. Meet with school principal to discuss educational programs
- c. Placement alternatives and service options
- d. Relationship of DJS case managers and Cottage Counselors
- e. Eight hours in a DJS office - exposure to Permanency Plan meetings, court hearings, school meetings, etc.
- f. ACA accreditation standards manual
- g. Four hour visitation to Phase III program

20 additional hours to meet cottage counselor requirements - 60 total

VII. Cottage Directors - Must complete requirements for resident care and cottage counselor

- a. Cottage physical plant walk through with maintenance supervisor and key control.
- b. Forms
- c. Student Discipline Process
- d. Purchasing/requisition
- e. Scheduling/payroll/time sheets

14 additional hours

74 total hours pre-service.

ADDITIONAL ORIENTATION FOR FINANCE/BUSINESS OFFICE

VIII. Finance/Business Office

- Accounts Payable
- Accounts Receivable
- Student Trust Accounts
- Payroll Accounts
- Fixed Assets
- Component Accounts

ADDITIONAL FRONT OFFICE AND SECRETARIAL ORIENTATION

IX. Secretarial and Support Services

- Telephone and Customer Relation Skills
- Computer Skills
- Recordkeeping Techniques
- Filing System
- Microfilm Preparation
- Student Records
- Office Equipment

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ADDITIONAL MAINTENANCE/BUILDING AND GROUNDS ORIENTATION

X. Maintenance and Building and Grounds

- Pneumatic Systems
- OSHA Regulations
- Boiler Maintenance
- Swimming Pool Maintenance
- Machinery
- Plant Maintenance
- Asbestos Hazards

ADDITIONAL EDUCATIONAL STAFF ORIENTATION

XI. Educational Staff

Will be determined during each school year to meet North Dakota Department of instruction requirements

ADDITIONAL FOOD SERVICES ORIENTATION

XII. Food Service

- Kitchen Orientation
- Equipment Training
- Safety and Sanitation
- Cooking and Baking Techniques
- Menu Planning
- Purchasing

DARRELL NITSCHKE, SUPERINTENDENT
YOUTH CORRECTIONAL CENTER

AL LICK, DIRECTOR
DIVISION OF JUVENILE SERVICES

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10/15/03
Date



DIVISION OF JUVENILE SERVICES

Division of North Dakota Department of Corrections and Rehabilitation

3100 Railroad Avenue, PO Box 1898 • Bismarck, ND 58502-1898
Telephone: (701) 328-6390 • FAX (701) 328-6651 • TDD 701-366-6988

*Same testimony
given to
Senate*

HOUSE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE Representative Mathew Klein, Chairman

Thank you for the opportunity to appear before you this morning and share our reasons why staff at the Youth Correctional Center should be included in SB2033.

Here are some statistics as to why we feel Youth Correctional Center employees should be included:

- All commitments to YCC have delinquent offenses which means it would be a crime if committed by an adult.
- Most juveniles committed to our custody have 3-5 felonies on their record.
- Approximately 25% of youth in custody have committed crimes against a person.
- We do deal with youth who have very serious crimes such as attempted murder and homicide.
- The general operation of the facility brings staff and juveniles in constant close proximity which exposes our employees to the threat of physical confrontation.

The numbers we would like included are 50 and would break down in the following job classification:

32 Juvenile Institutional Resident Specialists *Correctional Officers.*
10 Resident Counselors
4 Cottage Directors
1 Director of Resident Care
1 Director of Treatment
1 Assistant Superintendent
1 Superintendent

\$100,000.00

We have a certification program and by the time an employee has reached the six-month off probation time frame they must have completed 160 hours or four weeks of training. This training program has been certified by the Director of Corrections and is directed toward staff who deal with juvenile delinquents.

Al Lick, Director
Division of Juvenile Services
March 7, 2003

La Costa Rickford
Operator's Signature

10/15/03
Date

HOUSE GOVT AND VETERANS AFFAIRS COMMITTEE
Representative Matt Klein, Chairman
March 7, 2003

Warren R. Emmer, Director
Department of Corrections and Rehabilitation
Field Services Division
Presenting Testimony Re: SB 2033

The Department of Corrections, Field Services Division, supports SB 2033. As amended by the Senate, SB 2033 allows law enforcement officers and correctional officers working in political subdivisions access to a new retirement system. That retirement system recognizes that the law enforcement and correctional officers' job is inherently dangerous and that, oftentimes, officers cannot effectively perform their duties after the age of 55.

As originally written, SB 2033 provided this same retirement option for state law enforcement and correctional officers. For your information, there are 61 sworn peace officers and 16 certified correctional officers in the Field Services Division. I understand that there are several hundred more correctional officers in my sister division, the Prisons Division of the Department of Corrections.

