

2025 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1419

2025 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1419
1/30/2025

Relating to the public employees retirement system public safety retirement plan.

9:29 a.m. Chairman Schauer opened the hearing.

Members present: Chairman Schauer, Vice Chairman Satrom, Representatives Bahl, Christy, Grindberg, Karls, McLeod, Rohr, Schneider, Steiner, Vetter, Wolff

Members absent: Representatives Brown, VanWinkle

Discussion Topics:

- Mental stress on EMS dispatchers.
- New personnel

9:29 a.m. Representative Porter, District 34, introduced the bill.

9:46 a.m. Bill Kalanek, CEO of APT, testified in favor.

9:47 a.m. Corey Johnson, Assistant Fire Chief of the City of Williston Fire Department, testified in favor and submitted testimony, #32837.

9:52 a.m. Kyle Michels, Billings County EMS Director, testified in favor and submitted testimony, #32773.

9:56 a.m. Sarah Miller, Public Safety Telecommunications Director/911 Coordinator of the Barnes County Dispatch Center, testified in favor and submitted testimony, #32600.

10:01 a.m. Derrick Hohbein, Chief Operating/Financial Officer of NDPERS, testified neutrally and submitted testimony, #32146.

Additional written testimony:

Marcia Kessel, County Auditor for Billings County, submitted testimony in favor, #32269.

Shannon LaHaise, Director of the Grand Forks PSAP/911 Center, submitted testimony in favor, #32620.

Tyler Kientopf, Vice President of the North Dakota EMS Association, submitted testimony in favor, #32782.

10:08 a.m. Chairman Schauer closed the hearing.

Jackson Toman, Committee Clerk

TESTIMONY OF DERRICK HOHBEIN

House Bill 1419 – Public Safety Expansion to Dispatchers & Medical Services Professionals

Good Morning, Mr. Chairman and members of the committee. My name is Derrick Hohbein and I am the Chief Operating/Financial Officer of the North Dakota Public Employees Retirement System, or NDPERS. I appreciate the committee taking the time to analyze House Bill 1419, which expands the eligibility in the Public Safety Plan to include state radio dispatchers in the State Public Safety Plan and allows political subdivisions to offer the Public Safety Plan to dispatchers & emergency personnel. I am here today on behalf of the NDPERS Board to provide information in a neutral capacity so the policy makers are able to make an informed decision regarding the bill.

Our actuary estimates that the bill would move approximately 460 political subdivision individuals into the Public Safety Plan and Adjutant General has identified 33 potential dispatchers in their organization. The 33 potential dispatchers information was used to provide the fiscal note allocation for their agency.

Because political subdivision individual data was unavailable, the actuaries were unable to estimate the specific impact of moving up to 460 political subdivision individuals into the Public Safety Plan, but transfers from the Main Plan to the Public Safety Plan would be expected to result in an actuarial gain to the Main system and loss to the Public Safety Plan.

The ongoing employer contribution rate across the political subdivisions would depend on the demographics of the newly eligible populations into the Plan for those political subdivisions opting to take advantage of the option, and whether or not they currently participate in the Main Plan. For the state individuals analyzed by the actuary, the impact on the ongoing employer contribution rate was an immaterial decrease. The additional member contribution of 0.50% covers the higher than average normal cost, and that theory may also extend to our Political Subdivisions, meaning an immaterial impact to the actuarially determined employer contribution rate. However, the actuary did caveat the analysis by clarifying that if the demographics (age, service, gender) of the political subdivision joining the Public Safety Plan were significantly different than the existing membership, that the results could be different.

There is a fiscal note attached to this bill, which recognizes the differences in the contribution rates between the Main Plan and the Public Safety Plans.

Our federal tax consultant has confirmed this bill will not disqualify our retirement plans from an IRS perspective. The expanded eligibility will include participants who satisfy the definition of a “qualified public safety officer,” for correctional officers and medical services personnel, meaning no 10% early distribution penalty would exist for benefits where the normal retirement benefit is achieved.

For dispatchers, however, they do not satisfy the definition of a “qualified public safety officer,” and will thus be subject to a 10% early distribution penalty if benefits are commenced before age 55. This will require employers to submit accurate job classes to the PERS office to ensure we accurately reflect the information on 1099s when participants begin receiving their retirement benefits.

We did find survey information indicating that Minnesota includes peace and correctional officers and park rangers in their public safety definitions. South Dakota includes EMTs and juvenile detention officers, correctional officers, and park rangers in their Public Safety definitions. We were unable to find information on Montana’s Public Safety population.

House Bill 1419 was a bill introduced during the interim, with the analysis provided to the Employee Benefits Programs Committee, which gave the bill an unfavorable recommendation. The consultant and legal analysis provided to the committee is included as an attachment to the end of my testimony (please note this was draft bill 41 during the interim session).

Another observation our office has is this bill touches the same sections of code as other bills being introduced during the Session. It is imperative that whatever bill is passed last has language from previously passed bill(s) incorporated into the final passage if these remain stand-alone bills throughout the session.

Mr. Chairman, I appreciate the committee taking the time to learn more about the impact this bill will have to our state. This concludes my testimony, and I’d be happy to answer any questions the committee may have.



August 14, 2024

Representative Austen Schauer, Chair
Legislative Employee Benefits Programs Committee
North Dakota State Government

Re: North Dakota Public Employees Retirement System Legislative Studies

Dear Representative Schauer:

In accordance with your request, we have analyzed the impact of Bill No. 25.0041.01000 on the North Dakota Public Employees Retirement System (NDPERS). Our review is actuarial in nature; we are not attorneys and cannot provide legal advice.

Systems Affected

North Dakota Public Employees Retirement System (Main System, Public Safety with prior Main System service, and Public Safety without prior Main System service)

Summary

Bill No. 25.0041.01000 allows governmental employers, on behalf of their dispatchers and emergency medical services personnel not in a Public Safety plan at this time, to enter into agreements with the retirement board, for the purpose of extending the benefits of the Public Safety retirement system to those dispatchers and emergency medical services personnel.

Data Summary

NDPERS provided data for dispatchers and emergency medical services personnel employed by the State of North Dakota or a political subdivision, as defined in Bill 041. The data was reviewed and compared to data from the July 1, 2023 actuarial valuation. Members that were found to be in the July 1, 2023 actuarial valuation were assumed to transfer from their current group to the State Public Safety Employees group. Members that were not found to be part of the July 1, 2023 actuarial valuation data were excluded from the actuarial analysis.

The data provided included 492 members.

- For 460 members, participant counts with no individual information was provided.
- An additional 10 members from the State Radio group were not found in the July 1, 2023 actuarial valuation data.
- The remaining 22 members eligible to transfer to the State Public Safety Employees group are currently in the Main System.

Actuarial Impact of Bill 041 on NDPERS

General Comments

The actuarial impact of this change will depend specifically on the number and age of new members who would enter the Public Safety Plan, whether or not the new members have participated in the Main System, and the amount of liabilities and assets (if any) that would be transferred into the Public Safety Plan.

- Eligible public safety dispatchers and emergency medical services personnel **who currently do not participate in NDPERS** in the Main System would be allowed to participate in the Public Safety without prior Main System service System, but only on a prospective basis. In other words, such employees would have a normal cost but would have no past service liability cost. The normal cost as a percentage of compensation will be dependent on the current age of the public safety dispatchers and emergency medical services personnel transferring into the system.
 - The following information is based on the results from the actuarial valuation as of July 1, 2023, for the Public Safety without prior Main System service System
 - Board approved employer contribution rate of 7.93% of pay (9.16% of pay effective January 1, 2024)
 - Employer normal cost rate (including administrative expenses) of 8.49% of pay
 - Average age of active employees of 37.8
 - Average service of active members of 4.9 years
 - The normal cost as a percentage of compensation would decrease (increase) if the average age for the transferring group is younger (older) than the average age at plan entry for the current active members of the Public Safety without prior Main System service System, and is expected to be lower based on a benefit accrual rate of 1.75% compared to the rate of 2.00% for members of the System hired before 2020.
 - There would be no past service liability cost since prior plan benefits would not be transferred into the System. However, the political subdivision will still contribute the entire employer contribution rate for the Public Safety without prior Main System service System, which includes components for the normal cost and the amortization of the unfunded past service liability based on the members who are currently in the system.
 - If the transferring group has a lower employer normal cost rate (currently 8.49% of pay) than the Board approved employer contribution rate (currently 9.16% of pay), there will be a decreased need for contributions to the System.
 - If the transferring group has a higher employer normal cost rate (currently 8.49% of pay) than the Board approved employer contribution rate (currently 9.16% of pay), there will be an increased need for contributions to the System.

- Eligible dispatchers and emergency medical services **who currently participate in NDPERS** in the Main System would have a normal cost plus an amortization payment of the increase in past service liability as a result of the transfer. The normal cost impact would be similar to the normal cost impact described for political subdivisions transferring from outside of NDPERS. It is assumed that the Main System past service liability would be transferred to the Public Safety with prior Main System service System in the form of an asset transfer equal to the value of service accrued under the Main System and the funded ratio under the Main System (about 66% as of July 1, 2023).
 - The following information is based on the results from the actuarial valuation as of July 1, 2023, for the Public Safety with prior Main System service System
 - Board approved employer contribution rate of 9.81% of pay (11.40% effective January 1, 2024)
 - For the State Public Safety Employees group, the employer contribution rate is 12.75% of pay effective August 1, 2023 and 14.34% of pay effective January 1, 2024
 - Employer normal cost rate (including administrative expenses) of 8.03% of pay
 - Average age of active employees of 36.7
 - Average benefit service of active members of 6.9 years
 - Normal retirement eligibility conditions of age 65 or Rule of 85 in the Main System (age 65 or age 60 with Rule of 90 for Main System members enrolled after December 31, 2015) and age 55 with three years of service or Rule of 85 in the Public Safety System
 - Early retirement eligibility conditions of age 55 with three years of service in the Main System and age 50 with three years of service in the Public Safety System
 - Because the Public Safety with prior Main System service System contains more favorable retirement provisions than the Main System, there would be an increase in past service liability as a result of the transfer. Therefore, the net impact of the transfer is expected to result in an increase in unfunded actuarial accrued liability to the Public Safety System due to an asset transfer that is about 66% of the actuarial accrued liability under the Main System and a higher actuarial accrued liability under the Public Safety with prior Main System service System.
 - If the transferring group has a total rate (employer normal cost plus amortization of their unfunded liability) that is lower than the Board approved employer contribution rate (currently 14.34% of pay), there will be a decreased need for contributions to the System.
 - If the transferring group has a total rate (employer normal cost plus amortization of their unfunded liability) that is higher than the Board approved employer contribution rate (currently 14.34% of pay), there will be an increased need for contributions to the System.

Actuarial Impact Based on Available Data

The cost impact calculated in this letter is based on the data for the Public Safety with Prior Main System Service system as of the July 1, 2023 actuarial valuation and additional data provided by PERS. As noted above, a total of 22 dispatchers and emergency medical services personnel impacted by this legislation were identified as being currently in the Main System.

Under the baseline scenario, the total number of active members in the Public Safety with Prior Main System Service system is 1,225, including 181 currently in the State Public Safety Employees group. Under the alternate scenario, the total number of active members in the Public Safety with Prior Main System Service system is 1,247, including 203 in the State Public Safety Employees group. It is assumed that members would transfer all service to the State Public Safety Employees group and that there would be a corresponding asset transfer (described on page 3). The number of active members in the Main System is reduced by 22 members. Potential State Public Safety Employees members provided by PERS that were not in the data for the July 1, 2023 actuarial valuation were excluded from the actuarial analysis.

Scenario	Baseline July 1, 2023 Valuation	Bill 25.0041.01000	Difference
Main System Actuarial Accrued Liabilities	\$ 5,559,270,755	\$ 5,557,606,256	\$ (1,664,499)
Main System Actuarial Value of Assets	\$ 3,683,545,963	\$ 3,682,458,793	\$ (1,087,170)
Main System Normal Cost	\$ 152,758,636	\$ 152,631,195	\$ (127,441)
Main System Funded Ratio	66.26%	66.26%	0.00%
Public Safety With Prior Main System Service Actuarial Accrued Liabilities	\$ 187,025,504	\$ 189,004,086	\$ 1,978,582
Public Safety With Prior Main System Service Actuarial Value of Assets	\$ 128,273,097	\$ 129,360,267	\$ 1,087,170
Public Safety With Prior Main System Service Normal Cost	\$ 12,179,130	\$ 12,338,372	\$ 159,242
Public Safety With Prior Main System Service Funded Ratio	68.59%	68.44%	-0.15%

In this cost analysis, the number of members potentially transferring from the Main System to the Public Safety System was 22. The Main System unfunded actuarial accrued liability (UAL) decreased by roughly \$577.3 thousand and the Public Safety System UAL increased by roughly \$891.4 thousand. The net cost was \$314.1 thousand, or \$14,277 per member. Previous transfers have had an estimated cost of \$15,000 to \$20,000 per member.

A separate ADC is not calculated for State Public Safety Employees members because the plan's assets are not allocated to any subgroups. State Public Safety Employees members contribute 6.0% of payroll, as compared to 5.5% for other Public Safety With Prior Service Plan members. State Public Safety Employees members also have a higher normal cost (NC) rate, due solely to demographic differences and the difference in member contributions. Our understanding is that statutes require employers of State Public Safety Employees members to contribute an amount determined by the board to be actuarially required to support the level of benefits.

The total NC rate for the plan including the administrative expense assumption (before any legislative changes) as of July 1, 2023 was 13.56% of pay. This is comprised of 12.97% of pay for the Public Safety group, 20.98% for the BCI group, and for State Public Safety Employees members, the total NC rate as of July 1, 2023 was 13.90% of pay, or 0.34% of pay higher than the group total. The additional member contribution of 0.50% for State Public Safety Employees members covers this extra cost.

As of July 1, 2023, the total Normal Cost of the State Public Safety Employees group initially decreases from 13.90% to 13.83% of projected compensation, due to the expansion of the group.

Bill 041 also increases the unfunded liability of the plan, which leads to an increase in the amortized unfunded liability portion of the ADC as of July 1, 2023. However, the covered payroll of the group is also expected to increase. The amortized unfunded liability portion of the ADC as a percentage of payroll increased from 4.34% to 4.35%, or 0.01%.

Summary

The numerical results in this letter are based solely on the 22 members that were in the actuarial valuation data as of July 1, 2023. This letter also includes general comments about the potential impact of other members for whom participant data is not currently available. Based on the data provided for this analysis, there are roughly 492 individuals potentially impacted by this proposed legislation. For most of these individuals, we either did not receive identifying information or they were not in the actuarial valuation data as of July 1, 2023.

Eligible public safety dispatchers and emergency medical services personnel who **currently do not participate in NDPERS** in the Main System:

- If the transferring group has a lower employer normal cost rate (currently 8.49% of pay) than the employer contribution rate (current 9.16% of pay), there will be a decreased need for contributions to the System. Otherwise, there will be an increased need for contributions to the System.

Eligible public safety dispatchers and emergency medical services personnel **who currently do participate in NDPERS** in the Main System:

- Based on current practices, the amount of assets transferred from the Main System to the Public Safety System on behalf of members transferring to Public Safety is lower than the amount of liability transferred, resulting in new unfunded liability for NDPERS.



Policy Issue Analysis

Benefits Policy Issues

- Adequacy of Retirement Benefits

The Public Safety System contains more favorable retirement provisions than the Main System. Therefore, Bill 041 will enhance retirement benefits for dispatchers and emergency medical services personnel who transfer into the Public Safety System, because they will now be able to retire at an earlier age.

- Competitiveness

The Bill may increase the benefits competitiveness for dispatchers and emergency medical services personnel who transfer into the Public Safety System.

- Benefits Equity and Group Integrity

Under the Bill, dispatchers and emergency medical services personnel would retire under normal and early retirement dates that are similar to the retirement dates of Public Safety personnel.

- Purchasing Power

No impact.

- Preservation of Benefits

No impact.

- Portability

No impact.

- Ancillary Benefits

No impact.

- Social Security

No impact.



Funding Policy Issues

- Actuarial Impacts

Previously noted.

- Investment Impacts

- Cash Flow: An asset transfer would increase initial cash flow to the Public Safety System, but decrease cash flows to the Main System.

Administration Issues

- Implementation Issues

The Bill will require that the System reprogram the prior service of applicable dispatchers and emergency medical services personnel to be counted under the Public Safety with prior Main service System rules. While this Bill would have minimal impact on administrative costs of the System, it would have an effect on the participating employers since the required contributions would increase.

- Administrative Costs

The Bill will have a minimal effect on administrative resources. However, employer contributions will increase from transfers from the Main System, since the statutory employer contribution rate for those transferring will increase from 8.12% (9.26% of pay for members enrolled on or after January 1, 2020) of salary to 14.34% under the Public Safety with prior Main service System (for the State Public Safety Employees group). Employer contributions will be 9.16% of pay under the Public Safety without prior Main service System compared to 9.26% of pay (for members enrolled after January 1, 2020) for the Main System.

- Needed Authority

The Bill appears to provide appropriate levels of administrative and governance authority to the PERS Board to implement the changes made by the Bill.

- Integration

No impact.

- Employee Communications

The Bill will require employee communications to the dispatchers and emergency medical services personnel who transfer into the Public Safety System to describe the new retirement rules applicable to them, including the normal retirement age and early retirement age.

Summary

- Dispatchers and emergency medical services personnel that enter the Public Safety retirement system would be subject to the same eligibility conditions to receive benefits as Public Safety personnel.
- Dispatchers and emergency medical services personnel that enter the Public Safety retirement system would be subject to the same benefit provisions as Public Safety personnel.

Disclosures and Additional Information

This analysis is based on projections of the actuarial valuation results for the North Dakota Public Employees Retirement System (NDPERS). The actuarial assumptions used in this analysis are the same assumptions used in the actuarial valuation as of July 1, 2023, including a discount rate of 6.50%.

Future actuarial measurements may differ significantly from the current measurements presented in this cost analysis, due to such factors as the following: plan experience differing from that anticipated by the economic or demographic assumptions; changes in economic or demographic assumptions; and changes in plan provisions, contribution amounts or applicable law.

If any of the provisions, underlying data or assumptions used in this analysis appear to be incorrect or unreasonable, please let us know as soon as possible so we can update the analysis.

This report was prepared using our proprietary valuation model and related software which, in our professional judgment, has the capability to provide results that are consistent with the purposes of the valuation, and has no material limitations or known weaknesses. We performed tests to ensure that the model reasonably represents that which is intended to be modeled.

We have reviewed the bill and provided an actuarial impact analysis as well as a policy issue analysis from our perspective as actuaries. However, the policy issue analysis should not be considered to be comprehensive and there may be additional benefits policy, administration issues or legal issues that are not discussed in this letter.




The signing actuaries are independent of the North Dakota Public Employees Retirement System.

Bonita J. Wurst and Abra D. Hill are Members of the American Academy of Actuaries (MAAA) and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinions contained herein.

Please let us know if you have any questions or would like to discuss the results of this analysis further.

