

2009 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1575

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1575

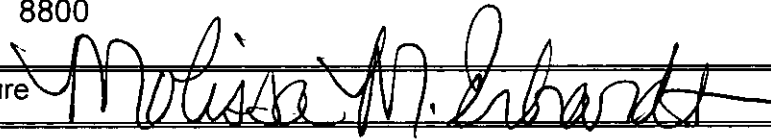
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 2/5/2009

Recorder Job Number: 8800

Committee Clerk Signature



Minutes:

**Chairman Grande:** Open the hearing on HB 1575. This bill has taken on various forms throughout the interim and actually started out as Senator Lyson's bill and it came through as many different forms. We were trying to find out the best working position in October the employee benefits committee looked at it and finally just said we need to have a different format, let's go back to what was passed in 2003. When I asked for the drafting of this then, it actually came out in a modified form of the interim committee. When the employee benefits met, we adopted these amendments, which are in front of you, which mirrors what was passed in 2003. In 2003, what was passed in that session, was that political subdivision peace officers were allowed to join into the first plan that had a special caveat to it that allowed for retirement at 55 years of age with a higher pay in amount so that benefit would be there. The reason behind this particular benefit package is that the people that qualify for this specialty package is if you carry a gun on your hip to go to work you get to be in this plan. That is basically

how it works. It is for those people who have that extremely high stress job that leave in the morning, put that piece of equipment on their hip, and don't know if they are returning home at night. That was why I thought it was important for an opportunity for an earlier retirement. That is what this bill does. It does not give them a higher percentage of retirement, it just gives them the opportunity to retire a little earlier. That is what the amendments do in front of you. This is only for the Bureau of Criminal Investigation. The State Government got cut out in 2003. We have looked at each year and tried to bring in our State Officers that have this same type of job. So this is actually just bringing in one portion of it, it's 37 employees. As you see on this bill, Section 5, there are some appropriations listed. We are looking at some general funds, \$185,000. Special funds, \$15,000, to cover that expense and that will go into the Attorney General's budget to cover these increased payments to bring them up to speed within PERS portion. Any questions on the amendments?

**Rep. Froseth:** On Page 3, Line 1, after 3 years would you be vested in the program? You can retire at age 55 even after 3 consecutive years of employment? You will have full vesting at age 55?

**Chairman Grande:** Correct. Any other questions from the committee?  
Seeing no questions, do I have a motion on these amendments?

**Rep. Dahl:** Yes.

**Rep. Meier:** 2nd motion.

**Chairman Grande:** I have a motion to accept these amendments by Rep. Dahl and a second by Rep. Meier. All in favor? All: Yes. No: 0.

**Rep. Wolf:** I don't know if this is the appropriate time but I also have some amendments for this bill.

**Chairman Grande:** Let's hear this one. Anyone wish to speak in favor of this bill?

**Jerald C. Kemmet, Director of Bureau of Criminal Investigation (BCI):**  
Testimony. See Attachment #1.

**Chairman Grande:** Any questions from the committee?

**Rep. Meier:** Do you leave it up to yourselves to work out and keep fit or do you have a rigor that you have to keep on course with every year?

**Jerry Kemmet:** Yes we do. I am implementing some physical standards and minimum requirements at this time. We have looked at those and the States around us and we have modified those. They do have different standards for age because we do not expect our older officers to run the mile and half as fast as the 22 year olds.

**Rep. Winrich:** This bill proposes retirement at age 55 or Rule of 85 for BCI agents. You said that the Highway Patrol has age 55 or the Rule of 80? Is there a reason for the disparity between the two agencies?

**Jerry Kemmet:** The Highway Patrol is able to do a different retirement plan. Since I have been in law enforcement they have never included the other law enforcement officers in that plan. The other difference with that plan is they do not pay into Social Security and our officers do.

**Chairman Grande:** Their percentage of pay in is substantially higher, to make up for their lack of Social Security. So their eventual retirement will be at 60% just as all other public employees are.

**Jeff White, Chief Agent, Bureau of Criminal Investigations:** I am here to testify in favor of HB 1575. I have been a Chief Agent since 1999. Director Kemmet mentioned the three R's that I am here to testify about. Mainly, recruitment, retention, and retirement. He mentioned a little bit about what some of our agents do on a day to day basis. Unfortunately, what some of our other agents do and what all of our agents are expected to do is to be an experienced officer when they get to a crime scene. Whether it's a double homicide, a police officer shooting, which we had yesterday in Mandan, so when we walk in, we are expected to be the experts. Unfortunately or fortunately, we do not hire a lot of 23 year old college graduates like the local law enforcement can or the Highway Patrol can. Because when you walk into a situation they want a guy with a bit of a gray beard, who has the experience, they know what they are doing, they have the experience and the training. That gets us to the recruitment detention. The