Given the condition of our State's economy, I recognize that it may be difficult to bring the state employees that are law enforcement and correctional officers into SB 2033 this biennium. In the event that additional resources can be found for this biennium, I ask that this committee amend SB 2033 so that state employees that are law enforcement and correctional officers may join the new retirement program. If the required resources are not found, I ask that permitting these officers to participate in the law enforcement retirement program be made a priority two years from now.

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- 1 -

La Costa Rickford
Operator's Signature

10/15/03
Date

SB2033 Testimony
House Government and Veterans Affairs Committee
March 7, 2003
Fort Union Room

My name is Tim Schuetzle, Director of the Prisons Division for the North Dakota Department of Corrections and Rehabilitation, and I appreciate the chance to testify before this committee. The Prisons Division supports SB2033, which establishes a peace officers retirement system. We are grateful to the Interim Legislative Employee Benefits Programs Committee for their efforts to recognize the need for this plan and for their work over the past two years.

The Senate passed an amended version of this bill that effectively removed all state employed correctional and law enforcement officers from eligibility to participate in the new retirement program. I believe the bill was amended to exclude state employees because the cost to transfer the state employees into this program was approximately \$1.2 million. By removing the state employees, the fiscal note disappeared and the bill became more saleable to the legislature. We don't want to propose anything that could jeopardize this bill for the law enforcement personnel working for the political subdivisions. However, I am requesting that this committee consider placing the state employed correctional and law enforcement personnel back into the bill, and return the fiscal note that would be required to fund the original legislation.

Working with dangerous inmates is a young person's profession, and at times, the use of force is required. Correctional officers do not carry weapons inside the facility; however, all must be weapons certified as weapons are used when working in the perimeter towers, or while transporting inmates outside the secure perimeter. Even though our officers must keep in good physical condition, a 60-year-old officer is no physical match for a "20 something" inmate. Our mission is to protect the public, and we need to make sure we have the best available staff to complete this mission. An earlier retirement age would permit older staff to retire once their physical skills diminish and allow correctional and law enforcement agencies to replenish their workforce and keep it physically strong.

We are having a difficult time attracting and retaining correctional officers at the state facilities. A better retirement package would help with recruiting. It would also allow us to compete with other prison systems to keep our younger, trained staff within our system. We lose employees to the Federal Bureau of Prisons, which offers a 20-year retirement plan. While preparing for this bill, the interim study committee discovered that the states surrounding North Dakota all offer a special retirement plan for correctional employee's retirement, usually after 20 or 25 years of service. We believe that we need to have a comparable plan to be able to keep our trained correctional staff in our state.

The Prison's Division has 381 employees but not all of these would be eligible to participate in this retirement plan. There are 265 employees that have completed the training and are certified as correctional officers, and these are the employees that could elect to be included in the retirement plan.

We appreciate the efforts made by the Interim Committee to prepare this retirement plan and the recognition it gives to the staff working in the prisons and jails in our state. We ask for your support to reinstate eligibility for state correctional officers.

ENGROSSED SENATE BILL NO. 2033 WITH HOUSE AMENDMENTS - IMPACT ON 2005-07 BUDGET PREPARATION REGARDING CORRECTIONAL OFFICERS' RETIREMENT

This memorandum discusses Engrossed Senate Bill No. 2033 as amended by the House of Representatives and the steps that the affected state agencies may follow to prepare for implementation of Sections 2, 7, 9, 11, 13, 15, and 17 on July 1, 2005. Generally, the bill allows correctional officers and peace officers employed by political subdivisions to participate in a state law enforcement officer retirement plan with enhanced benefits (normal retirement date of age 55 with at least three consecutive years of employment as a peace officer or correctional officer immediately preceding retirement or the Rule of 85) and requires correctional officers certified by the Department of Corrections and Rehabilitation or the Peace Officer Standards and Training Board as a correctional officer and are employed by the Department of Corrections and Rehabilitation and peace officers employed by state agencies to become members of the law enforcement officer retirement plan on July 1, 2005.

If Engrossed Senate Bill No. 2033 is enacted with the House amendments and becomes law, state agencies with correctional officers or peace officers will have to prepare during the 2003-05 for implementation of those provisions of the bill which become effective on July 1, 2005. The following is a timetable of actions that affected state agencies and the 59th Legislative Assembly would probably take to implement Engrossed Senate Bill No. 2033 with the House amendments.

1. Late summer and fall of 2004 - Affected state agencies (office of the Attorney General,

Highway Patrol, Department of Corrections and Rehabilitation, and Game and Fish Department) will submit their budget requests, including sufficient funds to pay the required increased employer contributions to fund the lower normal retirement date for their correctional officer and peace officer employees to the Office of Management and Budget.