Sincerely,
Gabriel, Roeder, Smith & Company



Bonita J. Wurst, ASA, EA, MAAA, FCA
Senior Consultant



Abra D. Hill, ASA, MAAA, FCA
Consultant

cc: Rebecca Fricke, NDPERS
Joshua Murner, GRS

MEMORANDUM

TO: Derrick Hohbein, North Dakota Public Employees Retirement System

FROM: Audra Ferguson and Robert Gauss
ICE MILLER LLP

DATE: May 10, 2024

RE: Proposed Public Safety Legislation

This Memorandum is provided in confidence and subject to the attorney-client privilege. We have not provided copies to anyone other than the individual named above. To preserve the attorney-client privilege, you should disclose the contents of this Memorandum only to persons making decisions on the matters discussed herein.

Please allow this Memorandum to follow-up to your electronic mail message dated May 1, 2024. In particular, we have reviewed the following draft Bills:

- Bill No. 25.0115.01000 – Expanding the definition of “firefighter” in the Public Safety Plan to include those members employed by the State as a firefighter. A firefighter employed by the State shall be eligible for a normal retirement benefit at age 55 with 3 years of service or a combined age and service of 85.
- Bill Nos. 25.0045.01000 and 25.0041.01000– Including dispatchers, emergency medical personnel, and correctional officers employed by the State in the Public Safety Plan. Under these Bills, dispatchers, emergency medical personnel, and correctional officers employed by the State shall be eligible for a normal retirement benefit at age 55 with 3 years of service or a combined age and service of 85.
- Bill No. 25.0040.01000 – Including correctional officers employed by the State in the Public Safety Plan. Under this Bill, correctional officers employed by the State shall be eligible for a normal retirement benefit at age 55 with 3 years of service or a combined age and service of 85. [Note: Correctional officers employed by political subdivisions were already included in the Public Safety Plan.]
- Bill No. 25.0134.01000 – Defining “correctional officers” for purposes of the Public Safety Plan to include those individuals employed by a correctional facility who are enrolled in but not yet completed a correctional officer course.

This Memorandum highlights the federal law consideration and various definitions of a “public safety officer” and the impact on the plan qualification and member taxation. Specifically, this Memorandum considers the following federal law Internal Revenue Code (“Code”) sections and requirements:

- Code Section 72(t)(10)(B),
- Normal Retirement Age;
- Code Section 415(b), and
- Code Section 101(h).

I. CODE SECTION 72(t)(10)(B)

A. Relevant Federal Law

Internal Revenue Code (“Code”) section 72(t) imposes an additional 10% premature distribution tax on certain distributions that are paid to members from qualified plans. There are several exceptions to the premature distribution tax, including an exception for a "qualified public safety employee" in a governmental defined benefit plan who receives a distribution after separation from service after attainment of the earlier of age 50 or 25 years of service under the plan.¹ According to Code section 72(t)(10)(B), a "qualified public safety employee" is limited to the following:

- any employee of a State or political subdivision of a State who provides police protection, firefighting services, emergency medical services, services as a corrections officer or a forensic security employee providing for the care, custody, and control of forensic patients for any area within the jurisdiction of such State or political subdivision;
- any Federal law enforcement officer described in section 8331(2) or 8401(17) of title 5, United States Code;
- any Federal firefighter described in section 8331(21) or 8401(14) of such title;
- any air traffic controller described in 8331(30) or 8401(35) of such title;
- any nuclear materials courier described in section 8331(27) or 8401(33) of such title;
- any member of the United States Capitol Police;
- any member of the Supreme Court Police; and
- any diplomatic security special agency of the Department of State.

B. Analysis

¹ There is a separate exception for distributions paid to general employees after separation from service after attainment of age 55.

Correctional Officers, Emergency Medical Personnel, and Firefighters. Correctional Officers, Emergency Medical Personnel, and Firefighters clearly meet the definition of “Qualified Public Safety Officers” under Code Section 72(t)(10)(B).

Dispatchers. Dispatchers do not satisfy the Code section 72(t)(10)(B) definition of a “Qualified Public Safety Officer” because they do not directly provide police protection, firefighting services, or emergency medical services. As a result, a dispatcher could be eligible for early retirement benefits under the plan, but subject to an early distribution tax penalty if the member commenced a monthly benefit prior to age 55.

With respect to Bill No. 25.0134.01000 which expands the definition of “Correctional Officer” to include individuals who are employed by a correctional facility and who are enrolled in but have not yet completed a correctional officer course, this will be a facts and circumstances determination. If the individuals are in a correctional officer role and performing as a correctional officer, then we think the members would satisfy the definition of a “Qualified Public Safety Officer.” However, if the individuals are employed with a correctional facility, but not serving as a correctional officer until the individual has completed the correctional officer course, then the individual would not qualify as a “Qualified Public Safety Officer.” As noted above, the member could receive a benefit; however, if the member commences a monthly benefit prior to age 55, then the member will be subject to an early distribution penalty.

II. NORMAL RETIREMENT AGE

A. Retirement Age Under the Plan

Pursuant to N.D.C.C. § 54-52-17, the normal retirement age for members of the **Public Safety Plan** is as follows:

- The member is at least age 55 with 3 years of service; or
- The member has a combined total years of service credit and years of age equal 85.

By contrast, **under the Main Plan**, the normal retirement age for members is as follows:

- The member is at least age 65; or
- The member has a combined total years of service credit and years of age equal 85.

N.D.C.C. § 54-52-17.

Additionally, a member of the Public Safety Plan may receive an early retirement benefit when the member attains age 50 with 3 years of service. *Id.*

B. Pending Normal Retirement Age Regulations for Governmental Plans

On January 27, 2016, the IRS and Treasury Department issued a Notice of Proposed Rulemaking regarding proposed regulations regarding normal retirement age for governmental pension plans ("Proposed Regulations"). The Proposed Regulations have been long awaited as, in 2007, the IRS issued final regulations defining normal retirement age which are applicable to private sector pension plans. The Proposed Regulations distinguish between governmental plans which allow in-service distributions and those which do not. For governmental plans that do allow in-service distributions, the NRA must meet a "reasonably representative" requirement, which can be satisfied by using any of several safe harbor NRAs set forth in the proposed regulations.

For governmental plans that do not allow in-service distributions, the proposed regulations provide that the NRA must still meet the pre-ERISA vesting rules. In this regard, use of a period of service to determine normal retirement age under a governmental plan would be permissible if the period of service used is reasonable and uniformly applicable and the other pre-ERISA rules related to normal retirement age are satisfied. One of the pre-ERISA rules allows a governmental plan to specify a normal retirement age that is lower than age 65 **if that age represents the age at which employees customarily retire in the industry**.

As part of the Proposed Regulations, several sets of safe harbors were announced. For instance, the Proposed Regulations establish a general safe harbor for a normal retirement age that is at least age 62 or the later of age 62 or another specified date (such as the fifth anniversary of plan participation); this is referred to as the general safe harbor.² The Proposed Regulations also developed the following additional safe harbors specific to governmental plans:

- age 60 with five years of service;
- age 55 with ten years of service;
- a combined age and years of service of 80 or more; and
- any age with 25 years of service (in combination with a safe harbor that includes an age).

Additionally, the Proposed Regulations established separate safe harbor rules for qualified public safety employees. For qualified public safety employees, the proposed safe harbors are:

- age 50;
- combined age and years of service of 70 or more;
- any age with 20 years of service.

² It is important to note that subsequent to the Proposed Regulations, the SECURE Act reduced the age for in-service distributions under Code Section 401(a)(36) from 62 to 59 ½. As a result, it is likely the IRS will revise the general safe harbor to age 59 ½.

Importantly for purposes of the Bills, the term qualified public safety employee is defined by reference to Code § 72(t)(10)(B).

It is important to note that, under the Proposed Regulations, a plan may have more than one normal retirement age. For instance, a plan may have one normal retirement age for one classification of employees and one or more normal retirement ages for one or more different classifications of employees. This is permissible so long as each normal retirement age satisfies the pre-ERISA requirements.

Finally, the Proposed Regulations establish that a normal retirement age which does not satisfy any of the governmental plan safe harbors could still satisfy the reasonably representative requirement based on all of the relevant facts and circumstances. The normal retirement age must be evaluated and shown to satisfy a good faith determination of the typical retirement age for the industry in which the covered work force is employed and that the normal retirement age is otherwise consistent with the pre-ERISA vesting requirements.

While the IRS has stated its intent to issue final regulations, the Proposed Regulations remain pending. Separately, it is important to note that the Proposed Regulations state they are anticipated to be effective for employees hired after the effective date of the final regulations. In the meantime, governmental plan sponsors may rely on the Proposed Regulations prior to the effective date and pending the issuance of final regulations.

C. Analysis

Correctional Officers,³ Emergency Medical Personnel, and Firefighters. The normal retirement age under the Public Safety Plan satisfies the Safe Harbor for Qualified Public Safety Employees. As noted above, Correctional Officers, Emergency Medical Personnel, and Firefighters clearly meet the definition of “Qualified Public Safety Officers” under Code section 72(t)(10)(B). Thus, the lower normal retirement age proposed under the Bills for these job classifications does not raise a concern under federal law.

Dispatcher. As noted above, a Dispatcher does not satisfy the definition of a “Qualified Public Safety Officer.” Thus, NDPERS cannot rely on the Normal Retirement Age Safe Harbor for Qualified Public Safety Officers. However, the above IRS guidance is clear that, while a governmental plan that does not provide in-service distributions has flexibility in establishing a Normal Retirement Age, the parameters are not unlimited. Specifically, the Normal Retirement Age must satisfy the pre-ERISA vesting rules.

The pre-ERISA vesting rules provided that

³ As noted above, with respect to Bill No. 25.0134.01000 which expands the definition of “Correctional Officer” to include individuals who are employed by a correctional facility and who are enrolled in but have not yet completed a correctional officer course, this will be a facts and circumstances determination. If the individual is serving as a correctional officer with a job classification of a Correctional Officer, then the individual satisfies the definition of a “Qualified Public Safety Officer” under Code section 72(t)(10)(B).

[A]lthough normal retirement age under a pension or annuity plan is ordinarily age 65, a plan may specify a lower age at which the employee has the right to retire without the consent of the employer and to receive retirement benefits based on the amount of the employee's service at the full rate set forth in the plan if this lower age would be an age at which employees customarily retire in the particular company or industry, and if the provision permitting receipt of unreduced benefits at this age is not a device to accelerate funding.

Preamble to the Proposed Regulations Regarding Normal Retirement Age (Jan. 27, 2016). Thus, NDPERS will need to establish that age 55 with 3 years of service represents an age at which Dispatchers customarily retire. Note: The combined age and years of service of 85 satisfies the General Employee Normal Retirement Age Safe Harbor.

III. CODE SECTION 415(b) DEFINITION OF "QUALIFIED PARTICIPANTS"

A. Relevant Federal Law

Code section 415(b) provides that the annual benefit in the form of a single life annuity for a plan participant who is between the ages of 62 and 65 may not exceed \$160,000, as adjusted for inflation in \$5,000 increments (for 2024, the limit is \$275,000). However, there is no age-based actuarial reduction required for benefits beginning prior to age 62 for "qualified participants." Here, the Code defines "qualified participants" as those who (1) are participants of a defined benefit of a State or political subdivision of a State; and (2) have completed at least 15 years of service as a full-time employee of any police department or fire department which is organized and operated by the State or political subdivision to provide police protection, firefighting services, or emergency medical services, or as a member of the U.S. Armed Forces.

Importantly, the scope of the 415(b) public safety exception varies from the definition of public safety employees in Code section 72(t)(10)(B). Under Code section 415(b), the application of the rule depends on whether the employer is a police department or fire department of the state or political subdivision, rather than on the job classification of the individual participant. As a result, the definition of "qualified participant" under Code section 415(b) is more inclusive in terms of the types of employees that are covered than many public safety provisions, but less inclusive in terms of the types of employers that are covered.

Generally, the 415(b) exception is very beneficial to public safety officers and to other employees of police and fire departments, including non-public safety personnel. However, this definition does not cover all public safety employees. The examples in the Final 415 Regulations make it clear that an employee of a police division of an agency may be a qualified participant, but that an ambulance driver who works for an emergency medical services agency rather than for a police or fire department cannot. While the name of the agency is not important, it is necessary that the employer (or at least the appropriate division of employer) function as a police or fire department. For example, correctional officers will not be treated as employees of a police department for purposes of Code 415(b), as decided in PLR 201347028.

B. Analysis

NDPERS should be aware that only those Public Safety Plan participants that satisfy the definition of “qualified participants” will be eligible for the unreduced Code section 415(b) limit. This will include the Firefighter members, but it will not include Correctional Officers or Medical Services Personnel. In addition, Dispatchers will be considered “qualified participants” only if they are employees of a police or fire department. As a result, NDPERS would have to make sure its systems are programmed to recognize that not all employees in the Public Safety Plan would be eligible for the unreduced Code Section 415(b) limit.

IV. CODE SECTION 101(h) – DEFINITION OF PUBLIC SAFETY OFFICER

A. Relevant Federal Law

Code section 101(h) provides a federal income tax exclusion for certain amounts paid as a survivor annuity on account of the death of a "public safety officer" killed in the line-of-duty. The exclusion applies:

- if the survivor annuity is provided by a qualified 401(a) plan to the spouse, former spouse, or a child of the officer; and
- to the extent the annuity is attributable to the officer's service as a public safety officer.

In accordance with 42 U.S.C. 3796b(9) (the Omnibus Crime Control and Safe Streets Act of 1968), a "public safety officer" includes (i) an individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, a firefighter, a chaplain, or as a member of a rescue squad or an ambulance crew; or (ii) with some limitation, an employee of a State, local or tribal emergency management or civil defense agency who is performing official duties in cooperation with the Federal Emergency Management Agency.

B. Analysis

NDPERS should be aware that only those Public Safety Plan survivors of participants that satisfy the definition of “public safety officers” will be eligible for the tax-free annuity under Code section 101(h). This will include the Firefighter members and Medical Services Personnel, but it will not include Correctional Officers. In addition, unless Dispatchers are considered law enforcement officers, firefighters, part of a rescue squad or part of an ambulance crew, they would only be included in this definition of a public safety officer for purposes of Code section 101(h) if they fall into the second category of working in cooperation with the Federal Emergency Management Agency.

V. SUMMARY OF BILL ANALYSIS

<u>Bill No.</u>	<u>Code § 72(t)</u>	<u>NRA</u>	<u>Code § 415(b) Reduction</u>	<u>Code § 101(h)</u>
25.0115.01000 Adding Firefighters employed by the State	<ul style="list-style-type: none"> Satisfies the definition of a “qualified public safety officer” No 10% early distribution penalty for monthly benefits commenced after age 50 and separation from service” 	<ul style="list-style-type: none"> Satisfies the definition of a “qualified public safety officer” Satisfies the NRA Safe Harbor for Qualified Public Safety Officer” 	<ul style="list-style-type: none"> Satisfies the definition of “qualified participants” and eligible for the unreduced Code section 415(b) limit. 	<ul style="list-style-type: none"> Satisfies the definition of “public safety officers” and the survivor will be eligible for the tax-free annuity under Code Section 101(h).
25.0134.01000 Amending definition of a “correctional officer” to include an individual employed by a correctional facility who is enrolled in but not yet completed a correctional	<ul style="list-style-type: none"> If the individuals are in a correctional officer role and performing as a correctional officer, then we think the members would satisfy the 	<ul style="list-style-type: none"> Same 	<ul style="list-style-type: none"> Do not satisfy the definition of “qualified participant” and will not be eligible for the unreduced Code section 415(b) limit. 	<ul style="list-style-type: none"> Do not satisfy the definition “public safety officer” and the survivor will not be eligible for the tax-free annuity under Code Section 101(h).

officer course.	definition of a “Qualified Public Safety Officer.” However, if the individuals are employed with a correctional facility but not serving as a correctional officer until the individual has completed the correctional officer course, then the individual would not qualify as a “Qualified Public Safety Officer.”			
25.0045.01000 and 25.0041.01000 Amends the Public Safety Plan to include Dispatchers, Medical	<u>Correctional Officers and Medical Service Personnel</u> • Satisfies the definition	<u>Correctional Officers and Medical Service Personnel</u> • Satisfies the definition of a	<u>Correctional Officers and Medical Services Personnel</u> • Do not satisfy the definition	<u>Correctional Officers</u> • Do not satisfy the definition “public safety officer” and the survivor will not be eligible for the tax-free annuity

Service Personnel and State Correctional Officers.	<p>of a “qualified public safety officer”</p> <ul style="list-style-type: none"> No 10% early distribution penalty for monthly benefits commenced after age 50 and separation from service <p><u>Dispatchers</u></p> <ul style="list-style-type: none"> Does not satisfy the definition of a “qualified public safety officer” Will be subject to a 10% early distribution penalty for monthly benefits commenced before age 55 	<p>“qualified public safety officer”</p> <ul style="list-style-type: none"> Satisfies the NRA Safe Harbor for Qualified Public Safety Officer” <p><u>Dispatchers</u></p> <ul style="list-style-type: none"> Do not satisfy the definition of a “qualified public safety officer” Will need to demonstrate that the NRA represents the age at which employees customarily retire in the industry. 	<p>of “qualified participant” and will not be eligible for the unreduced Code section 415(b) limit.</p> <p><u>Dispatchers</u></p> <ul style="list-style-type: none"> Will be considered “qualified participants” only if they are employees of a police or fire department. 	<p>under Code Section 101(h).</p> <p><u>Medical Services Personnel</u></p> <ul style="list-style-type: none"> Satisfies the definition of “public safety officers” and the survivor will be eligible for the tax-free annuity under Code Section 101(h). <p><u>Dispatchers</u></p> <ul style="list-style-type: none"> Do not satisfy the definition “public safety officer” and the survivor will not be eligible for the tax-free annuity under Code Section 101(h), unless they are considered law enforcement officers, firefighters, part of a rescue squad or part of an ambulance crew.
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25.0040.01000				
Amends the Public Safety Plan to State Correctional Officers.	<ul style="list-style-type: none"> Satisfies the definition of a “qualified public safety officer” No 10% early distribution penalty for monthly benefits commenced after age 50 and separation from service 	<ul style="list-style-type: none"> Satisfies the definition of a “qualified public safety officer” Satisfies the NRA Safe Harbor for Qualified Public Safety Officer 	<ul style="list-style-type: none"> Do not satisfy the definition of “qualified participant” and will not be eligible for the unreduced Code section 415(b) limit. 	<ul style="list-style-type: none"> Do not satisfy the definition “public safety officer” and the survivor will not be eligible for the tax-free annuity under Code Section 101(h).



BILLINGS COUNTY

P.O. Box 168

MEDORA, ND 58645-0168

Billings County Commission

Steven Klym District 2



Phone (701) 623-4377

James Haag District 1

Fax (701) 623-4761

Dean Rodne District 3

January 28, 2025

House Governmental and Veteran Affairs Committee

VIA email testimony to: lcouncil@ndlegis.gov

Dear Chairperson and Members of the Committee,

On behalf of the Billings County Commission, I am writing to express our strong support for House Bill 1419, which seeks to add emergency medical services (EMS) workers to the North Dakota Public Employees Retirement System (PERS) Public Safety Plan. This legislation is long overdue, and we believe it is a critical step in recognizing the tireless efforts and sacrifices made by EMS personnel across our state.