last 4 agents we hired, the average age is 37.25 years of age. The average years of police experience is 9.25 years. For example: If you average those four people and the current person has worked for them for the entire time with the Rule of 85, they have to work until they are 61 years of age. That is too long. In addition, when we are talking about recruitment and retention of officers, when you go to many agencies, that is where we get our people. We take the best from the law enforcement agencies that we can get. The last agent we hired, we took out of Fargo, he is experienced in computer and cyber crimes, with 14 years of experience and he will have to work until he is 61.5 years of age to use his Rule of 85 correctly. That is a long time to be looking at pictures and be a miserable human being. In addition, Director Kemmet, talked about mortality rates. Mortality rates in law enforcement officers used to be much worse than they are today based on cardiovascular disease and cancers. What has occurred recently is that the rate of those occurrences still happen but due to medical technology and advances not as many police officers are dying but many more are going on disabilities because of the diseases. The same problems exist as always have existed in the sixties, seventies, and eighties, just that medical technology has caught up and not as many of us are dying as quickly as we used to. They are still dying at a higher rate but not as quickly. Along those lines, the last five deaths within our agency, two retirees, three active members,

average age is 52.4 years of age. We had Director Broer, who retired, passed away at age 53 from cancer; Special Agent Bauer who passed away at 43 from cardiovascular disease; Special Agent Murray, on duty, passed away, at age 50 from cancer; Special Agent (?) passed away at age 55 from cancer; and a retiree, Sonny Dump, who was buried yesterday, passed away at the age of 61 from cardiovascular disease. Out of all those people, one would make age 55 to enjoy this benefit and none of them except for two would make Rule of 85 and that was only because Agent Dump went out on disability and Director Broer was able to get enough money to buy time back. Therefore, keep in mind that the last four hirees our average age is 37.25 and the average years at BCI before the last years of death is 52.4 years of age. The people we hire have to work until they are 61 with the Rule of 85 and their life expectancy is around 52 years of age. That is the main difference.

**Chairman Grande:** Any questions from the committee?

**Rep. Wolf:** You mentioned statistics about the ages of people in your department who have passed away. Most career fields have life expectancies, do you know on a national level what the average age is for police officers?

**Jeff White:** There is no national average, for active law enforcement it has always been above average. One thing we do know is that the mortality rate has

gotten better because of the advances in the medical field but we still suffer from cardiovascular disease and cancers at a higher rate than normal.

**Rep. Meier:** How many employees do you have above the age of 50?

**Jeff White:** Four. This will not benefit me personally but it will benefit our agency greatly for recruitment.

**Chairman Grande:** Any other questions for Mr. White?

**Scott Bushing, Sheriff of Williams County:** We implemented this program as soon as we were allowed to under the State. I have lost two guys at age 55, so I did lose some experience, however, I was able to pick up two young go-getters that wanted to work and quite frankly for less money. So as far as recruiting and retainability it has helped us tremendously. Again, like Mr. White, it does not benefit me, I have reached my number, I can go but we were wishing someone would have done this 25 years ago so we wouldn't be in this position now. As far as some of the statistics, there was a study done by the FBI that was done on small town policing, as far as the age of life expectancy, I don't have the number or the year, but on the average police officers in small towns die six years younger than the average person. They do have a life expectancy of six years less. I am not going to stand up here and make you believe that every day is wrought with danger in their jobs, because it's not. Police work is generally about 98% absolute boredom, gopher work, and 2% sheer terror. The stress comes in



not knowing when the terror is going to start and you have to be prepared for it at all times. Heart attacks and cancer, yes, we have a high incidence of that, but what really scares me is divorce, alcoholism, and suicide. We are way up there in small town policing, we far exceed the national norm and that takes a toll on all of us. So I am here to support this bill and the Crime Bureau, next year I might be back supporting some other agency. I'd like to push this and give us the opportunity to get out of here before we are too old to do it and become a liability to the citizens of ND. We can hire someone to do the job for us for a longer period of time. Any questions that you may have?

**Rep. Kasper:** Do you have programs for wellness and health in your organization or other organizations around the State to educate your employees on healthy lifestyles and what they ought to be doing and not be doing for their own health?

**Scott Bushing:** Yes. We have just implemented a program and have a new building up there with a gym. We got one of local hospitals to donate some machines, we have always provided on duty time for using that. I to have looked into a minimum physical standard they must meet. The total average age of my office right now is about 52 years of age and I have a tough time getting those old duffers moving. We are providing incentives for them, if they do not want to use our program at the Law Enforcement Center, we have an incentive for them

that we will pay up to half of the bill at the gym for them. We are encouraging them to do that.

**Rep. Kasper:** But not mandatory?

**Scott Bushing:** From what I understand, my legal people tell me I can make it mandatory for all new hires, but it is difficult to make something mandatory for someone that is already there.

**Chairman Grande:** Any other questions?

**Jerry Kemmet:** Just a comment for the committee, we do not expect these people at age 55 to go home and sit. I think that these people will have a lot of talent to offer society and be able to go into a profession that isn't as stressful and doesn't require the physical abilities that they have to have in law enforcement.