2. Fall 2004 - The executive budget will include funds in the wages and salaries line items for the affected agencies to pay the increased employer contributions.
3. The Governor will submit bills to the 59th Legislative Assembly implementing the 2005-07 executive budget, including sufficient funds in the salaries and wages line items for the affected agencies to pay the increased employer contributions.
4. The 59th Legislative Assembly will review the relevant appropriation bills and if it determines that there are not sufficient funds to fund the increased employer contributions required to implement 2003 Senate Bill No. 2033, the Legislative Assembly could:
 - a. Reduce the salaries and wages line items in the relevant bills and repeal those provisions of Senate Bill No. 2033 scheduled to take effect on July 1, 2005; or
 - b. Delay implementation of 2003 Senate Bill No. 2033 until July 1, 2007, or some future date.

ENGROSSED SENATE BILL NO. 2033 WITH HOUSE AMENDMENTS - PARTICIPATION BY POLITICAL SUBDIVISIONS IN LAW ENFORCEMENT RETIREMENT PLAN

This memorandum discusses Engrossed Senate Bill No. 2033 as amended by the House and addresses the issue of whether political subdivisions that elect to enter into an agreement with the Public Employees Retirement Board for the purpose of extending the benefits of the Public Employees Retirement System to its peace officers and correctional officers separately from its other employees are then required to participate in the defined contribution retirement plan and are excluded from participation in the defined benefit retirement plan. Generally, Engrossed Senate Bill No. 2033 with House amendments allows peace officers and correctional officers employed by political subdivisions to participate in a state law enforcement retirement plan with enhanced benefits (normal retirement date of age 55 with at least three consecutive years of employment as a peace officer or correctional officer immediately preceding retirement or the Rule of 85) and requires correctional officers certified by the Department of Corrections and Rehabilitation or the Peace Officer Standards and Training Board as a correctional officer and are employed by the Department of Corrections and Rehabilitation and peace officers employed by state agencies to become members of the law enforcement retirement plan on July 1, 2005.

Since the bill allows political subdivisions to join the Public Employees Retirement System defined benefit plan and also authorizes political subdivisions to join the Public Employees Retirement System defined contribution retirement plan, the issue was raised at the initial meeting of the conference committee on the bill whether peace officer and correctional officer employees of political subdivisions that elect to extend the benefits of the law enforcement retirement plan to their employees are then required to become members of the defined contribution retirement plan. The bill amends North Dakota Century Code (NDCC) Section 54-52-02.1 to provide that a political subdivision, on behalf of its peace officers and correctional officers separately from its other employees, may enter into agreements with the retirement board for the purpose of extending the benefits of the Public Employees Retirement System (the defined benefit plan) to those employees. The bill amends the definition of "eligible employee" for purposes of the defined benefit plan to exclude nonclassified state employees, peace officers, and correctional officers **who elect to become members of the retirement plan established under chapter 54-52.6** (the defined contribution retirement plan). The bill also amends the relevant sections of NDCC Chapter 54-52.6 to allow

participation by political subdivision employees in the defined contribution retirement plan. Section 14 of Engrossed Senate Bill No. 2033 with House amendments authorizes political subdivisions to join the defined contribution retirement plan. This section provides that a political subdivision, on behalf of its peace officers and correctional officers, may enter into an agreement with the retirement board for the purpose of extending the benefits of the defined contribution retirement plan to those employees. This section provides that political subdivisions, rather than individual political subdivision employees, are to determine whether eligible peace officers or correctional officers may participate in the defined contribution retirement plan. Nothing in this section requires that if a political subdivision enters into an agreement with the retirement board for the purpose of extending the benefits of the defined contribution retirement plan to its eligible employees all of its employees must then enroll in the defined contribution retirement plan. Subsections 2 and 8 of Section 54-52.6-01 define correctional officer and peace officer as a **participating member** who is employed by a political subdivision. Section 12 of the bill amends subsection 1 of Section 54-52.6-02 to provide that 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 the 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.** This provision provides an employee of a political subdivision who elects to participate in the law enforcement retirement plan an option to remain in the defined benefit plan with its enhanced benefits for law enforcement officers or to elect to become a member of the defined contribution retirement plan. Similarly, Section 16 of the bill creates a new section to Chapter 54-52.6 and provides that each peace officer and correctional officer employed by a political subdivision **who participates** in the defined contribution retirement plan is assessed and shall pay monthly 4 percent of the employee's monthly salary or wage paid to the participant. (emphasis supplied)

In conclusion, the bill establishes a procedure whereby once a political subdivision elects to extend the enhanced benefits of the law enforcement