For years, EMS workers have been at the forefront of responding to emergencies, providing life-saving care, and protecting our communities. They work under highly demanding conditions, often in hazardous environments, yet their efforts have not been adequately reflected in the benefits they receive. By including EMS in the Public Safety Plan, we ensure that those who serve on the front lines of emergencies are afforded the same retirement benefits as their counterparts in law enforcement and fire services.

In Billings County, we rely heavily on the dedication and skill of our EMS teams, who are often the first responders in critical situations. We believe that adding EMS workers to the Public Safety Plan will not only provide them with the retirement benefits they deserve but also help us attract and retain the talented professionals who make our communities safer.

The challenges faced by EMS personnel are unique and often underappreciated. It is our hope that the committee will act in support of this much-needed change. It is time to recognize EMS workers as essential members of the public safety team in a meaningful and lasting way.

Thank you for your attention to this important issue. We appreciate your consideration of this bill and look forward to seeing its progress through the legislative process. Should you have any questions or require further information, please do not hesitate to contact our office.

Sincerely,

Dean Rodne

Chairperson, Billings County Commission

Billings County, North Dakota

January 30, 2025

Dear Chairman Schauer and Members of the Government and Veterans Affairs Committee,

Thank you for the opportunity to speak to you today in support of House Bill 1419. My name is Sarah Miller, Public Safety Telecommunications Director and 911 Coordinator for Barnes County Dispatch and President of the North Dakota 911 Association. I have been serving this industry for 15 years in various roles such as Public Safety Telecommunicator, Public Safety Telecommunications Supervisor, Reserve Deputy, and Emergency Medical Technician. The testimony I am providing you with today is testimony on behalf of myself only and not the official positions of any organization I am affiliated with.

I am here today to express my support for House Bill 1419, which seeks to include Public Safety Telecommunicators in the Public Safety Retirement Plan. Public Safety Telecommunicators are the first link in the vital chain of emergency services provided to the public. They are the “first” first responders and the first point of contact in an emergency. Their expertise, quick thinking, and ability to make split-second decisions under pressure literally means the difference between someone living and someone dying.

This work requires the same level of dedication, training, and professionalism as that of firefighters, emergency medical services personnel, and law enforcement officers. Public Safety Telecommunicators are held to the same security clearances as our law enforcement partners and training programs are rigorous, often lasting four to six months in order to become proficient at a multitude of difficult skills and multitasking. Public Safety Telecommunicators are exposed to distressing and traumatic calls, yet must remain calm, focused, and professional in order to provide critical assistance to their caller and responding units. They make life saving decisions, provide critical instructions to callers (such as CPR and childbirth guidance), all while also providing coordination in these complex situations, keeping responding agencies updated with real-time information. This work ensures that responders arrive on-scene prepared, with necessary resources, and most importantly, safely.

While supporting this needed inclusion, I feel it is important to note the evolution of this profession and recognition of the term “dispatchers” needing to be replaced with Public Safety Telecommunicator, as defined in North Dakota Century Code 57-40.6-01, to better align with existing legislation and provide continuity in our profession. This updated title better encompasses the depth and alignment of the skills and job duties this role provides in the emergency response ecosystem.

Inclusion in the public safety retirement plan is another necessary step forward in recognizing the true reality of the work these men and women do 24 hours a day, 7 days a week, 365 days a year. We recognize the responsibility, the expertise, and the immense pressure they shoulder each day as they leave their families, sign into their consoles, and take that first call each shift. These dedicated individuals are indispensable to public safety, and they deserve to be recognized as equals and receive the same benefits as their first responder partners. Additionally, this inclusion will further advance retention and recruitment of necessary professionals needed to serve their communities as Public Safety Telecommunicators.

Thank you for your time, consideration, and recognition of this important inclusion for Public Safety Telecommunicators. I am happy to answer any questions you may have.

Sincerely,

A handwritten signature in black ink that reads "Sarah Miller". The signature is written in a cursive, flowing style.

Sarah Miller
Public Safety Telecommunications Director/911 Coordinator
Barnes County Dispatch
701-845-8187

Sixty-ninth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1419

Introduced by

Representatives Porter, Dockter, Heinert, O'Brien, M. Ruby, Satrom, Schauer

Senators Axtman, Cleary, Lee, Meyer, Roers

1 A BILL for an Act to amend and reenact sections 54-52-01, 54-52-02.1, 54-52-02.15,
2 54-52-06.3, 54-52-06.4, and 54-52-17 of the North Dakota Century Code, relating to the public
3 employees retirement system public safety retirement plan.

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

5 **SECTION 1. AMENDMENT.** Section 54-52-01 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 54-52-01. Definition of terms.

8 As used in this chapter, unless the context otherwise requires:

- 9 1. "Account balance" means the total contributions made by the employee, vested
10 employer contributions under section 54-52-11.1, the vested portion of the vesting
11 fund as of June 30, 1977, and interest credited thereon at the rate established by the
12 board.
- 13 2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any
14 person designated by a participating member to receive benefits.
- 15 3. "Correctional officer" means a participating member who is employed as a correctional
16 officer by a political subdivision and, notwithstanding subsection 16, for an individual
17 employed on or after the effective date of this Act, is employed at least thirty-two hours
18 per week and at least twenty weeks each year of employment. A correctional officer
19 who is a participating member of the public safety retirement plan created by this
20 chapter who begins employment on or after the effective date of this Act is ineligible to
21 participate concurrently in any other retirement plan administered by the public
22 employees retirement system.

- 1 4. "Deferred member" means a participating member who is not actively participating in
2 the main plan under this chapter and who has an account intact in the main plan under
3 this chapter.
- 4 5. ~~"Dispatcher"~~Public Safety Telecommunicator means a participating member who is
5 employed as a state radio
6 dispatcher by the state or is employed as a public safety answering point ~~dispatcher-~~
7 Public Safety Telecommunicator
8 by a political subdivision, ~~as defined under section 57-40.6-01~~ and, notwithstanding
9 subsection 16, for an individual
10 employed on or after the effective date of this Act, is employed at least thirty-two hours
11 per week and at least twenty weeks each year of employment. A ~~dispatcher-public safety~~
12 telecommunicator who is a
13 participating member of the public safety retirement plan created by this chapter who
14 begins employment on or after the effective date of this Act is ineligible to participate
15 concurrently in any other retirement plan administered by the public employees
16 retirement system.
- 17 6. "Eligible employee", except as otherwise provided under section 54-52-02.15, means
18 a permanent employee who meets all of the eligibility requirements set by this chapter
19 and who is eighteen years or more of age. The term includes appointive and elective
20 officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching
21 employees of the superintendent of public instruction, including the superintendent of
22 public instruction, who elect to transfer from the teachers' fund for retirement to the
23 public employees retirement system under section 54-52-02.13, and employees of the
24 state board for career and technical education who elect to transfer from the teachers'
25 fund for retirement to the public employees retirement system under section
26 54-52-02.14. The term does not include nonclassified state employees who elected
27 under section 54-52.6-02 to become members of the retirement plan established
28 under chapter 54-52.6. The term does include employees of the judicial branch and
29 employees of the board of higher education and state institutions under the jurisdiction
30 of the board of higher education.
- 6-7. "Emergency medical services personnel" means a participating member employed by
a political subdivision as an emergency medical services personnel, as defined under
section 23-27-02 and, notwithstanding subsection 16, for an individual employed on or
after the effective date of this Act, is employed at least thirty-two hours per week and

at least twenty weeks each year of employment. An emergency medical services

personnel who is a participating member of the public safety retirement plan created by this chapter who begins employment on or after the effective date of this Act is ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.

8. "Employee" means any individual employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.

~~7.9.~~ "Employer" means a governmental unit.

~~8.10.~~ "Firefighter" means a participating member who is employed as a firefighter by a political subdivision and, notwithstanding subsection 13, for an individual employed after July 31, 2017, is employed at least thirty-two hours per week and at least twenty weeks each year of employment. A firefighter who is a participating member of the ~~law enforcement~~ public safety retirement plan created by this chapter who begins employment after July 31, 2017, is ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system. The term does not include a firefighter employee of the North Dakota national guard.

~~9.11.~~ "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution which the retirement board may select to hold and invest the employers' and members' contributions.

~~40.12.~~ "Governmental unit" means the state of North Dakota, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision of the state.

~~44.13.~~ "National guard security officer or firefighter" means a participating member who is:

- a. A security police employee of the North Dakota national guard; or
- b. A firefighter employee of the North Dakota national guard.

~~42.14.~~ "Participating member" means an eligible employee who through payment into the plan has established a claim against the plan.

- 1 ~~43-15.~~ "Peace officer" means a participating member who is a peace officer as defined in
2 section 12-63-01 and is employed as a peace officer by the state, except by the
3 highway patrol for members of the retirement plan created under chapter 39-03.1, or is
4 employed by a political subdivision and, notwithstanding subsection 14, for persons
5 employed after August 1, 2005, is employed thirty-two hours or more per week and at
6 least twenty weeks each year of employment. A peace officer who is a participating
7 member of the ~~law enforcement~~public safety retirement plan created by this chapter
8 who begins employment after August 1, 2005, is ineligible to participate concurrently in
9 any other retirement plan administered by the public employees retirement system.
- 10 ~~44-16.~~ "Permanent employee" means an employee whose services are not limited in duration
11 and who is filling an approved and regularly funded position in an eligible
12 governmental unit, and is employed twenty hours or more per week and at least
13 twenty weeks each year of employment.
- 14 ~~45-17.~~ "Prior service" means service or employment before July 1, 1966.
- 15 ~~46-18.~~ "Prior service credit" means such credit toward a retirement benefit as the retirement
16 board may determine under the provisions of this chapter.
- 17 ~~47-19.~~ "Public employees retirement system" means the retirement plan and program
18 established by this chapter.
- 19 ~~48-20.~~ "Retirement" means the acceptance of a retirement allowance under this chapter upon
20 either termination of employment or termination of participation in the retirement plan.
- 21 ~~49-21.~~ "Retirement board" or "board" means the governing authority created under section
22 54-52-03.
- 23 ~~20-22.~~ "Seasonal employee" means a participating member who does not work twelve
24 months a year.
- 25 ~~24 23.~~ "Service" means employment on or after July 1, 1966.
- 26 ~~22-24.~~ "Service benefit" means the credit toward retirement benefits as determined by the
27 retirement board under the provisions of this chapter.
- 28 ~~23-25.~~ "Temporary employee" means an employee who is not eligible to participate as a
29 permanent employee, who is at least eighteen years old and not actively contributing
30 to another employer-sponsored pension fund, and, if employed by a school district,
31 occupies a noncertified teacher's position.

24.26. "Wages" and "salaries" means the member's earnings in eligible employment under this chapter reported as salary on the member's federal income tax withholding statements 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, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between the member and participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the board.

SECTION 2. 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, firefighters, dispatchers public safety telecommunicators, emergency medical services personnel, and correctional officers separately from its other employees, and permanent noncertified employees only in the case of school districts, enter 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:
 - a. The political subdivision will contribute on behalf of each eligible employee an amount equal to that provided in section 54-52-06 or 54-52-06.3 for peace officers, firefighters, dispatchers public safety telecommunicators, emergency medical services personnel, and correctional officers participating separately from other political subdivision employees.

- 1 b. A portion of the moneys paid by the political subdivision may be used to pay
- 2 administrative expenses of the retirement board.
- 3 2. Notwithstanding any other provision of law, a political subdivision having an existing
- 4 police, ~~dispatcher~~public safety telecommunicator, emergency medical services
- 5 personnel, or firefighter pension plan
- 6 may merge that plan into the public employees retirement system under rules adopted
- 7 by and in a manner determined by the board.
- 8 3. Notwithstanding any other provision of this chapter, a political subdivision of this state
- 9 not currently participating in the public employees retirement system may not become
- 10 a participant in the retirement system until an actuarial study is performed under the
- 11 direction of the board to calculate the required employer contribution for any past
- 12 service liability and the required employer contribution must be an amount determined
- 13 sufficient to amortize and fund any past service liability over a period not to exceed
- 14 thirty years as determined by the board. Any fees incurred in performing the actuarial
- 15 study must be paid for by the political subdivision in a manner determined by the
- 16 board.

16 **SECTION 3. AMENDMENT.** Section 54-52-02.15 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **54-52-02.15. Public employees retirement system main plan - Closure to new hires -**
19 **Multiple plan membership.**

- 20 1. Under this section "eligible employee" means a permanent employee who:
- 21 a. Meets all the eligibility requirements set by this chapter;
- 22 b. Is at least eighteen years of age;
- 23 c. Becomes a participating member after December 31, 2024; and
- 24 d. Is not eligible to participate in the ~~law enforcement~~public safety plan, judges' plan,
- 25 highway patrol plan, teachers' fund for retirement plan, or alternative retirement
- 26 program established under section 15-10-17 for university system employees.
- 27 2. Effective January 1, 2025, the public employees retirement system defined benefit
- 28 main plan maintained for employees is closed to new eligible employees. However, an
- 29 employee who becomes a participating or deferred member under this chapter before
- 30 January 1, 2025, remains in the defined benefit retirement plan under this chapter,
- 31 regardless of being rehired after December 31, 2024.

3. Except as otherwise provided under this section, effective January 1, 2025, an eligible employee who begins employment with an employer shall participate in the defined contribution retirement plan under chapter 54-52.6 as provided under section 54-52.6-02.1.

4. This section does not impact an employee to the extent the employee is a participating member in one or more of the following enumerated retirement plans: ~~law enforcement~~ public safety plan, judges' plan, highway patrol plan, teachers' fund for retirement plan, or alternative retirement program established under section 15-10-17 for university system employees.

a. A participating or deferred member in the defined contribution retirement plan under chapter 54-52.6 who becomes eligible to participate in a plan enumerated under this subsection is eligible to participate in the retirement plan enumerated under this subsection.

b. A participating member of a retirement plan enumerated under this subsection who becomes an eligible employee is not eligible to participate in the defined benefit retirement plan under this chapter but instead participates in the defined contribution retirement plan under chapter 54-52.6. However, this subdivision does not apply to an individual who before January 1, 2025, is a participating or a deferred member under this chapter, as that individual continues to participate in the defined benefit retirement plan under this chapter.

5. The board shall adopt rules to implement this section.

SECTION 4. AMENDMENT. Section 54-52-06.3 of the North Dakota Century Code is amended and reenacted as follows:

54-52-06.3. Contribution by peace officers, firefighters, ~~dispatchers~~ public safety telecommunicators, ~~emergency medical services personnel~~, and correctional officers employed by political subdivisions - Employer contribution.

1. Each peace officer, firefighter, ~~dispatcher~~ public safety telecommunicator, ~~emergency medical services personnel~~, or correctional officer employed by a political subdivision that enters an agreement with the retirement board on behalf of its peace officers, firefighters, ~~dispatchers~~ public safety telecommunicators, emergency medical services personnel, and correctional officers separately from its

31 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. Peace officer, firefighter, ~~dispatcher~~public safety telecommunicator, emergency medical services personnel, or correctional officer contributions increase by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2014. The assessment must be deducted and retained out of the employee's salary in equal monthly installments.

2. The peace officer's, firefighter's, ~~dispatcher's~~public safety telecommunicators, emergency medical services

personnel'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, firefighter's, ~~dispatcher's~~public safety telecommunicators, emergency medical services personnel'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, firefighter's, ~~dispatcher's~~public safety telecommunicators, emergency medical services personnel's, or correctional officer's assessment.

SECTION 5. AMENDMENT. Section 54-52-06.4 of the North Dakota Century Code is amended and reenacted as follows:

54-52-06.4. Contribution by peace officers and ~~dispatchers~~public safety telecommunicator employed by the state or security officers employed by the national guard - Employer contribution. (Retroactive application - [See note](#))

1. a. 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. Peace officer contributions increase by one percent of the member's monthly salary beginning with the monthly reporting period of January 2012; with an additional increase of one percent, beginning with the reporting period of January 2013; with an additional increase of one percent, beginning with the reporting period of January 2024; and with an additional increase of one percent, beginning with the

- 1 b. Each ~~dispatcher-public safety telecommunicator~~ and peace officer employed by the
2 state, other than a peace
3 officer employed by the bureau of criminal investigation, who is a member of the
4 public employees retirement system is assessed and shall pay six percent of the
5 employee's monthly salary.
6 c. Effective August 1, 2015, each national guard security officer who is a member of
7 the public employee's retirement system is assessed and monthly shall pay
8 six percent of the employee's monthly salary. National guard security officer
9 contributions decrease by one-half of one percent of the member's monthly
10 salary beginning with the monthly reporting period of January 2016.
11 d. The assessment under this subsection must be deducted and retained out of the
12 employee's salary in equal monthly installments.
- 13 2. The employer of a ~~dispatcher-public safety telecommunicator~~ or peace officer employed
14 by the state or national guard
15 security officer shall contribute an amount determined by the board to be actuarially
16 required to support the level of benefits specified in section 54-52-17. The employer's
17 contribution must be paid from funds appropriated for salary or from any other funds
18 available for such purposes. If the ~~dispatcher's public safety telecommunicators~~, peace
19 officer's, or security officer's
20 assessment is paid by the employer under subsection 3 of section 54-52-05, the
21 employer shall contribute, in addition, an amount equal to the required
22 ~~dispatcher's Public safety telecommunicator's~~,
23 peace officer's, or security officer's assessment.

24 **SECTION 6. AMENDMENT.** Section 54-52-17 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **54-52-17. Formulation of plan. (Retroactive application - [See note](#))**

27 Participating members shall receive benefits according to this section and according to
28 rules adopted by the board, not inconsistent with this chapter. ~~No person~~ An individual is not
29 entitled to receive a prior service benefit if the ~~person~~ individual was not continuously employed
30 by a governmental unit in North Dakota for a period of not less than two years immediately prior
31 to ~~preceding~~ preceding eligibility for retirement.

- 32 1. Participating members shall receive credit for full-time employment or its equivalent
33 from the date they attain eligibility until their normal retirement date, postponed
34 retirement date, or early retirement date, as defined in this section. Part-time

employment will be recognized as full-time employment on a prorated basis as the board may prescribe.

2. Retirement benefits are calculated from the participating member's final average salary, which is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred twenty months of employment. For members who terminate employment on or after August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred eighty months of employment. For members who terminate employment between July 31, 2005, and August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the period for which the board has appropriate and accurate salary records on the board's electronic database, but that period may not be more than the last one hundred eighty months of employment. For members who terminate employment after December 31, 2019, final average salary is the higher of the final average salary calculated on December 31, 2019, or the average salary earned in the three highest periods of twelve consecutive months employed during the last one hundred eighty months of employment. Months without earnings are excluded for the purpose of computing an average. If the participating member has worked for less than thirty-six months at the normal retirement date, the final average salary is the average salary for the total months of employment.