**Chairman Grande:** Anyone else wishing to speak in favor? Oppose? Neutral?

Closed the hearing on HB 1575.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1575

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 2/5/2009

Recorder Job Number: 8802

Committee Clerk Signature

*Melissa M. Erhardt*

Minutes:

### COMMITTEE WORK ONE:

**CHAIRMAN GRANDE:** What Rep. Wolf had asked about having an amendment earlier I'd like to entertain her.

**Rep. Wolf:** I did not know there was a hog house amendment coming in on this. The copy that is being handed out right now does not match up with the current one.

**Chairman Grande:** The numbers will not matter. This amendment should not be too much different than the original bill.

**Rep. Wolf:** It will be where you are putting in the section numbers because the whole top part no longer matches this part of the bill.

**Chairman Grande:** LC will correct that.

**Rep. Wolf:** What this amendment basically does is, it will add to the amendment to give a one-time thirteenth check of 75% of the retirement allowance to each

eligible retiree. The check will come out on August 1 of this year, it will be a one-

time deal. It also has the appropriation of a fiscal note, \$5,354,000, plus \$227,000 from the State Treasury. It did go in front of the employee benefits committee this morning and it is coming out with an unfavorable recommendation. But I would like to offer this amendment to HB 1575 and also request a roll call vote on the amendment.

**Chairman Grande:** Amendment in front of us, do I have a second?

**Rep. Amerman:** 2<sup>nd</sup> the motion.

**Chairman Grande:** Discussion?

**Rep. Kasper:** Rep. Grande and I are on the employee benefits committee, the tradition of the employee benefits committee is to have bills in front of that employee benefits committee by April for the committee to take action. The amendments are also supposed to have action taken by April if possible, that is when we do the spending. This is a late amendment. The committee met this morning and listened to the testimony and came out with an almost unanimous unfavorable, 7 for an unfavorable and 2 against, I believe. When you look at the private sector right now, this might have been a good amendment nine or ten months ago when the economy was going great, the stock market did not tank, and private pension funds are suffering and retired employees in the private sector have seen their retirement benefits go down. For us to enhance the

benefits right now with the economy slowing down and the funds going down and being down, I think it was the wrong thing to do, so I resisted.

**Rep. Wolf:** The reason this amendment was not put in, in April, and no disrespect to you Rep. Kasper, there was a bill before us that gave them a raise. I knew that that was coming. So when we gutted that bill, we had no other alternative. I had not foreseen us taking out their raise, that is why the lateness of this amendment is here. The flip side of this is that I do get an extensive amount of calls on this issue. I explain to the people why we can't give them a raise. I get a chance to explain to them about actuarial balances and then I loose them after about fifteen seconds. But their request is always how come you can give the current employees a raise and you can vote yourself a raise and we have a billion dollar surplus sitting down there. That is why I brought this forward.

**Chairman Grande:** Committee just so we are all aware and understand this comes out of the general fund.

**Rep. Wolf:** This is Sparb's amendment.

**Rep. Kasper:** Chairman Grande remember he showed three alternatives. This is one of the three.

**Chairman Grande:** The reason why we did not proceed with this thirteenth check, if you recall is that the fund itself is somewhere in the seven percent

funding. Thirteenth checks have been issued to these retirees every chance there has been even when the fund hasn't reached over 105%. Which is standard, but we issued thirteenth checks anyway these last couple biennums. This is not as though, like with the teachers, have seen no thirteenth checks, our public employees have seen thirteenth checks. This is just a one time that that fund has been brought so low, that it was not a prudent thing to move forward with the thirteenth check. That is why the committee moved forward the way it did on HB 1121. We have the amendment in front of us, any other discussion? Clerk will call the roll? Roll call vote: Yes: 5. No: 8. Absent: 0. Do not pass, as amended.

**Rep. Wolf:** I would like to do a minority report on this bill please?

**Chairman Grande:** Go ahead. We have the amended bill in front of us HB 1575? What are the committee's wishes?

**Rep. Meier:** Motion to do pass, as amended.

**Rep. Dahl:** 2<sup>nd</sup> motion.

**Rep. Karls:** Is this what is called a defined benefit?

**Chairman Grande:** This is a defined benefit. Any other discussion? Seeing no other discussion the clerk will call the roll on a do pass motion on HB 1575 as amended. Roll call: Total: Yes: 9. No: 4. Carrier: Rep. Meier. Re-referred to appropriations.

**FISCAL NOTE**  
 Requested by Legislative Council  
 02/10/2009

Amendment to: HB 1575

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.

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$185,946	\$15,164	\$185,946	\$15,164
Appropriations			\$185,946	\$15,164	\$185,946	\$15,164

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).

This Bill authorizes law enforcement employees of the Attorney Generals office to participate in the PERS Law Enforcement retirement plan.

B. **Fiscal impact sections:** Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.

Section 5 of the bill authorizes an appropriation to the Attorney General's office to pay the retirement contribution for participation in the plan.

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 above costs are the contributions to this plan for approximately 37 eligible employees

C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.

This is for authority to pay the employer contributions. This was not included in the executive budget.

<b>Name:</b>	Bryan Reinhardt	<b>Agency:</b>	NDPERS
<b>Phone Number:</b>	328-3919	<b>Date Prepared:</b>	02/11/2009

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/20/2009

Bill/Resolution No.: HB 1575

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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>						
<b>Expenditures</b>			\$118,437	\$9,658	\$118,437	\$9,658
<b>Appropriations</b>			\$118,437	\$9,658	\$118,437	\$9,658

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This Bill would establish a supplemental defined contribution retirement savings plan for law enforcement employees of the Attorney Generals office

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 3 (proposed section 54-52.7-07) of the bill sets the matching employer contributions to this plan for the eligible employees who elect 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.*

The above costs are the matching employer contributions to this plan for approximately 36 eligible employees

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

This is for authority to pay the matching employer contributions assuming 100% participation.

<b>Name:</b>	Sparb Collins	<b>Agency:</b>	PERS
<b>Phone Number:</b>	328-3901	<b>Date Prepared:</b>	01/23/2009



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2/6/09  
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PROPOSED AMENDMENTS TO HOUSE BILL NO. 1575

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 54-52 of the North Dakota Century Code, relating to participation by peace officers employed by the bureau of criminal investigation in the defined benefit retirement plan; to amend and reenact subsection 11 of section 54-52-01, subsection 3 of section 54-52-05, and subsection 3 of section 54-52-17 of the North Dakota Century Code, relating to participation by peace officers employed by the bureau of criminal investigation in the defined benefit retirement plan; and to provide an appropriation.

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

**SECTION 1. AMENDMENT.** Subsection 11 of section 54-52-01 of the North Dakota Century Code is amended and reenacted as follows:

11. "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 the bureau of criminal investigation or by a political subdivision and, notwithstanding subsection 12, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. Participating members of the law enforcement retirement plan created by this chapter who begin employment after August 1, 2005, are ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.

**SECTION 2. 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 all or a portion of the employee contributions required by subsection 2 and sections 54-52-06.1, 54-52-06.2, ~~and 54-52-06.3,~~ and section 3 of this Act or the employee contributions required to purchase service credit on a pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not receive the contributed amounts directly once the employer has elected to pay the employee contributions. 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.

**SECTION 3.** A new section to chapter 54-52 of the North Dakota Century Code is created and enacted as follows:

**Contribution by peace officers employed by the bureau of criminal investigation - Employer contribution.** Each peace officer employed by the bureau of criminal investigation 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 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 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 assessment.

**SECTION 4. 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 the bureau of criminal investigation or 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. Normal retirement date for a peace officer employed by the bureau of criminal investigation is:

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(1) The first day of the month next following the month in which the peace officer attains the age of fifty-five years and has completed at least three consecutive years of employment as a peace officer immediately preceding retirement; or

(2) When the peace 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.

e. 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- f. Early retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or 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 the bureau of criminal investigation or 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- g. 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 5. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$185,946, or so much of the sum as may be necessary, and \$15,164 in other funds, or so much of

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the sum as may be necessary, to the attorney general for the purpose of implementing this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011."

Renumber accordingly

Date: 4/5/09  
 Roll Call Vote #: \_\_\_\_\_

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1575**

House **Government and Veterans Affairs** Committee \_\_\_\_\_

Check here for Conference Committee

Legislative Council Amendment Number HB 1575

Action Taken Do ~~Not~~ Not Pass As Amended

Motion Made By Wolf Seconded By Amerman

Representatives	Yes	No	Representatives	Yes	No
Chairman Grande		✓	Rep. Amerman	✓	
Vice Chairman Boehning		✓	Rep. Conklin	✓	
Rep. Dahl		✓	Rep. Schneider	✓	
Rep. Froseth		✓	Rep. Winrich	✓	
Rep. Karls		✓	Rep. Wolf	✓	
Rep. Kasper		✓			
Rep. Meier		✓			
Rep. Nathe		✓			

Total (Yes) 5 No 8

Absent 0

Floor Assignment \_\_\_\_\_

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

majority vote

Date: 2/5/09  
Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1575

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as amended

Motion Made By Rep. Meier

Seconded By Rep. Dahl

Representatives	Yes	No	Representatives	Yes	No
Chairman Grande <u>1</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rep. Amerman <u>1</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Vice Chairman Boehning <u>2</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rep. Conklin <u>2</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Rep. Dahl <u>3</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rep. Schneider <u>(9)</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rep. Froseth <u>4</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rep. Winrich <u>3</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Rep. Karls <u>5</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rep. Wolf <u>4</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Rep. Kasper <u>6</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
Rep. Meier <u>7</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
Rep. Nathe <u>8</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>			

Total (Yes) 9 No 4

Absent 0

Floor Assignment Rep. Meier

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

RE-referred to appropriations majority / minority Report  
*Lisa Wolf*  
*Carole*  
*frui*

**REPORT OF STANDING COMMITTEE (MAJORITY)**

**HB 1575: Government and Veterans Affairs (Rep. B. Grande, Chairman) A MAJORITY** of your committee (Reps. Grande, Boehning, Dahl, Froseth, Karls, Kasper, L. Meier, Nathe, Schneider) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee**.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 54-52 of the North Dakota Century Code, relating to participation by peace officers employed by the bureau of criminal investigation in the defined benefit retirement plan; to amend and reenact subsection 11 of section 54-52-01, subsection 3 of section 54-52-05, and subsection 3 of section 54-52-17 of the North Dakota Century Code, relating to participation by peace officers employed by the bureau of criminal investigation in the defined benefit retirement plan; and to provide an appropriation.