3. Retirement dates are defined as follows:

a. Normal retirement date, except for a national guard security officer or firefighter, a ~~firefighter employed by a political subdivision, a dispatcher a public safety telecommunicator~~ or peace officer employed by the state, or a firefighter, dispatcher public safety telecommunicator, emergency medical services personnel, 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.

- 1 b. Normal retirement date for members first enrolled after December 31, 2015,
2 except for a national guard security officer or firefighter, a ~~firefighter employed by~~
3 a political subdivision, ~~a dispatcher a public safety telecommunicator~~ or peace officer
4 employed by the state, a firefighter, dispatcher public safety telecommunicator, emergency medical services
5 personnel, peace officer, or
6 correctional officer employed by a political subdivision, or a supreme court or
7 district court judge, is:
8 (1) The first day of the month next following the month in which the member
9 attains the age of sixty-five years; or
10 (2) When the member has a combined total of years of service credit and years
11 of age equal to ninety and the member attains a minimum age of sixty and
12 has not received a retirement benefit under this chapter.
- 13 c. Normal retirement date for a national guard security officer or firefighter is:
14 (1) The first day of the month next following the month in which the national
15 guard security officer or firefighter attains the age of fifty-five years and has
16 completed at least three eligible years of employment; or
17 (2) When the national guard security officer or firefighter has a combined total
18 of years of service credit and years of age equal to eighty-five and has not
19 received a retirement benefit under this chapter.
- 20 d. Normal retirement date for a ~~dispatcher public safety telecommunicator,~~
21 emergency medical services personnel,
22 peace officer, firefighter, or correctional officer employed by a political subdivision
23 is:
24 (1) The first day of the month next following the month in which the
25 dispatcher public safety telecommunicator,
26 emergency medical services personnel, peace officer, firefighter, or
27 correctional officer attains the age of fifty-five years and has completed at
28 least three eligible years of employment; or
29 (2) When the ~~dispatcher public safety telecommunicator,~~ emergency medical
 services personnel, peace officer,
 firefighter, 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.

30 e. (1) Normal retirement date for a peace officer employed by the bureau of
31 criminal investigation is:

- (a) [1] For a member employed before August 1, 2023, 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 eligible years of employment; and
- [2] For a member employed after July 31, 2023, 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 ten eligible years of employment; or
- (b) 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.

(2) Normal retirement date for a ~~dispatcher~~ public safety telecommunicator or peace officer employed by the

state, other than a peace officer employed by the bureau of criminal investigation, is:

- (a) The first day of the month next following the month in which the ~~dispatcher~~ or peace officer attains the age of fifty-five years and has completed at least three eligible years of employment; or
- (b) When the ~~dispatcher~~ public safety telecommunicator or 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.

f. 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.

g. (1) Early retirement date, except for a national guard security officer or firefighter, a ~~dispatcher~~ public safety telecommunicator, emergency medical services personnel, firefighter, peace officer, or correctional officer employed by a political subdivision, or a ~~dispatcher~~ public safety telecommunicator or peace officer employed by the state, 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.

(2) For a national guard security officer or firefighter, early retirement date is the

security officer or firefighter attains the age of fifty years and has completed at least three years of eligible employment.

(3) For a ~~dispatcher-public safety telecommunicator~~ or peace officer employed by the state, other than a peace

officer employed by the bureau of criminal investigation, or a ~~dispatcher-public safety telecommunicator~~

~~emergency medical services personnel~~, firefighter, 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 ~~dispatcher-public safety telecommunicator~~

~~emergency medical services personnel~~, peace officer, firefighter, or

correctional officer attains the age of fifty years and has completed at least

three years of eligible employment.

(4) For a peace officer employed by the bureau of criminal investigation, early retirement date is the first day of the month next following the month in which the peace officer attains the age of fifty years and has completed at least three years of eligible employment.

h. 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.

(1) A member is eligible to receive disability retirement benefits only if the member became disabled during the period of eligible employment and applies for disability retirement benefits within twelve months of the date the member terminates employment.

(2) 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 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 the board deems necessary and these payments are appropriated from the retirement fund for those purposes. A member's receipt of disability benefits under this section is limited to receipt from the fund to which the member was actively contributing at the time the member became disabled.

4. The board shall calculate retirement benefits as follows:

- a. Normal retirement benefits for all retirees, except supreme and district court judges; and peace officers employed by the bureau of criminal investigation, ~~and other peace officers employed by the state~~, reaching normal retirement date equal an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which is determined as follows:

(1) For members first enrolled:

- (a) Before January 1, 2020, service benefit equals two percent of final average salary multiplied by the number of years of service employment.
- (b) After December 31, 2019, service benefit equals one and seventy-five hundredths percent of final average salary multiplied by the number of years of service employment.

(2) Prior service benefit equals two percent of final average salary multiplied by the number of years of prior service employment.

- b. Normal retirement benefits for all supreme and district court judges under the public employees retirement system reaching normal retirement date equal an annual amount, payable monthly, comprised of a benefit as defined in this chapter, determined as follows:

(1) Benefits must be calculated from the time of appointment or election to the bench and must equal three and one-half percent of final average salary multiplied by the first ten years of judicial service, two and eighty hundredths percent of final average salary multiplied by the second ten years of judicial service, and one and one-fourth percent of final average salary multiplied by the number of years of judicial service exceeding twenty years.

- 1 (2) Service benefits must include, in addition, an amount equal to the percent
2 specified in subdivision a of final average salary multiplied by the number of
3 years of nonjudicial employee service and employment.
- 4 c. Normal retirement benefits for a peace officer employed by the bureau of criminal
5 investigation reaching the normal retirement date equals an annual amount,
6 payable monthly, comprised of a service benefit and a prior service benefit
7 determined as follows:
- 8 (1) The first twenty years of credited service multiplied by three percent of final
9 average salary.
- 10 (2) For years in excess of twenty years of credited service multiplied by one
11 and seventy-five hundredths percent of final average salary.
- 12 d. ~~Normal retirement benefits for a peace officer employed by the state, other than~~
13 ~~by the bureau of criminal investigation, reaching the normal retirement date~~
14 ~~equals an annual amount, payable monthly, comprised of a service benefit and a~~
15 ~~prior service benefit determined as follows:~~
- 16 (1) ~~For members first enrolled:~~
- 17 (a) ~~Before January 1, 2020, service benefit equals two percent of final~~
18 ~~average salary multiplied by the number of years of service~~
19 ~~employment.~~
- 20 (b) ~~After December 31, 2019, service benefit equals one and seventy-five~~
21 ~~hundredths percent of final average salary multiplied by the number of~~
22 ~~years of service employment.~~
- 23 (2) ~~Prior service benefit equals two percent of final average salary multiplied by~~
24 ~~the number of years of prior service employment.~~
- 25 e. Postponed retirement benefits are calculated as for single life benefits for those
26 members who retired on or after July 1, 1977.
- 27 f.e. Early retirement benefits are calculated as for single life benefits accrued to the
28 date of termination of employment, but must be actuarially reduced to account for
29 benefit payments beginning before the normal retirement date, as determined
30 under subsection 3. Except for a national guard security officer or firefighter, a
31 dispatcher public safety telecommunicator, emergency medical services personnel,
 firefighter, peace officer, or

correctional officer employed by a political subdivision, a dispatcher-public safety telecommunicator or peace

officer employed by the state, or a supreme court or district court judge, early retirement benefits for members first enrolled after December 31, 2015, are calculated for single life benefits accrued to the date of termination of employment, but must be reduced by fixed rate of eight percent per year to account for benefit payments beginning before the normal retirement date. A retiree, other than a supreme or district court judge, is eligible for early retirement benefits only after having completed three years of eligible employment. A supreme or district court judge retiree is eligible for early retirement benefits only after having completed five years of eligible employment.

g-f. Except for supreme and district court judges, disability retirement benefits are twenty-five percent of the member's final average salary. Disability retirement benefits for supreme and district court judges are seventy percent of final average salary reduced by the member's primary social security benefits and by any workforce safety and insurance benefits paid. The minimum monthly disability retirement benefit under this section is one hundred dollars.

5. Upon termination of employment after completing three years of eligible employment, except for supreme and district court judges, who must complete five years of eligible employment, but before normal retirement date, a member who does not elect to receive early retirement benefits is eligible to receive deferred vested retirement benefits payable commencing on the member's normal retirement date in one of the optional forms provided in subsection 9. Members who have delayed or inadvertently failed to apply for retirement benefits to commence on their normal retirement date may choose to receive either a lump sum payment equal to the amount of missed payments, or an actuarial increase to the form of benefit the member has selected, which increase must reflect the missed payments.

6. If before retiring a member dies after completing three years of eligible employment, except for supreme and district court judges, who must have completed five years of eligible employment, the board shall pay the member's account balance to the member's designated beneficiary as provided in this subsection. If the member has designated an alternate beneficiary with the surviving spouse's written consent, the

1 board shall pay the member's account balance to the named beneficiary. If the
2 member has named more than one primary beneficiary, the board shall pay the
3 member's account balance to the named primary beneficiaries in the percentages
4 designated by the member or, if the member has not designated a percentage for the
5 beneficiaries, in equal percentages. If one or more of the primary beneficiaries has
6 predeceased the member, the board shall pay the predeceased beneficiary's share to
7 the remaining primary beneficiaries. If any beneficiary survives the member, yet dies
8 before distribution of the beneficiary's share, the beneficiary must be treated as if the
9 beneficiary predeceased the member. If there are no remaining primary beneficiaries,
10 the board shall pay the member's account balance to the contingent beneficiaries in
11 the same manner. If there are no remaining designated beneficiaries, the board shall
12 pay the member's account balance to the member's estate. If the member has not
13 designated an alternate beneficiary or the surviving spouse is the beneficiary, the
14 surviving spouse of the member may select a form of payment as follows:

15 a. If the member was a supreme or district court judge, the surviving spouse may
16 select one of the following optional forms of payment:

- 17 (1) A lump sum payment of the member's retirement account as of the date of
18 death.
19 (2) Payments as calculated for the deceased member as if the member was of
20 normal retirement age at the date of death, payable until the spouse dies.

21 b. The surviving spouse of all other members may select one of the following
22 options:

- 23 (1) A lump sum payment of the member's retirement account as of the date of
24 death.
25 (2) Payment of a monthly retirement benefit equal to fifty percent of the
26 deceased member's accrued single life retirement benefits until the spouse
27 dies.
28 (3) If the member dies on or after the member's normal retirement date, the
29 payment of a monthly retirement benefit equal to an amount that would have
30 been paid to the surviving spouse if the member had retired on the day of
31 the member's death and had selected a one hundred percent joint and

1 survivor annuity, payable until the spouse dies. A surviving spouse who
2 received a benefit under this subsection as of July 31, 1995, is entitled to
3 the higher of that person's existing benefit or the equivalent of the accrued
4 benefit available under the one hundred percent joint and survivor provision
5 as if the deceased member were of normal retirement age, with the increase
6 payable beginning August 1, 1995.

7 7. If a member not coming under the provisions of subsection 6 terminates employment
8 because of death, permanent and total disability, or any voluntary or involuntary
9 reason prior to retirement, the member or the member's designated beneficiary is
10 entitled to the member's account balance at termination. The board automatically shall
11 refund a member's account balance if the member has completed less than three
12 years of eligible employment, has an account balance of less than one thousand
13 dollars, and was not a supreme or district court judge. If the member was a supreme
14 or district court judge, the board automatically shall refund a member's account
15 balance if the member completed less than five years of eligible employment. A
16 member may waive the refund if the member submits a written statement to the board,
17 within thirty days after termination, requesting that the member's account balance
18 remain in the fund.

19 8. The surviving spouse of a member receiving retirement benefits must be the
20 member's primary beneficiary unless there is no surviving spouse or the surviving
21 spouse designates an alternate beneficiary in writing. If a member receiving retirement
22 benefits or the member's surviving spouse receiving retirement benefits dies before
23 the total amount of benefits paid to either or both equals the amount of the member's
24 account balance at retirement, the difference must be paid to the named beneficiary of
25 the recipient or, if there is no named beneficiary, to the recipient's estate. A benefit
26 payment owed to the member, surviving spouse, or alternate beneficiary which was
27 not paid before the death of the member, surviving spouse, or alternate beneficiary
28 must be paid to the named beneficiary of the recipient or, if there is no named
29 beneficiary, to the recipient's estate.

30 9. The board shall adopt rules providing for the receipt of retirement benefits in the
31 following optional forms:

- 1 a. Single life.
- 2 b. An actuarially equivalent joint and survivor option, with fifty percent or one
- 3 hundred percent options.
- 4 c. Actuarially equivalent life with ten-year or twenty-year certain options.
- 5 d. An actuarially equivalent partial lump sum distribution option with a twelve-month
- 6 maximum lump sum distribution.
- 7 e. An actuarially equivalent graduated benefit option with either a one percent or
- 8 two percent increase to be applied the first day of January of each year.

9 Except for supreme and district court judges, unless a member specifically requests
10 that the member receive benefits according to one of these options at the time of
11 applying for retirement, all retirement benefits must be in the form of a single life
12 benefit. For supreme and district court judges, unless a member specifically requests
13 that the member receive benefits according to one of these options at the time of
14 applying for retirement, all retirement benefits must be in the form of a lifetime monthly
15 pension with fifty percent of the benefit continuing for the life of the surviving spouse, if
16 any.

17 10. The fund may accept rollovers from other eligible plans under rules adopted by the
18 board for the purchase of additional service credit, but only to the extent the transfer is
19 a rollover contribution that meets the requirement of section 408 of the Internal
20 Revenue Code.

21 11. The board may accept trustee-to-trustee transfers as permitted by Internal Revenue
22 Code section 403(b)(13) and section 457(e)(17) from an Internal Revenue Code
23 section 403(b) annuity or Internal Revenue Code section 457 deferred compensation
24 plan for the purchase of permissive service credit, as defined in Internal Revenue
25 Code section 415(n)(3)(A) or as repayment of a cashout from a governmental plan
26 under Internal Revenue Code section 415(k)(3).

27 12. The board may establish individual retirement accounts and individual retirement
28 annuities as permitted under section 408(q) of the Internal Revenue Code to allow
29 employees to make voluntary employee contributions. The board may adopt rules to
30 implement and administer the accounts and annuities under this section.

255 N. 4th St.
PO Box 5200
Grand Forks, ND 58206-5200



City of Grand Forks
(701) 746-4636

**TESTIMONY ON HOUSE BILL 1419
House Government & Veterans Affairs
January 30, 2025**

**Shannon LaHaise, Director of Public Safety Answering Point
City of Grand Forks, ND**

Chair Schauer and members of the committee. My name is Shannon LaHaise, and I am the Director for the Grand Forks Public Safety Answering Point (PSAP); a 911 professional for over 28 years, dedicated to delivering critical emergency services to our community. I am writing in support of HB 1419 to highlight the importance of this inclusion and recognition of 911 Dispatchers as first responders—a designation that accurately reflects their critical role in the public safety ecosystem.

By including 911 Dispatchers, or Public Safety Telecommunicators as defined in Century Code 57-40.6-01, in the Public Safety Retirement Plan, it would formally recognize their integral role in emergency response and align their benefits with those of other first responders. Like Police Officers, Firefighters, and Emergency Medical Personnel, Dispatchers dedicate their careers to protecting the public. Their role is integral to the safety and well-being of our communities.

911 Dispatchers, or Public Safety Telecommunicators, are the true first responders. They are the initial point of contact in emergencies, often delivering life-saving guidance and communications long before Police, Firefighters, or Paramedics arrive on the scene. Our dedicated professionals manage high-pressure situations, providing critical instructions to callers, coordinating with multiple agencies, and ensuring that first responders in the field have the information they need to act swiftly and effectively.

Public Safety Telecommunicators are held to the same security clearances and standards as our partner agencies, and the training required to become a 911 dispatcher is rigorous. It involves mastering complex communication systems, understanding emergency protocols, and learning to manage a wide array of crises—from natural disasters to criminal incidents. Dispatchers must be able to assess situations quickly, multitask under extreme pressure, and make split-second decisions that can mean the difference between life and death.

Inclusion in the public safety retirement plan is a vital step toward acknowledging the unique skill set, and the lives they save every day. It would not only enhance recruitment and retention but also affirm their role as indispensable members of the public safety community.

I urge this committee to support a DO PASS on HB 1419, recognizing Public Safety Telecommunicators to receive the recognition and benefits they have earned through their service.

Thank you for your time, consideration, and dedication to addressing this issue. Should you have any questions or need additional information, please do not hesitate to reach out.

Sincerely,
Shannon LaHaise
Grand Forks PSAP, Director



BILLINGS COUNTY

P.O. Box 104

MEDORA, ND 58645-0104

Phone (701) 623-4367 EMS Director –Kyle Michels Fax (701) 623-4366



Testimony in Support of HB 1419 – North Dakota House Government and Veterans Affairs Committee

Honorable Chair and Members of the Committee,

My name is Kyle Michels, and I serve as the EMS Director for Billings County. I come before you today to strongly support House Bill 1419, which would include Emergency Services Workers in the North Dakota Public Employee Retirement System's Public Safety Plan. This is a critical step in ensuring the safety, well-being, and fair treatment of those who dedicate their lives to the health and safety of our communities.

Emergency Medical Services (EMS) personnel, like their counterparts in fire, law enforcement, and corrections, face the unique and often life-threatening challenges of responding to emergencies. From medical crises and accidents to natural disasters and mass casualty events, we are there to answer the call. Our first responders—EMTs, paramedics, and dispatchers—are frequently exposed to high-stress situations, physical and emotional trauma, and long hours away from their families and loved ones. Yet, despite the nature of the work and the sacrifices made, EMS workers are not currently included in the Public Safety Plan under the North Dakota Public Employee Retirement System (NDPERS).

The intent of this bill is simple but profound: it seeks to provide fairness and recognition for the physical and mental demands placed on EMS professionals. We are asking that our contributions to public safety be acknowledged in the same way as those of our brothers and sisters in law enforcement, fire, and corrections. Emergency Services Workers are first on the scene, and like the other public safety professionals, we risk our health, our safety, and in some cases, our lives, to serve our communities.

I urge you to consider the long-term benefits of including EMS in the Public Safety Plan. First and foremost, this plan will ensure that EMS workers are able to retire with dignity after a lifetime of service. It will also attract new recruits to our profession, where there is a critical shortage across the state. When EMS personnel know their service is valued and that their future security is ensured, it strengthens the entire system of public safety.

As it stands, EMS professionals face challenges both on the job and in terms of compensation and retirement security. Adding EMS to the Public Safety Plan will not only recognize the hard work we do, but will also help us recruit and retain the talent needed to keep North Dakota's communities safe.

I have seen firsthand the dedication of EMS workers in our county and throughout the state. We work alongside our law enforcement, fire, and dispatch teams every day, and our role is just as vital. It is time for us to be treated with the same respect and consideration.