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

**SECTION 1. AMENDMENT.** Subsection 11 of section 54-52-01 of the North Dakota Century Code is amended and reenacted as follows:

11. "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 the bureau of criminal investigation or by a political subdivision and, notwithstanding subsection 12, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. Participating members of the law enforcement retirement plan created by this chapter who begin employment after August 1, 2005, are ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.

**SECTION 2. 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 all or a portion of the employee contributions required by subsection 2 and sections 54-52-06.1, 54-52-06.2, ~~and 54-52-06.3,~~ and section 3 of this Act or the employee contributions required to purchase service credit on a pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not receive the contributed amounts directly once the employer has elected to pay the employee contributions. 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.

**SECTION 3.** A new section to chapter 54-52 of the North Dakota Century Code is created and enacted as follows:

**Contribution by peace officers employed by the bureau of criminal investigation - Employer contribution.** Each peace officer employed by the bureau of criminal investigation 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 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 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 assessment.

**SECTION 4. 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 the bureau of criminal investigation or 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. Normal retirement date for a peace officer employed by the bureau of criminal investigation is:
- (1) The first day of the month next following the month in which the peace officer attains the age of fifty-five years and has completed at least three consecutive years of employment as a peace officer immediately preceding retirement; or
  - (2) When the peace 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.
- e. 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- f. Early retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or 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 the bureau of criminal investigation or 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- g. 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 5. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$185,946, or so much of the sum as may be necessary, and \$15,164 in other funds, or so much of the sum as may be necessary, to the attorney general for the purpose of implementing this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011."

Renumber accordingly

VR  
2/6/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1575

Page 1, line 1, after "enact" insert "a new section to chapter 39-03.1, a new section to chapter 54-52, and"

Page 1, line 2, after "to" insert "public employee supplemental retiree benefit payments and"

Page 1, after line 7, insert:

**"SECTION 1.** A new section to chapter 39-03.1 of the North Dakota Century Code is created and enacted as follows:

**Supplemental retiree benefit payment.** The board shall authorize an additional payment equal to seventy-five percent of the August retirement allowance to each eligible retiree in pay status as of August 1, 2009, including joint and survivor and term certain beneficiaries, under this chapter. The board may make only one payment to each retiree under this section.

Page 1, after line 17, insert:

**"SECTION 3.** A new section to chapter 54-52 of the North Dakota Century Code is created and enacted as follows:

**Supplemental retiree benefit payment.** The board shall authorize an additional payment equal to seventy-five percent of the August retirement allowance to each eligible retiree in pay status as of August 1, 2009, including judicial retirees and beneficiaries and including joint and survivor and term certain beneficiaries, under this chapter. The board may make only one payment to each retiree under this section.

Page 9, after line 28, insert:

**"SECTION 6. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$227,000, or so much of the sum as may be necessary, to the highway patrolmen's retirement fund for the purpose of funding benefit enhancements contained under section 1 of this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011.

**SECTION 7. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$5,354,000, or so much of the sum as may be necessary, to the public employees retirement fund for the purpose of funding benefit enhancements contained under section 3 of this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011."

Page 10, line 2, replace "in" with "under section 5 of"

Renumber accordingly

*Minority Vote*

Date: \_\_\_\_\_  
Roll Call Vote #: \_\_\_\_\_

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. \_\_\_\_\_**

House **Government and Veterans Affairs** Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken *To pass as amended.*

Motion Made By \_\_\_\_\_ Seconded By \_\_\_\_\_

Representatives	Yes	No	Representatives	Yes	No
Chairman Grande			Rep. Amerman		
Vice Chairman Boehning			Rep. Conklin		
Rep. Dahl			Rep. Schneider		
Rep. Froseth			Rep. Winrich		
Rep. Karls			Rep. Wolf		
Rep. Kasper					
Rep. Meier					
Rep. Nathe					

Total (Yes) 4 No 9

Absent 0

Floor Assignment *Lisa Wolf*

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

**REPORT OF STANDING COMMITTEE (MINORITY)**

**HB 1575: Government and Veterans Affairs (Rep. B. Grande, Chairman) A MINORITY of your committee (Reps. Amerman, Conklin, Winrich, Wolf) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the Appropriations Committee.**

Page 1, line 1, after "enact" insert "a new section to chapter 39-03.1, a new section to chapter 54-52, and"

Page 1, line 2, after "to" insert "public employee supplemental retiree benefit payments and"

Page 1, after line 7, insert:

**"SECTION 1.** A new section to chapter 39-03.1 of the North Dakota Century Code is created and enacted as follows:

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Page 9, after line 28, insert:

**"SECTION 6. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$227,000, or so much of the sum as may be necessary, to the highway patrolmen's retirement fund for the purpose of funding benefit enhancements contained under section 1 of this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011.

**SECTION 7. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$5,354,000, or so much of the sum as may be necessary, to the public employees retirement fund for the purpose of funding benefit enhancements contained under section 3 of this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011."

Page 10, line 2, replace "in" with "under section 5 of"

Renumber accordingly

The reports of the majority and the minority were placed on the Seventh order of business on the calendar for the succeeding legislative day.

2009 HOUSE APPROPRIATIONS

HB 1575

# 2009 HOUSE STANDING COMMITTEE MINUTES

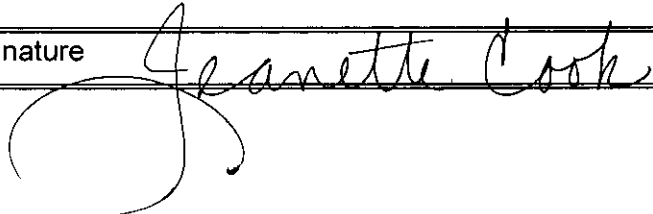
Bill/Resolution No. HB 1575

House Appropriations Committee

Check here for Conference Committee

Hearing Date: February 13, 2009

Recorder Job Number: 9491 (no discussion) & 9492

Committee Clerk Signature 

Minutes:

**Rep. Lisa Meier** discussed HB 1575. This bill allows the North Dakota Bureau of Criminal Investigation officers (BCI) to join the law enforcement retirement benefit system established in 2003 from local jurisdictions. The BCI currently has 37 employees eligible to participate in the retirement plan, which allows officers to retire at age 55. What you have before you allows the BCI agents to enter into this program. These are aging individuals that are age 40-50 that have had rough lives. Some have been shot in the line of duty. Some have physical conditions.

**Chm. Svedjan:** If I understand this correctly, none of this was included in the Attorney General's budget?

**Rep. Meier:** The current Attorney General's budget has the funding in it.

**Chm. Svedjan:** The authority is not included in the budget?

**Rep. Meier:** Yes, the authority is not included in the budget.

**Chm. Svedjan:** The dollars are in the budget?

**Rep. Meier:** Correct, on the last page of the bill.

**Chm. Svedjan:** There is an appropriation in the bill.

**Rep. Delzer:** Is the appropriation retroactive or does it just to pay for the fund for the next two years?

**Rep. Meier:** It is not retroactive but for in the future.

**Rep. Delzer:** The fiscal note shows that that will be there the next biennium.

**Rep. Williams:** Why wasn't this included in the Attorney General's budget?

**Rep. Meier:** We did not inquire about that.

**Chm. Svedjan:** We've seen a lot of those this time.

**Rep. Kempenich:** How are they rolling the retirement they had earlier into this?

**Rep. Meier:** I believe that they had their own retirement system already.

**Chm. Svedjan:** This is authorization just for the law enforcement employees that are in the Attorney General's office. Is that correct?

**Rep. Meier:** Yes, just the BCI agents.

**Rep. Klein:** They are already in the PERS system. This is an additional system. They couldn't put it in the budget because they didn't have the authority to join this group. This is a secondary retirement, and it applies only to the BCI.

**Representative Wald moved a Do Pass.**

**Representative Klein seconded the motion.**

A roll call vote was taken. **Aye 24 Nay 0 Absent 1**

**The motion carried.**

**Representative Meier will carry HB 1575.**



Date: 2/13/09  
 Roll Call Vote #: 141

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1575

**Full House Appropriations Committee**

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Wald Seconded By Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Rep. Skarphol	✓		Rep. Kroeber	✓	
Rep. Wald	✓		Rep. Onstad	✓	
Rep. Hawken	✓		Rep. Williams	✓	
Rep. Klein	✓				
Rep. Martinson	✓				
Rep. Delzer	✓		Rep. Glasheim	✓	
Rep. Thoreson	✓		Rep. Kaldor	✓	
Rep. Berg	✓		Rep. Meyer	✓	
Rep. Dosch	✓				
Rep. Pollert	✓		Rep. Ekstrom	✓	
Rep. Bellew	✓		Rep. Kerzman	<del>✓</del>	
Rep. Kreidt	✓		Rep. Metcalf	✓	
Rep. Nelson	✓				
Rep. Wieland	✓				

Total (Yes) 24 No 0

Absent 1

Floor Assignment Rep. L. Meier

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

**REPORT OF STANDING COMMITTEE (410)**  
February 13, 2009 7:04 p.m.

**Module No: HR-29-2815**  
**Carrier: L. Meler**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1575, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman)**  
recommends **DO PASS** (24 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).  
Engrossed HB 1575 was placed on the Eleventh order on the calendar.