I ask for your support of HB 1419 to ensure that EMS professionals, who serve North Dakota with unwavering commitment, are given the recognition and security they deserve. Thank you for your time, your consideration, and your support of this important bill and I will stand for any questions.

Sincerely,

Kyle Michels, NRP
EMS Director, Billings County

Testimony in Support of House Bill No.1419

January 29, 2025

Chairperson Schauer and Members of the House Government and Veterans Affairs Committee:

My name is Tyler Kientopf and currently serve as the Vice President of the North Dakota EMS Association and am the EMS Division Chief for the City of Dickinson, North Dakota. I am writing to express my strong support, as well as the organizations I represent, for House Bill 1419, which aims to amend and reenact sections of the North Dakota Century Code related to the public employees retirement system public safety retirement plan.

House Bill 1419 is a crucial piece of legislation that will ensure the sustainability and fairness of our public safety retirement plan. By updating the definitions and eligibility requirements, this bill will provide much-needed clarity and consistency for our dedicated public safety employees, including emergency medical services (EMS) personnel.

Attracting and retaining qualified individuals in public safety roles is a growing challenge nationwide. North Dakota EMS is not immune to this trend, and we must take proactive measures to ensure that our state remains an attractive place for highly skilled public safety professionals to work. House Bill 1419 helps address this issue by enhancing the retirement benefits for these crucial positions. By offering a more competitive retirement package, we can draw talented individuals to North Dakota and encourage them to build long-term careers within our public safety system.

Investing in our public safety workforce not only improves the quality of services provided to our communities but also ensures that our state remains a safe and secure place to live. High turnover rates and staffing shortages can lead to increased workloads, burnout, and ultimately, compromised public safety. By providing more robust retirement benefits, we can help mitigate these issues, ensuring that our public safety personnel remain dedicated and motivated throughout their careers.

Furthermore, House Bill 1419 will help address the financial challenges facing our retirement system by making necessary adjustments to the plan. This will ultimately benefit all participants and contribute to the long-term stability of the system.

I urge you to support House Bill 1419 and help secure a better future for our public safety employees and the communities they serve. Thank you for your time and consideration.

Best Regards,

Tyler Kientopf, BS, NRP, CP-C



January 30th, 2025

House Government and Veterans Affairs Committee
600 East Boulevard Avenue
Bismarck, ND 58505

RE: Support for HB 1419

Chairman Schauer and Committee Members,

My name is Corey Johnson, and I serve the City of Williston as the Assistant Chief of Operations and a Paramedic for their Fire & Ambulance Department. I am here today in support of HB 1419.

The ND Public Employees Retirement System has a special program entitled the Public Safety Retirement Plan. When you think of the term Public Safety, do you think about EMTs, Paramedics, and dispatchers? I hope that you do. With over 18 years of experience providing public safety services, including firefighting and emergency medical services, I can tell you that Public Safety is a team effort that includes Law Enforcement, Firefighters, EMS providers, and our 9-1-1 dispatchers. The very name of this retirement program is fitting for the additions provided in this bill.

As a licensed Paramedic who has worked for both independent and fire-based EMS agencies, I can tell you that the physical demands and mental stress associated with this job classification are significant. Our EMS providers are constantly under physical stress that takes a lasting toll on their bodies. Nearly every call for service involves lifting and moving patients. This can range from loading the stretcher into the back of an ambulance to carrying someone down three flights of stairs of an apartment building. The very life-saving procedures we perform are physically demanding, such as performing CPR for extended durations in some of the more rural parts of our service areas. EMS providers do not just provide patient care and transport. EMS providers often perform rescue services, with many specializing in auto extrication, rope rescue, confined space rescue, and hazardous materials response. In addition to these physical demands, which I have only highlighted a small portion, we must also consider the mental stress of the job. EMS providers and dispatchers face a tremendous amount of mental stress and have a significant risk of developing serious mental health illnesses. EMS is often a rewarding career, but it doesn't come without its challenges. We see and experience what no

one should ever experience. All while working long hours, often with little sleep from demanding schedules and high call volumes.

Last year, my department responded to 5,902 calls for service. These calls range from structure fires, wildfires, motor vehicle accidents, and medical calls, to name a few. This number is significant and continues to grow every year. The most interesting part of our call volume statistics is the breakdown of fire-based calls versus EMS-related calls. On average, 82% of our call volume is EMS-related. I can't speak for other communities, but I imagine you would find a similar comparison if you reviewed fire-related calls to EMS.

I've listened in and participated in several hearings during this legislative session on various EMS-related issues. This assembly is well aware of the many challenges facing ambulance services across our state, one of the most significant being recruitment and retention. I have no doubt that passing this bill will significantly and positively impact our recruitment and retention efforts across the state. As public servants, we are often asked to do our work for less. In our state's NW Region, competing with the many private sector jobs that offer significantly better wages is incredibly difficult. Short of providing wages that compete with the public sector, our best strategy is through benefits.

The Williston Fire Department's call volume and response model continues to grow. As a combination fire and ambulance department, we operate a cross-staffing model that works well today. Our staff must be dually qualified and certified as firefighters and EMS providers. As our EMS call volume grows, the demand for dedicated EMS units that do not have firefighting responsibilities increases. If the time comes for us to make this staffing adjustment, there will be a significant discrepancy in the level of benefits offered for a job that arguably shares the same, if not more, physical and mental demands.

I ask for your support in recommending HB 1419 as a "do pass."

Sincerely,

A handwritten signature in black ink, reading "Corey A. Johnson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Corey A. Johnson, B.S.
Assistant Fire Chief, City of Williston Fire Department
(701) 572-3400 ext. 2317
coreyj@ci.williston.nd.us

2025 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1419
2/20/2025

Relating to the public employees retirement system public safety retirement plan.

10:08 a.m. Chairman Schauer opened the meeting.

Members present: Chairman Schauer, Vice Chairman Satrom, Representatives Bahl, Brown, Christy, Grindberg, Karls, McLeod, Rohr, Schneider, Steiner, VanWinkle, Vetter
Members absent: Representative Wolff

Discussion Topics:

- Committee action

10:09 a.m. Derrick Hohbein, Chief Financial Officer and Chief Operating Officer of NDPERS, testified and answered questions.

10:20 a.m. Representative Karls moved a Do Pass.

10:21 a.m. Representative Bahl seconded the motion.

Representatives	Vote
Representative Austen Schauer	Y
Representative Bernie Satrom	Y
Representative Landon Bahl	Y
Representative Collette Brown	N
Representative Karen Grindberg	Y
Representative Karen Karls	Y
Representative Carrie McLeod	Y
Representative Karen Rohr	N
Representative Mary Schneider	Y
Representative Vicky Steiner	N
Representative Lori VanWinkle	N
Representative Steve Vetter	N
Representative Christina Wolff	AB

10:27 a.m. Motion passed 7-5-1.

Representative Karls will carry the bill.

10:28 a.m. Chairman Schauer closed the meeting.

Jackson Toman, Committee Clerk

REPORT OF STANDING COMMITTEE
HB 1419 ([25.0041.01000](#))

Government and Veterans Affairs Committee (Rep. Schauer, Chairman) recommends **DO PASS** (7 YEAS, 5 NAYS, 1 ABSENT OR EXCUSED AND NOT VOTING). HB 1419 was placed on the Eleventh order on the calendar.

2025 SENATE STATE AND LOCAL GOVERNMENT

HB 1419

2025 SENATE STANDING COMMITTEE MINUTES

State and Local Government Committee Room JW216, State Capitol

HB 1419
3/20/2025

Relating to the public employees retirement system public safety retirement plan.

3:30 p.m. Vice Chairman Castaneda called the hearing to order.

Members Present: Chairman Roers; Vice Chair Castaneda; Senators: Barta, Lee and Walen.

Members Absent: Senator Braunberger

Discussion Topics:

- Highly trained professionals
- First responders
- Emotionally demanding
- Mental health affected
- Recruitment and retention

3:30 p.m. Representative Porter, District #34, introduced the bill.

3:35 p.m. Miranda Jangula, Deputy Director/Operations & Training Manager ND State Radio, testified in favor and submitted testimony #43178.

3:41 p.m. Sarah Miller, Public Safety Dispatch Manager Barnes County, testified in favor.

3:52 p.m. Derrick Hohbein, Chief Operating/Financial Officer NDPERS, testified neutral and submitted testimony #41514.

4:00 p.m. Bill Kalanek, ND EMS Association, testified in favor.

4:01 p.m. Corey Johnson, Assistant Chief City of Williston Fire Department, testified in favor and submitted testimony #42882.

4:10 p.m. Kyle Michels, EMS Director Billings County, testified in favor and submitted testimony #43093.

4:14 p.m. Darin Anderson, State Radio Division Director, testified in favor.

4:16 p.m. Aaron Birst, ND Association of Counties, testified in favor

Additional written testimony:

Karen Kempert, EM/911 Technology & Communications Coordinator Cavalier County, submitted testimony in favor #41641.

Kali Olin, Deputy EMS Director Billings County, submitted testimony in favor #42482.

Shannon LaHaise, Director Grand Forks Public Safety Answering Point, submitted testimony in favor #42651.

Darren Schimke, President Professional Fire Fighters of ND, submitted testimony in favor #42938.

Kimberly Robbins, LaMoure County, submitted testimony in favor #43245.

Jill Breuer, Richland County Communications/911, submitted testimony in favor #43261.

4:20 p.m. Chair Roers closed the hearing.

Susan Helbling, Committee Clerk

TESTIMONY OF DERRICK HOHBEIN

House Bill 1419 – Public Safety Expansion to Dispatchers & Medical Services Professionals

Good afternoon, Madam Chair and members of the committee. My name is Derrick Hohbein and I am the Chief Operating/Financial Officer of the North Dakota Public Employees Retirement System, or NDPERS. I appreciate the committee taking the time to analyze House Bill 1419, which expands the eligibility in the Public Safety Plan for new hires to include state radio dispatchers in the State Public Safety Plan and allows political subdivisions to offer the Public Safety Plan to dispatchers & emergency personnel. I am here today on behalf of the NDPERS Board to provide information in a neutral capacity so the policy makers are able to make an informed decision regarding the bill.

Our actuary estimates that the bill could apply to approximately 460 political subdivision individuals into the Public Safety Plan and Adjutant General has identified 33 potential dispatchers in their organization. The 33 potential dispatchers information was used to provide the fiscal note allocation for their agency, even though the Legislation only applies to new hires after 8/1/2025.

The ongoing employer contribution rate across the political subdivisions would depend on the demographics of the newly eligible populations into the Plan. For the state individuals analyzed by the actuary, the impact on the ongoing employer contribution rate was an immaterial decrease. The additional member contribution of 0.50% covers the higher than average normal cost, and that theory may also extend to our Political Subdivisions, meaning an immaterial impact to the actuarially determined employer contribution rate. However, the actuary did caveat the analysis by clarifying that if the demographics (age, service, gender) of the political subdivision joining the Public Safety Plan were significantly different than the existing membership, that the results could be different.

There is a fiscal note attached to this bill, which recognizes the differences in the contribution rates between the Main Plan and the Public Safety Plans, so the Adjutant General would have sufficient appropriation authority if any of their dispatcher positions had turnover in the upcoming biennium.

Our federal tax consultant has confirmed this bill will not disqualify our retirement plans from an IRS perspective. The expanded eligibility will include participants who satisfy the definition of a “qualified public safety officer,” for correctional officers and medical

services personnel, meaning no 10% early distribution penalty would exist for benefits where the normal retirement benefit is achieved.

For dispatchers, however, they do not satisfy the definition of a “qualified public safety officer,” and will thus be subject to a 10% early distribution penalty if benefits are commenced before age 55. This will require employers to submit accurate job classes to the PERS office to ensure we accurately reflect the information on 1099s when participants begin receiving their retirement benefits.

We did find survey information indicating that Minnesota includes peace and correctional officers and park rangers in their public safety definitions. South Dakota includes EMTs and juvenile detention officers, correctional officers, and park rangers in their Public Safety definitions. We were unable to find information on Montana’s Public Safety population.

House Bill 1419 was a bill introduced during the interim, with the analysis provided to the Employee Benefits Programs Committee, which gave the bill an unfavorable recommendation. The consultant and legal analysis provided to the committee is included as an attachment to the end of my testimony (please note this was draft bill 41 during the interim session).

Another observation our office has is this bill touches the same sections of code as other bills being introduced during the Session. It is imperative that whatever bill is passed last has language from previously passed bill(s) incorporated into the final passage if these remain stand-alone bills throughout the session.

Madam Chair, I appreciate the committee taking the time to learn more about the impact this bill will have to our state. This concludes my testimony, and I’d be happy to answer any questions the committee may have.



August 14, 2024

Representative Austen Schauer, Chair
Legislative Employee Benefits Programs Committee
North Dakota State Government

Re: North Dakota Public Employees Retirement System Legislative Studies

Dear Representative Schauer:

In accordance with your request, we have analyzed the impact of Bill No. 25.0041.01000 on the North Dakota Public Employees Retirement System (NDPERS). Our review is actuarial in nature; we are not attorneys and cannot provide legal advice.

Systems Affected

North Dakota Public Employees Retirement System (Main System, Public Safety with prior Main System service, and Public Safety without prior Main System service)

Summary

Bill No. 25.0041.01000 allows governmental employers, on behalf of their dispatchers and emergency medical services personnel not in a Public Safety plan at this time, to enter into agreements with the retirement board, for the purpose of extending the benefits of the Public Safety retirement system to those dispatchers and emergency medical services personnel.

Data Summary

NDPERS provided data for dispatchers and emergency medical services personnel employed by the State of North Dakota or a political subdivision, as defined in Bill 041. The data was reviewed and compared to data from the July 1, 2023 actuarial valuation. Members that were found to be in the July 1, 2023 actuarial valuation were assumed to transfer from their current group to the State Public Safety Employees group. Members that were not found to be part of the July 1, 2023 actuarial valuation data were excluded from the actuarial analysis.

The data provided included 492 members.

- For 460 members, participant counts with no individual information was provided.
- An additional 10 members from the State Radio group were not found in the July 1, 2023 actuarial valuation data.
- The remaining 22 members eligible to transfer to the State Public Safety Employees group are currently in the Main System.

Actuarial Impact of Bill 041 on NDPERS

General Comments

The actuarial impact of this change will depend specifically on the number and age of new members who would enter the Public Safety Plan, whether or not the new members have participated in the Main System, and the amount of liabilities and assets (if any) that would be transferred into the Public Safety Plan.

- Eligible public safety dispatchers and emergency medical services personnel **who currently do not participate in NDPERS** in the Main System would be allowed to participate in the Public Safety without prior Main System service System, but only on a prospective basis. In other words, such employees would have a normal cost but would have no past service liability cost. The normal cost as a percentage of compensation will be dependent on the current age of the public safety dispatchers and emergency medical services personnel transferring into the system.
 - The following information is based on the results from the actuarial valuation as of July 1, 2023, for the Public Safety without prior Main System service System
 - Board approved employer contribution rate of 7.93% of pay (9.16% of pay effective January 1, 2024)
 - Employer normal cost rate (including administrative expenses) of 8.49% of pay
 - Average age of active employees of 37.8
 - Average service of active members of 4.9 years
 - The normal cost as a percentage of compensation would decrease (increase) if the average age for the transferring group is younger (older) than the average age at plan entry for the current active members of the Public Safety without prior Main System service System, and is expected to be lower based on a benefit accrual rate of 1.75% compared to the rate of 2.00% for members of the System hired before 2020.
 - There would be no past service liability cost since prior plan benefits would not be transferred into the System. However, the political subdivision will still contribute the entire employer contribution rate for the Public Safety without prior Main System service System, which includes components for the normal cost and the amortization of the unfunded past service liability based on the members who are currently in the system.
 - If the transferring group has a lower employer normal cost rate (currently 8.49% of pay) than the Board approved employer contribution rate (currently 9.16% of pay), there will be a decreased need for contributions to the System.
 - If the transferring group has a higher employer normal cost rate (currently 8.49% of pay) than the Board approved employer contribution rate (currently 9.16% of pay), there will be an increased need for contributions to the System.

- Eligible dispatchers and emergency medical services **who currently participate in NDPERS** in the Main System would have a normal cost plus an amortization payment of the increase in past service liability as a result of the transfer. The normal cost impact would be similar to the normal cost impact described for political subdivisions transferring from outside of NDPERS. It is assumed that the Main System past service liability would be transferred to the Public Safety with prior Main System service System in the form of an asset transfer equal to the value of service accrued under the Main System and the funded ratio under the Main System (about 66% as of July 1, 2023).
 - The following information is based on the results from the actuarial valuation as of July 1, 2023, for the Public Safety with prior Main System service System
 - Board approved employer contribution rate of 9.81% of pay (11.40% effective January 1, 2024)
 - For the State Public Safety Employees group, the employer contribution rate is 12.75% of pay effective August 1, 2023 and 14.34% of pay effective January 1, 2024
 - Employer normal cost rate (including administrative expenses) of 8.03% of pay
 - Average age of active employees of 36.7
 - Average benefit service of active members of 6.9 years
 - Normal retirement eligibility conditions of age 65 or Rule of 85 in the Main System (age 65 or age 60 with Rule of 90 for Main System members enrolled after December 31, 2015) and age 55 with three years of service or Rule of 85 in the Public Safety System
 - Early retirement eligibility conditions of age 55 with three years of service in the Main System and age 50 with three years of service in the Public Safety System
 - Because the Public Safety with prior Main System service System contains more favorable retirement provisions than the Main System, there would be an increase in past service liability as a result of the transfer. Therefore, the net impact of the transfer is expected to result in an increase in unfunded actuarial accrued liability to the Public Safety System due to an asset transfer that is about 66% of the actuarial accrued liability under the Main System and a higher actuarial accrued liability under the Public Safety with prior Main System service System.
 - If the transferring group has a total rate (employer normal cost plus amortization of their unfunded liability) that is lower than the Board approved employer contribution rate (currently 14.34% of pay), there will be a decreased need for contributions to the System.
 - If the transferring group has a total rate (employer normal cost plus amortization of their unfunded liability) that is higher than the Board approved employer contribution rate (currently 14.34% of pay), there will be an increased need for contributions to the System.

Actuarial Impact Based on Available Data

The cost impact calculated in this letter is based on the data for the Public Safety with Prior Main System Service system as of the July 1, 2023 actuarial valuation and additional data provided by PERS. As noted above, a total of 22 dispatchers and emergency medical services personnel impacted by this legislation were identified as being currently in the Main System.

Under the baseline scenario, the total number of active members in the Public Safety with Prior Main System Service system is 1,225, including 181 currently in the State Public Safety Employees group. Under the alternate scenario, the total number of active members in the Public Safety with Prior Main System Service system is 1,247, including 203 in the State Public Safety Employees group. It is assumed that members would transfer all service to the State Public Safety Employees group and that there would be a corresponding asset transfer (described on page 3). The number of active members in the Main System is reduced by 22 members. Potential State Public Safety Employees members provided by PERS that were not in the data for the July 1, 2023 actuarial valuation were excluded from the actuarial analysis.