2009 SENATE POLITICAL SUBDIVISIONS

HB 1575

# 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1575

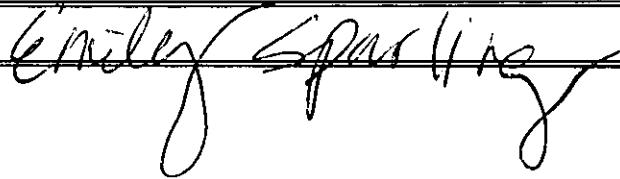
Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: 03/06/2009

Recorder Job Number: 10374

Committee Clerk Signature



Minutes:

**Chairman Andrist** Opened the hearing on HB 1575

**Jerald C. Kemmet** Director of the Bureau of Criminal Investigation (BCI) for the Office of the Attorney General. Introduced the bill and spoke in support of HB 1575. See attachment #1.

**Chairman Andrist** If I were to look at other plans/information in regards to the fiscal note, who should I ask?

**Kemmet** I think Sparb is here to answer those questions. The only change that this bill would make is to allow the officers to retire at 55 under the PERS (Public Employee Retirement System) plan.

**Senator Bakke** What was amended out of this bill?

**Kemmet** The engrossment changed the proposed retirement plan.

**Senator Bakke** Do you like how it is amended?

**Kemmet** Yes

**Senator Lee** Can you tell us about the minority report?

**Kemmet** The minority report was drafted to include a 13<sup>th</sup> check for retirees.

**Senator Lee** There is no 13<sup>th</sup> check involved with the majority report?

**Kemmet** That is correct.

**Jeff White** Police officer with BCI. Spoke about the need for older more experienced officers at BCI. The average recruit is 37.25 years old with 9.25 yrs of experience. They would then need to work 24 years before reaching PERS requirements at age 61. The average age at death for BCI officers was 55. The PERS rules require that officers live 9 yrs longer than the last 3 BCI officers that died. He wants to be able to help new recruits reach retirement age.

**Sparb Collins** PERS. He explained that system and that this is not a new plan, it simply moves BCI officers under the heading of Law Enforcement as recognized by PERS.

Discussion about the appropriation in the bill. There was some confusion about the fiscal note as the committee had not received an updated copy.

**Senator Bakke** Are spouses covered by PERS?

**Collins** It depends. Gave some examples.

**Chairman Andrist** Is there a carrot for continuing to work after 55?

**Collins** There is no penalty for continuing to work nor is there any incentive at this point other than normal pay increases.

Discussion about Social Security and Health Benefits.

**Senator Dotzenrod** What about others outside of the law enforcement retirement plan such as game wardens and prison guards?

**Collins** We spoke with those groups but they were not interested at this point or did not express interest at the time of the hearing.

**Chairman Andrist** Closed the hearing on HB 1575

**Senator Lee** I move **Do Pass and Rerefer to Appropriations.**

**Senator Bakke** Second.

The Clerk called the motion to **Do Pass and Rerefer to Appropriations. Yes: 5, No: 0,**

**Absent 1 (Senator Anderson—the vote was left open to allow him to record his vote)**

**Senator Dotzenrod will carry the bill.**

Date: 3/6/09  
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1575

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  Do pass  Do not pass  Amend  Other

Motion Made By J. Lee Seconded By J. Bakke

Senators	Yes	No	Senators	Yes	No
Chairman John M. Andrist	/		Senator Arden C. Anderson	/	
Vice Chairman Curtis Olafson	/		Senator JoNell A. Bakke	/	
Senator Judy Lee	/		Senator Jim Dotzenrod	/	

Total (Yes) 6 No 0

Absent \_\_\_\_\_

Floor Assignment J. Dotzenrod

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

Refer to appropriate

**REPORT OF STANDING COMMITTEE**

**HB 1575, as engrossed: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1575 was rereferred to the Appropriations Committee.**



2009 SENATE APPROPRIATIONS

HB 1575

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1575

Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: March 17, 2009

Recorder Job Number: 11081

Committee Clerk Signature

*Rose Lanning*

Minutes:

**Chairman Holmberg** called the committee hearing to order on HB 1575 which relates to the defined benefit retirement plan of peace officers employed by the Bureau of Criminal Investigation.

**Jerry Kemmet** Director, Bureau of Criminal Investigation (BCI), Office of Attorney General.

Testified in favor of 1575. See attachment #1.

**Senator Warner** Asked about the retirement transition of employees who are 54 and retire next year

**Jerry Kemmet:** If passed, this will give everyone of the agents prior to 2007 the option of staying in PERS right now or using the new system.

**Senator Warner** Is there mandatory retirement?

**Jerry Kemmet** No, we do have a minimal physical fitness requirement

**Rep. Bette Grande** District #41. This bill come before you because a number of years ago we did put into affect a peace officer's retirement plan for the political subdivisions. At that time it did have BCI and the prisons. At that time we felt that we would just go by political subdivisions. Over the interim it came down that BCI would be a part of this new program. BCI came in organized and ready to do this.

**Jeff White** Chief Agent, Bureau of Criminal Investigations. Testified in favor of HB 1575.

Spoke about the need for older more experienced officers at BCI and the role of BCI as the police officer's police. The average recruit is 37.25 years old with 9.25 yrs of experience. They would then need to work 24 years before reaching PERS requirements at age 61. The average age at death for BCI officers was 55. The PERS rules require that officers live 9 yrs longer than the last 3 BCI officers that died. He wants to be able to help new recruits reach retirement age.

**Chairman Holmberg** closed the hearing on HB 1575.

**Senator Kilzer** I move **Do Pass**.

**V. Chair Grindberg Second**

Discussion about the minority and majority reports, there was some concern about this being an incentive to retire early but the committee noted that the risk factor of age in this particular profession was important; the disbursement of benefits was also discussed—an individual cannot draw two state pensions

The Clerk called the role on the motion to **Do Pass. Yea: 11 Nay: 1 Absent: 2**

**The bill goes back to Senate Political Subdivisions and Senator Dotzenrod will carry the bill.**

Date: 3-17-09  
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1575

Senate Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  Do Pass  Do Not Pass  Amended

Motion Made By Kilzer Seconded By Grindberg

Representatives	Yes	No	Representatives	Yes	No
Senator Fischer			Senator Warner	✓	
Senator Christmann		✓	Senator Robinson	✓	
Senator Krebsbach	✓		Senator Krauter	✓	
Senator Bowman	✓		Senator Lindaas	✓	
Senator Kilzer	✓		Senator Mathern		
Senator Grindberg	✓		Senator Seymour	✓	
Senator Wardner	✓				
Chairman Holmberg	✓				

Total Yes 11 No 1

Absent 2

Floor Assignment political subdivisions

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

REPORT OF STANDING COMMITTEE (410)  
March 17, 2009 10:42 a.m.

Module No: SR-48-5066  
Carrier: Dotzenrod  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

HB 1575, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (11 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). Engrossed HB 1575 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

HB 1575

*Some given to Senate political subs sent to Senate opps*

Testimony on House Bill 1575  
Thursday, February 5, 2009  
Presented by Jerald C. Kemmet

*Attach #1*

Good Morning. My name is Jerry Kemmet, Director of the Bureau of Criminal Investigation (BCI) for the Office of Attorney General. I appreciate the opportunity to testify before this committee, and am here today to support House Bill 1575, a bill that is also supported by Attorney General Wayne Stenehjem.

HB1575 amends current statute to allow North Dakota Bureau of Criminal Investigation officers to join the law enforcement retirement benefit system established in 2003 for officers from local jurisdictions. The BCI currently has 37 employees who would be eligible to participate in this retirement plan, which would allow our officers to retire at the age of 55 or rule of 85.

BCI officers were originally included in legislation debated in 2003. However, an amended version was eventually passed which removed all state employed correctional and law enforcement officers from eligibility, and which provided this opportunity to only officers of political subdivisions. We are pleased that the legislature is now reconsidering BCI's participation in the law enforcement retirement program for a number of reasons.

First and foremost, agents' duties are dangerous and challenging. BCI agents within the state of North Dakota are integral to maintaining the safety and quality of life of all North Dakota residents. The nature of the work performed by law enforcement takes a physical toll which exceeds that experienced by workers in the vast majority of occupations, and it necessitates that law enforcement officers leave their employment at a younger age than for most occupations. This retirement program would allow BCI

officers to retire at an age prior to experiencing the physical effects of their work as law enforcement officers.

While we would like to believe that age is not a factor in doing our jobs, it must be considered as a potential liability in the law enforcement profession. By retirement age, law enforcement officers routinely encounter individuals 20-30 years younger. Our officers are always on the front line, and asking a 60-year-old agent to kick in a door, handle an uncooperative drug dealer, or chase a 20-year-old presents a number of potentially dangerous situations. Officers run a high risk of being attacked or injured on the job and must remain constantly aware of the potential physical dangers around them. They must also deal with the emotional stress of long hours and being constantly exposed to the unpleasant sides of life.

BCI lost three agents in the last three years. All were 55 years old or younger. Some of our older agents have fallen, been hurt when kicking in a door, injured during physical training, or strained their back. As agents age, their ability to react and recover decreases, and their risk of injury increases. Due to the nature of their work, this risk cannot easily be eliminated and is, in fact, magnified by the fact they are always in less than desirable situations. Driving skills may not be as sharp in surveillance situations and could lead to an accident, or the inability to pursue an individual on foot could lead to an injury simply because age and work conditions have already taken a physical toll. Clearly, this bill is about safety and well-being -- for our officers, for their partners, and for the public.

A second factor to consider is recruiting and retention, which continues to be a challenge for our office. An interim study conducted in 2001 showed that every state



around us had a retirement program which allowed for law enforcement to retire early. Having a comparable opportunity with our agency would help to keep us competitive in the market, attract a larger pool of applicants with the education and experience levels we require, and retain our highly trained staff. This has been studied more than once, and it is clear that we need to do this, and the time is now.

A third factor to consider is fairness. The Highway Patrol plan allows for their officers to retire at age 55 or rule of 80.

We appreciate the efforts and consideration of the Government and Veteran Affairs Committee, and ask that you support HB1575 which will include our agents in this important law enforcement retirement program.