Scenario	Baseline July 1, 2023 Valuation	Bill 25.0041.01000	Difference
Main System Actuarial Accrued Liabilities	\$ 5,559,270,755	\$ 5,557,606,256	\$ (1,664,499)
Main System Actuarial Value of Assets	\$ 3,683,545,963	\$ 3,682,458,793	\$ (1,087,170)
Main System Normal Cost	\$ 152,758,636	\$ 152,631,195	\$ (127,441)
Main System Funded Ratio	66.26%	66.26%	0.00%
Public Safety With Prior Main System Service Actuarial Accrued Liabilities	\$ 187,025,504	\$ 189,004,086	\$ 1,978,582
Public Safety With Prior Main System Service Actuarial Value of Assets	\$ 128,273,097	\$ 129,360,267	\$ 1,087,170
Public Safety With Prior Main System Service Normal Cost	\$ 12,179,130	\$ 12,338,372	\$ 159,242
Public Safety With Prior Main System Service Funded Ratio	68.59%	68.44%	-0.15%

In this cost analysis, the number of members potentially transferring from the Main System to the Public Safety System was 22. The Main System unfunded actuarial accrued liability (UAL) decreased by roughly \$577.3 thousand and the Public Safety System UAL increased by roughly \$891.4 thousand. The net cost was \$314.1 thousand, or \$14,277 per member. Previous transfers have had an estimated cost of \$15,000 to \$20,000 per member.

A separate ADC is not calculated for State Public Safety Employees members because the plan's assets are not allocated to any subgroups. State Public Safety Employees members contribute 6.0% of payroll, as compared to 5.5% for other Public Safety With Prior Service Plan members. State Public Safety Employees members also have a higher normal cost (NC) rate, due solely to demographic differences and the difference in member contributions. Our understanding is that statutes require employers of State Public Safety Employees members to contribute an amount determined by the board to be actuarially required to support the level of benefits.

The total NC rate for the plan including the administrative expense assumption (before any legislative changes) as of July 1, 2023 was 13.56% of pay. This is comprised of 12.97% of pay for the Public Safety group, 20.98% for the BCI group, and for State Public Safety Employees members, the total NC rate as of July 1, 2023 was 13.90% of pay, or 0.34% of pay higher than the group total. The additional member contribution of 0.50% for State Public Safety Employees members covers this extra cost.

As of July 1, 2023, the total Normal Cost of the State Public Safety Employees group initially decreases from 13.90% to 13.83% of projected compensation, due to the expansion of the group.

Bill 041 also increases the unfunded liability of the plan, which leads to an increase in the amortized unfunded liability portion of the ADC as of July 1, 2023. However, the covered payroll of the group is also expected to increase. The amortized unfunded liability portion of the ADC as a percentage of payroll increased from 4.34% to 4.35%, or 0.01%.

Summary

The numerical results in this letter are based solely on the 22 members that were in the actuarial valuation data as of July 1, 2023. This letter also includes general comments about the potential impact of other members for whom participant data is not currently available. Based on the data provided for this analysis, there are roughly 492 individuals potentially impacted by this proposed legislation. For most of these individuals, we either did not receive identifying information or they were not in the actuarial valuation data as of July 1, 2023.

Eligible public safety dispatchers and emergency medical services personnel who **currently do not participate in NDPERS** in the Main System:

- If the transferring group has a lower employer normal cost rate (currently 8.49% of pay) than the employer contribution rate (current 9.16% of pay), there will be a decreased need for contributions to the System. Otherwise, there will be an increased need for contributions to the System.

Eligible public safety dispatchers and emergency medical services personnel **who currently do participate in NDPERS** in the Main System:

- Based on current practices, the amount of assets transferred from the Main System to the Public Safety System on behalf of members transferring to Public Safety is lower than the amount of liability transferred, resulting in new unfunded liability for NDPERS.



Policy Issue Analysis

Benefits Policy Issues

- Adequacy of Retirement Benefits

The Public Safety System contains more favorable retirement provisions than the Main System. Therefore, Bill 041 will enhance retirement benefits for dispatchers and emergency medical services personnel who transfer into the Public Safety System, because they will now be able to retire at an earlier age.

- Competitiveness

The Bill may increase the benefits competitiveness for dispatchers and emergency medical services personnel who transfer into the Public Safety System.

- Benefits Equity and Group Integrity

Under the Bill, dispatchers and emergency medical services personnel would retire under normal and early retirement dates that are similar to the retirement dates of Public Safety personnel.

- Purchasing Power

No impact.

- Preservation of Benefits

No impact.

- Portability

No impact.

- Ancillary Benefits

No impact.

- Social Security

No impact.



Funding Policy Issues

- Actuarial Impacts

Previously noted.

- Investment Impacts

- Cash Flow: An asset transfer would increase initial cash flow to the Public Safety System, but decrease cash flows to the Main System.

Administration Issues

- Implementation Issues

The Bill will require that the System reprogram the prior service of applicable dispatchers and emergency medical services personnel to be counted under the Public Safety with prior Main service System rules. While this Bill would have minimal impact on administrative costs of the System, it would have an effect on the participating employers since the required contributions would increase.

- Administrative Costs

The Bill will have a minimal effect on administrative resources. However, employer contributions will increase from transfers from the Main System, since the statutory employer contribution rate for those transferring will increase from 8.12% (9.26% of pay for members enrolled on or after January 1, 2020) of salary to 14.34% under the Public Safety with prior Main service System (for the State Public Safety Employees group). Employer contributions will be 9.16% of pay under the Public Safety without prior Main service System compared to 9.26% of pay (for members enrolled after January 1, 2020) for the Main System.

- Needed Authority

The Bill appears to provide appropriate levels of administrative and governance authority to the PERS Board to implement the changes made by the Bill.

- Integration

No impact.



- Employee Communications

The Bill will require employee communications to the dispatchers and emergency medical services personnel who transfer into the Public Safety System to describe the new retirement rules applicable to them, including the normal retirement age and early retirement age.

Summary

- Dispatchers and emergency medical services personnel that enter the Public Safety retirement system would be subject to the same eligibility conditions to receive benefits as Public Safety personnel.
- Dispatchers and emergency medical services personnel that enter the Public Safety retirement system would be subject to the same benefit provisions as Public Safety personnel.

Disclosures and Additional Information

This analysis is based on projections of the actuarial valuation results for the North Dakota Public Employees Retirement System (NDPERS). The actuarial assumptions used in this analysis are the same assumptions used in the actuarial valuation as of July 1, 2023, including a discount rate of 6.50%.

Future actuarial measurements may differ significantly from the current measurements presented in this cost analysis, due to such factors as the following: plan experience differing from that anticipated by the economic or demographic assumptions; changes in economic or demographic assumptions; and changes in plan provisions, contribution amounts or applicable law.

If any of the provisions, underlying data or assumptions used in this analysis appear to be incorrect or unreasonable, please let us know as soon as possible so we can update the analysis.

This report was prepared using our proprietary valuation model and related software which, in our professional judgment, has the capability to provide results that are consistent with the purposes of the valuation, and has no material limitations or known weaknesses. We performed tests to ensure that the model reasonably represents that which is intended to be modeled.

We have reviewed the bill and provided an actuarial impact analysis as well as a policy issue analysis from our perspective as actuaries. However, the policy issue analysis should not be considered to be comprehensive and there may be additional benefits policy, administration issues or legal issues that are not discussed in this letter.




The signing actuaries are independent of the North Dakota Public Employees Retirement System.

Bonita J. Wurst and Abra D. Hill are Members of the American Academy of Actuaries (MAAA) and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinions contained herein.

Please let us know if you have any questions or would like to discuss the results of this analysis further.

Sincerely,
Gabriel, Roeder, Smith & Company



Bonita J. Wurst, ASA, EA, MAAA, FCA
Senior Consultant



Abra D. Hill, ASA, MAAA, FCA
Consultant

cc: Rebecca Fricke, NDPERS
Joshua Murner, GRS

MEMORANDUM

TO: Derrick Hohbein, North Dakota Public Employees Retirement System

FROM: Audra Ferguson and Robert Gauss
ICE MILLER LLP

DATE: May 10, 2024

RE: Proposed Public Safety Legislation

This Memorandum is provided in confidence and subject to the attorney-client privilege. We have not provided copies to anyone other than the individual named above. To preserve the attorney-client privilege, you should disclose the contents of this Memorandum only to persons making decisions on the matters discussed herein.

Please allow this Memorandum to follow-up to your electronic mail message dated May 1, 2024. In particular, we have reviewed the following draft Bills:

- Bill No. 25.0115.01000 – Expanding the definition of “firefighter” in the Public Safety Plan to include those members employed by the State as a firefighter. A firefighter employed by the State shall be eligible for a normal retirement benefit at age 55 with 3 years of service or a combined age and service of 85.
- Bill Nos. 25.0045.01000 and 25.0041.01000– Including dispatchers, emergency medical personnel, and correctional officers employed by the State in the Public Safety Plan. Under these Bills, dispatchers, emergency medical personnel, and correctional officers employed by the State shall be eligible for a normal retirement benefit at age 55 with 3 years of service or a combined age and service of 85.
- Bill No. 25.0040.01000 – Including correctional officers employed by the State in the Public Safety Plan. Under this Bill, correctional officers employed by the State shall be eligible for a normal retirement benefit at age 55 with 3 years of service or a combined age and service of 85. [Note: Correctional officers employed by political subdivisions were already included in the Public Safety Plan.]
- Bill No. 25.0134.01000 – Defining “correctional officers” for purposes of the Public Safety Plan to include those individuals employed by a correctional facility who are enrolled in but not yet completed a correctional officer course.

This Memorandum highlights the federal law consideration and various definitions of a “public safety officer” and the impact on the plan qualification and member taxation. Specifically, this Memorandum considers the following federal law Internal Revenue Code (“Code”) sections and requirements:

- Code Section 72(t)(10)(B),
- Normal Retirement Age;
- Code Section 415(b), and
- Code Section 101(h).

I. CODE SECTION 72(t)(10)(B)

A. Relevant Federal Law

Internal Revenue Code (“Code”) section 72(t) imposes an additional 10% premature distribution tax on certain distributions that are paid to members from qualified plans. There are several exceptions to the premature distribution tax, including an exception for a "qualified public safety employee" in a governmental defined benefit plan who receives a distribution after separation from service after attainment of the earlier of age 50 or 25 years of service under the plan.¹ According to Code section 72(t)(10)(B), a "qualified public safety employee" is limited to the following:

- any employee of a State or political subdivision of a State who provides police protection, firefighting services, emergency medical services, services as a corrections officer or a forensic security employee providing for the care, custody, and control of forensic patients for any area within the jurisdiction of such State or political subdivision;
- any Federal law enforcement officer described in section 8331(2) or 8401(17) of title 5, United States Code;
- any Federal firefighter described in section 8331(21) or 8401(14) of such title;
- any air traffic controller described in 8331(30) or 8401(35) of such title;
- any nuclear materials courier described in section 8331(27) or 8401(33) of such title;
- any member of the United States Capitol Police;
- any member of the Supreme Court Police; and
- any diplomatic security special agency of the Department of State.

B. Analysis

¹ There is a separate exception for distributions paid to general employees after separation from service after attainment of age 55.

Correctional Officers, Emergency Medical Personnel, and Firefighters. Correctional Officers, Emergency Medical Personnel, and Firefighters clearly meet the definition of “Qualified Public Safety Officers” under Code Section 72(t)(10)(B).

Dispatchers. Dispatchers do not satisfy the Code section 72(t)(10)(B) definition of a “Qualified Public Safety Officer” because they do not directly provide police protection, firefighting services, or emergency medical services. As a result, a dispatcher could be eligible for early retirement benefits under the plan, but subject to an early distribution tax penalty if the member commenced a monthly benefit prior to age 55.

With respect to Bill No. 25.0134.01000 which expands the definition of “Correctional Officer” to include individuals who are employed by a correctional facility and who are enrolled in but have not yet completed a correctional officer course, this will be a facts and circumstances determination. If the individuals are in a correctional officer role and performing as a correctional officer, then we think the members would satisfy the definition of a “Qualified Public Safety Officer.” However, if the individuals are employed with a correctional facility, but not serving as a correctional officer until the individual has completed the correctional officer course, then the individual would not qualify as a “Qualified Public Safety Officer.” As noted above, the member could receive a benefit; however, if the member commences a monthly benefit prior to age 55, then the member will be subject to an early distribution penalty.

II. NORMAL RETIREMENT AGE

A. Retirement Age Under the Plan

Pursuant to N.D.C.C. § 54-52-17, the normal retirement age for members of the **Public Safety Plan** is as follows:

- The member is at least age 55 with 3 years of service; or
- The member has a combined total years of service credit and years of age equal 85.

By contrast, **under the Main Plan**, the normal retirement age for members is as follows:

- The member is at least age 65; or
- The member has a combined total years of service credit and years of age equal 85.

N.D.C.C. § 54-52-17.

Additionally, a member of the Public Safety Plan may receive an early retirement benefit when the member attains age 50 with 3 years of service. *Id.*

B. Pending Normal Retirement Age Regulations for Governmental Plans

On January 27, 2016, the IRS and Treasury Department issued a Notice of Proposed Rulemaking regarding proposed regulations regarding normal retirement age for governmental pension plans ("Proposed Regulations"). The Proposed Regulations have been long awaited as, in 2007, the IRS issued final regulations defining normal retirement age which are applicable to private sector pension plans. The Proposed Regulations distinguish between governmental plans which allow in-service distributions and those which do not. For governmental plans that do allow in-service distributions, the NRA must meet a "reasonably representative" requirement, which can be satisfied by using any of several safe harbor NRAs set forth in the proposed regulations.

For governmental plans that do not allow in-service distributions, the proposed regulations provide that the NRA must still meet the pre-ERISA vesting rules. In this regard, use of a period of service to determine normal retirement age under a governmental plan would be permissible if the period of service used is reasonable and uniformly applicable and the other pre-ERISA rules related to normal retirement age are satisfied. One of the pre-ERISA rules allows a governmental plan to specify a normal retirement age that is lower than age 65 **if that age represents the age at which employees customarily retire in the industry**.

As part of the Proposed Regulations, several sets of safe harbors were announced. For instance, the Proposed Regulations establish a general safe harbor for a normal retirement age that is at least age 62 or the later of age 62 or another specified date (such as the fifth anniversary of plan participation); this is referred to as the general safe harbor.² The Proposed Regulations also developed the following additional safe harbors specific to governmental plans:

- age 60 with five years of service;
- age 55 with ten years of service;
- a combined age and years of service of 80 or more; and
- any age with 25 years of service (in combination with a safe harbor that includes an age).

Additionally, the Proposed Regulations established separate safe harbor rules for qualified public safety employees. For qualified public safety employees, the proposed safe harbors are:

- age 50;
- combined age and years of service of 70 or more;
- any age with 20 years of service.

² It is important to note that subsequent to the Proposed Regulations, the SECURE Act reduced the age for in-service distributions under Code Section 401(a)(36) from 62 to 59 ½. As a result, it is likely the IRS will revise the general safe harbor to age 59 ½.

Importantly for purposes of the Bills, the term qualified public safety employee is defined by reference to Code § 72(t)(10)(B).

It is important to note that, under the Proposed Regulations, a plan may have more than one normal retirement age. For instance, a plan may have one normal retirement age for one classification of employees and one or more normal retirement ages for one or more different classifications of employees. This is permissible so long as each normal retirement age satisfies the pre-ERISA requirements.

Finally, the Proposed Regulations establish that a normal retirement age which does not satisfy any of the governmental plan safe harbors could still satisfy the reasonably representative requirement based on all of the relevant facts and circumstances. The normal retirement age must be evaluated and shown to satisfy a good faith determination of the typical retirement age for the industry in which the covered work force is employed and that the normal retirement age is otherwise consistent with the pre-ERISA vesting requirements.

While the IRS has stated its intent to issue final regulations, the Proposed Regulations remain pending. Separately, it is important to note that the Proposed Regulations state they are anticipated to be effective for employees hired after the effective date of the final regulations. In the meantime, governmental plan sponsors may rely on the Proposed Regulations prior to the effective date and pending the issuance of final regulations.

C. Analysis

Correctional Officers,³ Emergency Medical Personnel, and Firefighters. The normal retirement age under the Public Safety Plan satisfies the Safe Harbor for Qualified Public Safety Employees. As noted above, Correctional Officers, Emergency Medical Personnel, and Firefighters clearly meet the definition of “Qualified Public Safety Officers” under Code section 72(t)(10)(B). Thus, the lower normal retirement age proposed under the Bills for these job classifications does not raise a concern under federal law.

Dispatcher. As noted above, a Dispatcher does not satisfy the definition of a “Qualified Public Safety Officer.” Thus, NDPERS cannot rely on the Normal Retirement Age Safe Harbor for Qualified Public Safety Officers. However, the above IRS guidance is clear that, while a governmental plan that does not provide in-service distributions has flexibility in establishing a Normal Retirement Age, the parameters are not unlimited. Specifically, the Normal Retirement Age must satisfy the pre-ERISA vesting rules.

The pre-ERISA vesting rules provided that

³ As noted above, with respect to Bill No. 25.0134.01000 which expands the definition of “Correctional Officer” to include individuals who are employed by a correctional facility and who are enrolled in but have not yet completed a correctional officer course, this will be a facts and circumstances determination. If the individual is serving as a correctional officer with a job classification of a Correctional Officer, then the individual satisfies the definition of a “Qualified Public Safety Officer” under Code section 72(t)(10)(B).

[A]lthough normal retirement age under a pension or annuity plan is ordinarily age 65, a plan may specify a lower age at which the employee has the right to retire without the consent of the employer and to receive retirement benefits based on the amount of the employee's service at the full rate set forth in the plan if this lower age would be an age at which employees customarily retire in the particular company or industry, and if the provision permitting receipt of unreduced benefits at this age is not a device to accelerate funding.

Preamble to the Proposed Regulations Regarding Normal Retirement Age (Jan. 27, 2016). Thus, NDPERS will need to establish that age 55 with 3 years of service represents an age at which Dispatchers customarily retire. Note: The combined age and years of service of 85 satisfies the General Employee Normal Retirement Age Safe Harbor.

III. CODE SECTION 415(b) DEFINITION OF "QUALIFIED PARTICIPANTS"

A. Relevant Federal Law

Code section 415(b) provides that the annual benefit in the form of a single life annuity for a plan participant who is between the ages of 62 and 65 may not exceed \$160,000, as adjusted for inflation in \$5,000 increments (for 2024, the limit is \$275,000). However, there is no age-based actuarial reduction required for benefits beginning prior to age 62 for "qualified participants." Here, the Code defines "qualified participants" as those who (1) are participants of a defined benefit of a State or political subdivision of a State; and (2) have completed at least 15 years of service as a full-time employee of any police department or fire department which is organized and operated by the State or political subdivision to provide police protection, firefighting services, or emergency medical services, or as a member of the U.S. Armed Forces.

Importantly, the scope of the 415(b) public safety exception varies from the definition of public safety employees in Code section 72(t)(10)(B). Under Code section 415(b), the application of the rule depends on whether the employer is a police department or fire department of the state or political subdivision, rather than on the job classification of the individual participant. As a result, the definition of "qualified participant" under Code section 415(b) is more inclusive in terms of the types of employees that are covered than many public safety provisions, but less inclusive in terms of the types of employers that are covered.

Generally, the 415(b) exception is very beneficial to public safety officers and to other employees of police and fire departments, including non-public safety personnel. However, this definition does not cover all public safety employees. The examples in the Final 415 Regulations make it clear that an employee of a police division of an agency may be a qualified participant, but that an ambulance driver who works for an emergency medical services agency rather than for a police or fire department cannot. While the name of the agency is not important, it is necessary that the employer (or at least the appropriate division of employer) function as a police or fire department. For example, correctional officers will not be treated as employees of a police department for purposes of Code 415(b), as decided in PLR 201347028.

B. Analysis

NDPERS should be aware that only those Public Safety Plan participants that satisfy the definition of “qualified participants” will be eligible for the unreduced Code section 415(b) limit. This will include the Firefighter members, but it will not include Correctional Officers or Medical Services Personnel. In addition, Dispatchers will be considered “qualified participants” only if they are employees of a police or fire department. As a result, NDPERS would have to make sure its systems are programmed to recognize that not all employees in the Public Safety Plan would be eligible for the unreduced Code Section 415(b) limit.

IV. CODE SECTION 101(h) – DEFINITION OF PUBLIC SAFETY OFFICER

A. Relevant Federal Law

Code section 101(h) provides a federal income tax exclusion for certain amounts paid as a survivor annuity on account of the death of a "public safety officer" killed in the line-of-duty. The exclusion applies:

- if the survivor annuity is provided by a qualified 401(a) plan to the spouse, former spouse, or a child of the officer; and
- to the extent the annuity is attributable to the officer's service as a public safety officer.

In accordance with 42 U.S.C. 3796b(9) (the Omnibus Crime Control and Safe Streets Act of 1968), a "public safety officer" includes (i) an individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, a firefighter, a chaplain, or as a member of a rescue squad or an ambulance crew; or (ii) with some limitation, an employee of a State, local or tribal emergency management or civil defense agency who is performing official duties in cooperation with the Federal Emergency Management Agency.

B. Analysis

NDPERS should be aware that only those Public Safety Plan survivors of participants that satisfy the definition of “public safety officers” will be eligible for the tax-free annuity under Code section 101(h). This will include the Firefighter members and Medical Services Personnel, but it will not include Correctional Officers. In addition, unless Dispatchers are considered law enforcement officers, firefighters, part of a rescue squad or part of an ambulance crew, they would only be included in this definition of a public safety officer for purposes of Code section 101(h) if they fall into the second category of working in cooperation with the Federal Emergency Management Agency.

V. SUMMARY OF BILL ANALYSIS

<u>Bill No.</u>	<u>Code § 72(t)</u>	<u>NRA</u>	<u>Code § 415(b) Reduction</u>	<u>Code § 101(h)</u>
25.0115.01000 Adding Firefighters employed by the State	<ul style="list-style-type: none"> • Satisfies the definition of a “qualified public safety officer” • No 10% early distribution penalty for monthly benefits commenced after age 50 and separation from service” 	<ul style="list-style-type: none"> • Satisfies the definition of a “qualified public safety officer” • Satisfies the NRA Safe Harbor for Qualified Public Safety Officer” 	<ul style="list-style-type: none"> • Satisfies the definition of “qualified participants” and eligible for the unreduced Code section 415(b) limit. 	<ul style="list-style-type: none"> • Satisfies the definition of “public safety officers” and the survivor will be eligible for the tax-free annuity under Code Section 101(h).
25.0134.01000 Amending definition of a “correctional officer” to include an individual employed by a correctional facility who is enrolled in but not yet completed a correctional	<ul style="list-style-type: none"> • If the individuals are in a correctional officer role and performing as a correctional officer, then we think the members would satisfy the 	<ul style="list-style-type: none"> • Same 	<ul style="list-style-type: none"> • Do not satisfy the definition of “qualified participant” and will not be eligible for the unreduced Code section 415(b) limit. 	<ul style="list-style-type: none"> • Do not satisfy the definition “public safety officer” and the survivor will not be eligible for the tax-free annuity under Code Section 101(h).

officer course.	definition of a “Qualified Public Safety Officer.” However, if the individuals are employed with a correctional facility but not serving as a correctional officer until the individual has completed the correctional officer course, then the individual would not qualify as a “Qualified Public Safety Officer.”			
25.0045.01000 and 25.0041.01000 Amends the Public Safety Plan to include Dispatchers, Medical	<u>Correctional Officers and Medical Service Personnel</u> • Satisfies the definition	<u>Correctional Officers and Medical Service Personnel</u> • Satisfies the definition of a	<u>Correctional Officers and Medical Services Personnel</u> • Do not satisfy the definition	<u>Correctional Officers</u> • Do not satisfy the definition “public safety officer” and the survivor will not be eligible for the tax-free annuity

Service Personnel and State Correctional Officers.	<p>of a “qualified public safety officer”</p> <ul style="list-style-type: none"> No 10% early distribution penalty for monthly benefits commenced after age 50 and separation from service <p><u>Dispatchers</u></p> <ul style="list-style-type: none"> Does not satisfy the definition of a “qualified public safety officer” Will be subject to a 10% early distribution penalty for monthly benefits commenced before age 55 	<p>“qualified public safety officer”</p> <ul style="list-style-type: none"> Satisfies the NRA Safe Harbor for Qualified Public Safety Officer” <p><u>Dispatchers</u></p> <ul style="list-style-type: none"> Do not satisfy the definition of a “qualified public safety officer” Will need to demonstrate that the NRA represents the age at which employees customarily retire in the industry. 	<p>of “qualified participant” and will not be eligible for the unreduced Code section 415(b) limit.</p> <p><u>Dispatchers</u></p> <ul style="list-style-type: none"> Will be considered “qualified participants” only if they are employees of a police or fire department. 	<p>under Code Section 101(h).</p> <p><u>Medical Services Personnel</u></p> <ul style="list-style-type: none"> Satisfies the definition of “public safety officers” and the survivor will be eligible for the tax-free annuity under Code Section 101(h). <p><u>Dispatchers</u></p> <ul style="list-style-type: none"> Do not satisfy the definition “public safety officer” and the survivor will not be eligible for the tax-free annuity under Code Section 101(h), unless they are considered law enforcement officers, firefighters, part of a rescue squad or part of an ambulance crew.
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25.0040.01000				
Amends the Public Safety Plan to State Correctional Officers.	<ul style="list-style-type: none"> Satisfies the definition of a “qualified public safety officer” No 10% early distribution penalty for monthly benefits commenced after age 50 and separation from service 	<ul style="list-style-type: none"> Satisfies the definition of a “qualified public safety officer” Satisfies the NRA Safe Harbor for Qualified Public Safety Officer 	<ul style="list-style-type: none"> Do not satisfy the definition of “qualified participant” and will not be eligible for the unreduced Code section 415(b) limit. 	<ul style="list-style-type: none"> Do not satisfy the definition “public safety officer” and the survivor will not be eligible for the tax-free annuity under Code Section 101(h).

Chairman Roers, Vice Chairman Costaneda, and Honorable Committee Members,

My name is Karen Kempert. I am the 9-1-1 Technology and Communications Coordinator for Cavalier County Emergency Communications Center, we provide service for the citizens of both Cavalier and Towner counties. Previously I was a Public Safety Telecommunicator for 5 years, I am also a member and Past President of the ND 9-1-1 Association.

House Bill 1419 places Public Safety Telecommunicators (dispatchers) into the ND PERs for the benefits that their public safety partners receive.

Public Safety Telecommunicators are under tremendous pressure continuously, every day they work, throughout their career. They are there on the scene with many of the senses that they have. Their ears hear the emotions in ones' voice, their eyes quite often see the after math of how people in the community are affected by emergencies, but most importantly their voices calm victims and by-standers in these situations. Their minds retain it all. Imagine the amount of stress that this puts on their bodies, their mental health, and the additional negative health impacts to the individual telecommunicator. Even with all this amount of stress and pressure that is put on the telecommunicator; they still have the mental acuity and emotional stability to play an accurate and decisive role in the unfolding event.

These mental health issues along with additional negative health impacts that are connected to a continuous high stress environment, if not addressed, can have irreversible implications that can jeopardize the entire emergency response system. Public Safety Telecommunicators need to have the ability to work in a high-pressure environment to assess situations correctly, provide appropriate guidance to callers and get the right public safety partner to the right place, with the correct equipment. Our professional Public Safety Telecommunicators are the voice and mind that give our public safety partners the ability to protect and save the people. Without their voice to provide communication to our emergency response system, it could mean life or death for those that are involved in an emergency.

Please support these very deserving, first, first responders by giving them the ability to access the benefits the ND PERs Public Safety Plan offers at the discretion of their governing bodies.

Respectfully,

Karen Kempert, ND CEM
Emergency Manager, 9-1-1 Technology and Communications Coordinator
Cavalier County
Office – 701-256-3911 Mobile – 701-370-2087
kkempert@nd.gov

Honorable Chair and Members of the Committee,

My name is Kali Olin, and I am the Deputy EMS Director for Billings County. I am here to strongly support House Bill 1419, which would include Emergency Services Workers in the North Dakota Public Employee Retirement System's Public Safety Plan. This bill is essential for recognizing the critical role of EMS workers and ensuring the recruitment and retention of dedicated personnel in our profession.

EMS professionals, including paramedics, EMTs, and dispatchers, face high-stress situations and physical, emotional, and mental challenges every day. Despite these demands, they are not currently included in the Public Safety Plan, unlike other first responders such as law enforcement and fire personnel. This gap in benefits creates disparities that make it more difficult to attract and retain qualified individuals to serve our communities.

House Bill 1419 will not only acknowledge the sacrifices EMS workers make but also ensure that we can recruit new talent to the profession. Across the state, EMS agencies are struggling with staffing shortages, and including EMS in the Public Safety Plan will help address this issue by providing security and showing future employees that their service is valued.

Moreover, the role of dispatchers must be recognized as part of the first responder family. Dispatchers play a crucial role in coordinating emergency responses, and they endure the same pressures as the rest of the first responder team. Including them in this plan will support their continued service and help fill critical gaps in our emergency response systems.

I urge you to support House Bill 1419. By doing so, you'll help strengthen public safety in North Dakota, ensure our workforce is supported, and secure the future of EMS in the state. Thank you for your time and consideration, and please reach out with any questions.

Sincerely,
Kali Olin
Deputy EMS Director, Billings County

255 N. 4th St.
PO Box 5200
Grand Forks, ND 58206-5200



City of Grand Forks
(701) 746-4636

**TESTIMONY ON HOUSE BILL 1419
Senate State and Local Government
March 20, 2025**

**Shannon LaHaise, Director of Public Safety Answering Point
City of Grand Forks, ND**

Chair Roers and members of the committee. My name is Shannon LaHaise, and I am the Director for the Grand Forks Public Safety Answering Point (PSAP); a 911 professional for over 28 years, dedicated to delivering critical emergency services to our community. I am writing in support of HB 1419 to highlight the importance of this inclusion and recognition of 911 Dispatchers as first responders—a designation that accurately reflects their critical role in the public safety ecosystem.

By including 911 Dispatchers, or Public Safety Telecommunicators as defined in Century Code 57-40.6-01, in the Public Safety Retirement Plan, it would formally recognize their integral role in emergency response and align their benefits with those of other first responders. Like Police Officers, Firefighters, and Emergency Medical Personnel, Dispatchers dedicate their careers to protecting the public. Their role is integral to the safety and well-being of our communities.

911 Dispatchers, or Public Safety Telecommunicators, are the true first responders. They are the initial point of contact in emergencies, often delivering life-saving guidance and communications long before Police, Firefighters, or Paramedics arrive on the scene. Our dedicated professionals manage high-pressure situations, providing critical instructions to callers, coordinating with multiple agencies, and ensuring that first responders in the field have the information they need to act swiftly and effectively.

Public Safety Telecommunicators are held to the same security clearances and standards as our partner agencies, and the training required to become a 911 dispatcher is rigorous. It involves mastering complex communication systems, understanding emergency protocols, and learning to manage a wide array of crises—from natural disasters to criminal incidents. Dispatchers must be able to assess situations quickly, multitask under extreme pressure, and make split-second decisions that can mean the difference between life and death.

Inclusion in the public safety retirement plan is a vital step toward acknowledging the unique skill set, and the lives they save every day. It would not only enhance recruitment and retention but also affirm their role as indispensable members of the public safety community.

HB 1419 passed the House with a 76-17 vote and we support a DO PASS on this bill, recognizing Public Safety Telecommunicators to receive the recognition and benefits they have earned through their service.

Thank you for your time, consideration, and dedication to addressing this issue. Should you have any questions or need additional information, please do not hesitate to reach out.

Sincerely,
Shannon LaHaise
Grand Forks PSAP, Director



March 20th, 2025

Senate State and Local Government Committee
600 East Boulevard Avenue
Bismarck, ND 58505

RE: Support for HB 1419

Chairman Roers and Committee Members,

My name is Corey Johnson, and I serve the City of Williston as the Assistant Chief of Operations and a Paramedic for their Fire & Ambulance Department. I am here today to express our strong support for HB 1419. We all know the many challenges affecting public safety services, especially those impacting our Emergency Medical Services system. HB 1419 brings forward a targeted solution to improve recruitment and retention and the health and safety of our emergency responders by creating a pathway for our public EMS providers and 9-1-1 dispatchers to join the ND PERS Public Safety Plan.

When you think of Public Safety, do you think of EMTs, Paramedics, and 9-1-1 Dispatchers? I hope that you do. With over 18 years of experience providing public safety services, including firefighting and EMS, I can tell you that Public Safety is a team effort that includes Law Enforcement, Firefighters, EMS providers, and our 9-1-1 dispatchers. The very name of this retirement program fits the additions provided in this bill.

As a licensed Paramedic who has worked for both independent and fire-based EMS agencies, I can tell you that the physical demands and mental stress associated with this job classification are significant. Our EMS providers are constantly under physical stress that takes a lasting toll on their bodies. Nearly every call for service involves lifting and moving patients. This can range from loading the stretcher into the back of an ambulance to carrying someone down three flights of stairs of an apartment building. The very life-saving procedures we perform are physically demanding, such as performing CPR for extended durations in some of the more rural parts of our service areas. EMS providers do not just provide patient care and transport. EMS providers often perform rescue services, with many specializing in auto extrication, rope rescue, confined space rescue, and hazardous materials response. In addition to these physical demands, which I have only highlighted a small portion, we must also consider the mental stress of the job. EMS providers and 9-1-1 Dispatchers face a tremendous amount of mental

stress and have a significant risk of developing serious mental health illnesses. EMS is often a rewarding career, but it doesn't come without its challenges. We see and experience what no one should ever experience. All while working long hours, often with little sleep from demanding schedules and high call volumes.

Last year, my department responded to 5,902 calls for service. These calls range from structure fires, wildfires, motor vehicle accidents, and medical calls, to name a few. This number is significant and continues to grow every year. The most interesting part of our call volume statistics is the breakdown of fire-based calls versus EMS-related calls. On average, 82% of our call volume is EMS-related. I can't speak for other communities, but I imagine you would find a similar comparison if you reviewed fire-related calls to EMS.

I've listened in and participated in several hearings during this legislative session on various EMS-related issues. This assembly is well aware of the many challenges facing ambulance services across our state, one of the most significant being recruitment and retention. I have no doubt that passing this bill will significantly and positively impact our recruitment and retention efforts. As public servants, we are often asked to do our work for less. In our state's NW Region, competing with the many private sector jobs that offer significantly better wages is incredibly difficult. Short of providing wages that compete with the public sector, our best strategy is through benefits.

Being an EMT, Paramedic, or 9-1-1 dispatcher is not simple. In addition to the physical and mental stress of the job, performing this job adequately requires a significant commitment to training. We are lifelong learners who must continuously adapt to evolving technology and tactics. Having staff with experience is critically important to accomplishing our tasks safely and creating positive patient outcomes while ensuring that everyone goes home to their families. Having adequate benefits matching job demands is critical to recruitment and retention.

The Williston Fire Department's call volume and response model continues to grow. As a combination fire and ambulance department, we operate a cross-staffing model that works well today. Our staff must be dually qualified and certified as firefighters and EMS providers. As our EMS call volume grows, the demand for dedicated EMS units that do not have firefighting responsibilities increases. When the time comes for us to make this staffing adjustment, there will be a significant discrepancy in the level of benefits offered for a job that arguably shares the same, if not more, physical and mental demands.

I ask for your support in recommending HB 1419 as a "do pass."

Sincerely,



Corey A. Johnson, Assistant Chief of Operations
City of Williston Fire Department
(701) 572-3400 ext. 2317
coreyj@ci.williston.nd.us

Professional Fire Fighters of North Dakota

Darren Schimke, President | 218-779-4122 | dschimke@wiktel.com

3/20/2025

Senate State and Local Government Committee

Re: Support of HB 1419

Madam Chair Roers and members of the Senate State and Local Government Committee.

My name is Darren Schimke, President of the Professional Fire Fighters of North Dakota representing 420 professional firefighters throughout the State of North Dakota. We appreciate the opportunity to provide testimony in support of HB 1419.

911 dispatchers are literally THE front line of the emergency service system. No matter the type of emergency, they provide information, guidance, support and updates as the emergency unfolds and develops. This flow of information is constantly being relayed to the responding entities. With that, they must deal with levels of internal stress and odd work hours daily.

Emergency medical services personnel endure high stress emergency situations multiple times each day. The mental challenges can be very taxing at times.

As I reflect back on the beginning of my career with the Grand Forks Fire Department in 1993, we performed our own dispatch. The 911 call came directly to the department and we self-dispatched. There is no doubt in my mind that the level of service to our citizens has improved to levels that can't be relayed into words. It's simply remarkable!

911 dispatchers and emergency medical services personnel deserve eligibility into the PERS Public Safety Plan.

The Professional Fire Fighters of North Dakota respectfully request a Do Pass of HB 1419.

Darren Schimke



BILLINGS COUNTY

P.O. Box 104

MEDORA, ND 58645-0104

Phone (701) 623-4367 EMS Director –Kyle Michels Deputy EMS Director Kali Olin Fax (701) 623-4366



Testimony in Support of HB 1419

Good afternoon, Honorable Chair and members of the committee. My name is Kyle Michels, and I am here to speak in strong support of HB 1419, which seeks to add emergency medical services (EMS) personnel and dispatchers to the NDPERS Public Safety Retirement Plan.

Currently, our peace officers, correctional officers, and firefighters are included in this plan, but EMS and dispatch personnel, who are just as critical to public safety, are left out. Adding these essential workers to the plan would not only recognize their invaluable contributions but also help address the ongoing challenges of recruitment and retention in these fields.

EMS workers and dispatchers work under extremely high-pressure conditions, often facing the same dangers and stress as other first responders. They respond to life-threatening situations, provide critical care, and keep our communities safe around the clock. Their schedules are demanding, with long hours, rotating shifts, and the emotional toll of being on the front lines of emergencies.

By adding them to the NDPERS Public Safety Retirement Plan, we send a clear message that we value their service and sacrifice. It also strengthens our ability to recruit and retain individuals in these essential roles. As you know, it's becoming increasingly difficult to find individuals willing to take on the challenges of public safety careers, especially when these positions often come with unpredictable hours and missed holidays. This plan would make a significant difference in making these careers more attractive and sustainable.

Importantly, dispatchers are the backbone of public safety. They are the first point of contact during emergencies, coordinating the response and ensuring the safety of both the public and responders. Without dispatchers, our first responders would be lost. Their role in the public safety family cannot be overstated.

For all these reasons, I urge you to support HB 1419 and ensure that EMS personnel and dispatchers are given the recognition and support they deserve. Thank you and I would stand for any questions.

Kyle Michels, NRP/IC
EMS Director
Billings County

March 19, 2025

Dear Chairwoman Roers and Members of the State and Local Government Committee,

My name is Miranda Jangula, I am the Deputy Director/Operations & Training Manager of State Radio. I am here before you today to speak in favor of HB 1419, including Public Safety Telecommunicators in the Public Safety Retirement Plan. I have been a part of the 911 emergency services community for almost 23 years, 21 of those years serving as a Public Safety Telecommunicator. (PST)

I believe PSTs are deserving of this change because they are the first response to a call for help. There are many people in North Dakota who are alive today due to the quick thinking of a PST, before anyone arrived on scene. Some of these actions include giving Heimlich Maneuver instructions, CPR, first aid to stop heavy bleeding or instructions to a new parent in what to do during and after the out of hospital birth of a child.

These dedicated individuals need to be ready at moment's notice. Unlike responders in the field, they do not get time to think about the situation while enroute. PST's answering the calls or radio traffic need to immediately react to whatever the situation may be. They literally have seconds to save a life. Their decisions affect the safety of those responding to the scene and they are the lifeline of the officers who are alone in a bad situation.

Not only do these individuals have to react with no prompt of what they are going to deal with, they also do not get time to recover after a high stress situation. I once talked someone through the death of their loved one as help was still enroute. Then immediately after, answered a reckless driver call. There is no time to decompress. You push it down and move on to do the job at hand. This is one of the reasons Post Traumatic Stress Disorder (PTSD) is prevalent in PSTs. This scenario is something I had to do hundreds of times during my career and is the same of anyone who has had significant time in this career.

There have been some feelings that have been expressed as to why some are opposed to this change. One was that PSTs are not on scene. I beg to differ. Even though PSTs may not be on scene physically, they are there mentally and emotionally. They picture the rooms people are in and the faces of those they help. I once took a call from a woman who was being actively hunted by her armed husband. I stayed on the phone with her as she hid from him in a closet behind some boxes. I listened to her breathing and softly spoke to her as she hid and waited for help to arrive. Once officers were on scene, she tearfully thanked me for staying on the phone so she was not alone. To her I was there and made a difference.

Another reason given for opposition is that PST are not at risk of being assaulted or killed during calls. Although this is true, they are subject to the physical and emotional harms of PTSD. One of the reasons for asking for inclusion on the Public Safety Retirement Plan is the disability benefit. The chances of a PST needing to utilize these benefits for PTSD continues to grow as technology changes. Not only to PSTs hear people's worst nightmares play out over the phone, but they are also now seeing them as they unfold. Changes in technology are bringing the emergencies to the Communication Center. About a year before I moved into my current role, I took a call from a

frantic individual, who was crying and screaming because his friend was on Facebook Live, and he was going to take his own life. As my team and I worked frantically to get help there, we brought up the Facebook Live feed so we could see what was happening and better inform the responders in the field. I watched in real time as this man took his life while listening to his friend's screams as we witnessed this horrible act unfold. With new technology, this is becoming more common. The PST can now take control of a cell phone camera, with the permission of the user, and watch as events unfold. They are now being put into the middle of heinous acts as they happen.

Not only do these men and women take the risk of going through traumatic events daily and sometimes multiple times in one day, they also give up a lot to give this service just like others within the Public Safety field. They miss holidays with their families, work long rotating shifts, have interrupted sleeping patterns and often suffer from the other physical ailments that come from working a sedentary job. These individuals deserve the same benefits as others within the field for the sacrifices they make and their very important role. They are highly skilled and trained in what they do and play a crucial role in emergency response. Without them, there is no response.

Including PSTs in the Public Safety Retirement Plan would not only help us to retain great employees, but it also helps us to recruit highly qualified people to come and work for us. Having a defined benefit plan is a huge incentive to come and work in such a stressful environment. Currently, all of State Radio's PSTs are on the NDPERS plan. Our most recent hires have stated that this was an important draw for them. For all the reasons I have spoken about today, I ask you to please vote DO PASS on HB 1419 and let these hardworking individuals know that you acknowledge their hard work, sacrifices, and appreciate all that they do.

Thank you!

Miranda Jangula
Deputy Director/Operations & Training Manager
ND State Radio
mcjangula@nd.gov

In Support of House Bill 1419

Before the Senate State and Local Government Committee,

Senator Kristin Roers, Chair

March 20, 2025

Chairman, Senator Roers, and members of the Committee,

Thank you for the opportunity to provide written testimony in support of House Bill 1419. My name is Kimberly Robbins, and I am the LaMoure County Emergency Manager and 9-1-1 Coordinator. LaMoure County is served by North Dakota State Radio as our Public Safety Answering Point. This bill will recognize the dedication and also support the retention and recruitment of the Public Safety Telecommunicators, including those employed by North Dakota State Radio, by allowing them in the Public Safety Retirement Plan.

As mentioned, LaMoure County is served by North Dakota State Radio to answer our 9-1-1 calls, dispatch our first responders, guide our responders and assist them along. As I also serve as a driver on the local rural ambulance, the Public Safety Telecommunicator – dispatcher - is part of your team of first responders. They should be included in this bill for the Public Safety Retirement plan. Please support House Bill 1419 and the support of our Public Safety Telecommunicators.

A handwritten signature in black ink, appearing to read 'Kim Robbins', with a long horizontal flourish extending to the right.

Kimberly Robbins

krobbins@nd.gov

LaMoure, ND

Chairman Roers, Vice Chairman Costaneda, and Honorable Committee Members,

My name is Jill Breuer, and I am a Public Safety Telecommunicator (PST) with over 28 years of experience. I am writing to strongly encourage you to vote in favor of House Bill 1419. This bill would include Public Safety Telecommunicators in the North Dakota Public Employees Retirement System (ND PERS) Public Safety Retirement Plan.

I have attended several committee hearings on this bill and heard statements suggesting that PSTs should not be included because we are not physically on the scene of an emergency. While it is true that we do not respond in person, the emotional and mental impact of the work we do is just as significant as that of the responders on the ground. Throughout my career, I have listened to people experience unspeakable tragedies, such as losing a loved one, and been part of some of the most joyous moments, such as helping a parent deliver a child. These experiences stay with you. They do not fade.

There is one call from many years ago that I will never forget. A child, approximately 2 years old, was ejected from a vehicle because they were not properly buckled into their car seat. At that time, I had a child of a similar age. I was training another dispatcher when I took the call, and I immediately dispatched officers and EMS to the scene. Unfortunately, there was little that could be done for the child. I was then asked to contact the highway patrol, but in that moment, my mind froze. I was unable to perform the task. An off-duty officer heard the radio traffic, called me, and calmly guided me through what needed to be done.

After that incident, I made sure my own child remained in a car seat until she was 7 years old. This event, along with others, has stayed with me throughout my career, shaping the way I approach each call. While it may be physically true that we are not on the scene; mentally and emotionally, we are. We must visualize the scene and stay fully aware of everything happening, which allows us to provide the best support for officers, EMS, and fire personnel, as well as ensure public safety.

I have seen the toll that this job takes over time. I am more guarded now, and I find myself avoiding large crowds. Do I suffer from PTSD or other forms of trauma related to my work? It's likely. But despite the emotional strain, I continue in this profession because I am passionate about helping others, and that is why I have stayed in this career for nearly three decades.

Currently, Richland County is not a member of the ND PERS Public Safety Retirement Plan, but there is a possibility it will be in the future. I urge you to vote in favor of HB 1419, as this bill would provide the recognition and benefits that Public Safety Telecommunicators, like myself, have long deserved.

Thank you for your time and consideration.

Sincerely,

Jill Breuer
Richland County Communications/911 Manager

2025 SENATE STANDING COMMITTEE MINUTES

State and Local Government Committee Room JW216, State Capitol

HB 1419
3/21/2025

Relating to the public employees retirement system public safety retirement plan.

11:04 a.m. Chair Roers called the hearing to order.

Members Present: Chairman Roers; Vice Chair Castaneda; Senators: Barta, Lee and Walen.

Members Absent: Senator Braunberger

Discussion Topics:

- Committee Action

11:07 a.m. Senator Walen moved Amendment LC #25.0041.01001.

11:07 a.m. Senator Barta seconded the motion.

Senators	Vote
Senator Kristin Roers	Y
Senator Jose L. Castaneda	Y
Senator Jeff Barta	Y
Senator Ryan Braunberger	AB
Senator Judy Lee	Y
Senator Chuck Walen	Y

Motion Passed 5-0-1

11:15 a.m. Senator Walen moved Do Pass as amended.

11:15 a.m. Senator Lee seconded the motion.

Senators	Vote
Senator Kristin Roers	N
Senator Jose L. Castaneda	Y
Senator Jeff Barta	Y
Senator Ryan Braunberger	AB
Senator Judy Lee	Y
Senator Chuck Walen	Y

Motion Passed 4-1-1

Senator Walen will carry the bill.

11:16 a.m. Chair Roers closed the hearing.

Senate State and Local Government Committee

HB 1419

3/21/2025

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Susan Helbling, Committee Clerk

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Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1419

Introduced by

Representatives Porter, Dockter, Heinert, O'Brien, M. Ruby, Satrom, Schauer

Senators Axtman, Cleary, Lee, Meyer, Roers

- 1 A BILL for an Act to amend and reenact sections 54-52-01, 54-52-02.1, 54-52-02.15,
2 54-52-06.3, 54-52-06.4, and 54-52-17 of the North Dakota Century Code, relating to the public
3 employees retirement system public safety retirement plan.

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

5 **SECTION 1. AMENDMENT.** Section 54-52-01 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **54-52-01. Definition of terms.**

8 As used in this chapter, unless the context otherwise requires:

- 9 1. "Account balance" means the total contributions made by the employee, vested
10 employer contributions under section 54-52-11.1, the vested portion of the vesting
11 fund as of June 30, 1977, and interest credited thereon at the rate established by the
12 board.
- 13 2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any
14 person designated by a participating member to receive benefits.
- 15 3. "Correctional officer" means a participating member who is employed as a correctional
16 officer by a ~~political subdivision~~ governmental unit and, notwithstanding subsection 16,
17 for an individual employed on or after the effective date of this Act, is employed at
18 least thirty-two hours per week and at least twenty weeks each year of employment. A
19 correctional officer who is a participating member of the public safety retirement plan
20 created by this chapter who begins employment on or after the effective date of this

1 Act is ineligible to participate concurrently in any other retirement plan administered by
2 the public employees retirement system. The term includes an individual employed by
3 a correctional facility as defined in section 12-44.1-01, who is enrolled in, but has not
4 yet completed, a correctional officer course approved or certified by the North Dakota
5 department of corrections and rehabilitation.

- 6 4. "Deferred member" means a participating member who is not actively participating in
7 the main plan under this chapter and who has an account intact in the main plan under
8 this chapter.
- 9 5. "Dispatcher" means a participating member who is employed as a state radio
10 dispatcher by the state or is employed as a public safety answering point dispatcher
11 by a political subdivision and, notwithstanding subsection 16, for an individual
12 employed on or after the effective date of this Act, is employed at least thirty-two hours
13 per week and at least twenty weeks each year of employment. A dispatcher who is a
14 participating member of the public safety retirement plan created by this chapter who
15 begins employment on or after the effective date of this Act is ineligible to participate
16 concurrently in any other retirement plan administered by the public employees
17 retirement system.
- 18 6. "Eligible employee", except as otherwise provided under section 54-52-02.15, means
19 a permanent employee who meets all of the eligibility requirements set by this chapter
20 and who is eighteen years or more of age. The term includes appointive and elective
21 officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching
22 employees of the superintendent of public instruction, including the superintendent of
23 public instruction, who elect to transfer from the teachers' fund for retirement to the
24 public employees retirement system under section 54-52-02.13, and employees of the
25 state board for career and technical education who elect to transfer from the teachers'
26 fund for retirement to the public employees retirement system under section
27 54-52-02.14. The term does not include nonclassified state employees who elected
28 under section 54-52.6-02 to become members of the retirement plan established
29 under chapter 54-52.6. The term does include employees of the judicial branch and
30 employees of the board of higher education and state institutions under the jurisdiction
31 of the board of higher education.

1 ~~6-7.~~ "Emergency medical services personnel" means a participating member employed by
2 a political subdivision as an emergency medical services personnel, as defined under
3 section 23-27-02 and, notwithstanding subsection 16, for an individual employed on or
4 after the effective date of this Act, is employed at least thirty-two hours per week and
5 at least twenty weeks each year of employment. An emergency medical services
6 personnel who is a participating member of the public safety retirement plan created
7 by this chapter who begins employment on or after the effective date of this Act is
8 ineligible to participate concurrently in any other retirement plan administered by the
9 public employees retirement system.

10 8. "Employee" means any individual employed by a governmental unit, whose
11 compensation is paid out of the governmental unit's funds, or funds controlled or
12 administered by a governmental unit, or paid by the federal government through any of
13 its executive or administrative officials; licensed employees of a school district means
14 those employees eligible to participate in the teachers' fund for retirement who, except
15 under subsection 2 of section 54-52-17.2, are not eligible employees under this
16 chapter.

17 ~~7-9.~~ "Employer" means a governmental unit.

18 ~~8-10.~~ "Firefighter" means a participating member who is employed as a firefighter by a
19 political subdivision and, notwithstanding subsection 13, for an individual employed
20 after July 31, 2017, is employed at least thirty-two hours per week and at least twenty
21 weeks each year of employment. A firefighter who is a participating member of the law
22 enforcementpublic safety retirement plan created by this chapter who begins
23 employment after July 31, 2017, is ineligible to participate concurrently in any other
24 retirement plan administered by the public employees retirement system. The term
25 does not include a firefighter employee of the North Dakota national guard.

26 ~~9-11.~~ "Funding agent" or "agents" means an investment firm, trust bank, or other financial
27 institution which the retirement board may select to hold and invest the employers' and
28 members' contributions.

29 ~~10-12.~~ "Governmental unit" means the state of North Dakota, except the highway patrol for
30 members of the retirement plan created under chapter 39-03.1, or a participating
31 political subdivision of the state.

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- 1 ~~41.13.~~ "National guard security officer or firefighter" means a participating member who is:
2 a. A security police employee of the North Dakota national guard; or
3 b. A firefighter employee of the North Dakota national guard.
- 4 ~~42.14.~~ "Participating member" means an eligible employee who through payment into the
5 plan has established a claim against the plan.
- 6 ~~43.15.~~ "Peace officer" means a participating member who is a peace officer as defined in
7 section 12-63-01 and is employed as a peace officer by the state, except by the
8 highway patrol for members of the retirement plan created under chapter 39-03.1, or is
9 employed by a political subdivision and, notwithstanding subsection 14, for persons
10 employed after August 1, 2005, is employed thirty-two hours or more per week and at
11 least twenty weeks each year of employment. A peace officer who is a participating
12 member of the ~~law enforcement~~ public safety retirement plan created by this chapter
13 who begins employment after August 1, 2005, is ineligible to participate concurrently in
14 any other retirement plan administered by the public employees retirement system.
- 15 ~~44.16.~~ "Permanent employee" means an employee whose services are not limited in duration
16 and who is filling an approved and regularly funded position in an eligible
17 governmental unit, and is employed twenty hours or more per week and at least
18 twenty weeks each year of employment.
- 19 ~~45.17.~~ "Prior service" means service or employment before July 1, 1966.
- 20 ~~46.18.~~ "Prior service credit" means such credit toward a retirement benefit as the retirement
21 board may determine under the provisions of this chapter.
- 22 ~~47.19.~~ "Public employees retirement system" means the retirement plan and program
23 established by this chapter.
- 24 ~~48.20.~~ "Retirement" means the acceptance of a retirement allowance under this chapter upon
25 either termination of employment or termination of participation in the retirement plan.
- 26 ~~49.21.~~ "Retirement board" or "board" means the governing authority created under section
27 54-52-03.
- 28 ~~20.22.~~ "Seasonal employee" means a participating member who does not work twelve
29 months a year.
- 30 ~~21.23.~~ "Service" means employment on or after July 1, 1966.

1 ~~22-24.~~ "Service benefit" means the credit toward retirement benefits as determined by the
2 retirement board under the provisions of this chapter.

3 ~~23-25.~~ "Temporary employee" means an employee who is not eligible to participate as a
4 permanent employee, who is at least eighteen years old and not actively contributing
5 to another employer-sponsored pension fund, and, if employed by a school district,
6 occupies a noncertified teacher's position.

7 ~~24-26.~~ "Wages" and "salaries" means the member's earnings in eligible employment under
8 this chapter reported as salary on the member's federal income tax withholding
9 statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125,
10 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as
11 payments for unused sick leave, personal leave, vacation leave paid in a lump sum,
12 overtime, housing allowances, transportation expenses, early retirement incentive pay,
13 severance pay, medical insurance, workforce safety and insurance benefits, disability
14 insurance premiums or benefits, or salary received by a member in lieu of previously
15 employer-provided fringe benefits under an agreement between the member and
16 participating employer. Bonuses may be considered as salary under this section if
17 reported and annualized pursuant to rules adopted by the board.

18 **SECTION 2. AMENDMENT.** Section 54-52-02.1 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **54-52-02.1. Political subdivisions authorized to join public employees retirement**
21 **system.**

- 22 1. A political subdivision may, on behalf of its permanent employees, on behalf of its
23 peace officers, firefighters, dispatchers, emergency medical services personnel, and
24 correctional officers separately from its other employees, and permanent noncertified
25 employees only in the case of school districts, enter agreements with the retirement
26 board for the purpose of extending the benefits of the public employees retirement
27 system, as provided in this chapter, to those employees. The agreement may, in
28 accordance with this chapter, contain provisions relating to benefits, contributions,
29 effective date, modification, administration, and other appropriate provisions as the
30 retirement board and the political subdivision agree upon, but the agreement must
31 provide:

- 1 a. The political subdivision will contribute on behalf of each eligible employee an
2 amount equal to that provided in section 54-52-06 or 54-52-06.3 for peace
3 officers, firefighters, dispatchers, emergency medical services personnel, and
4 correctional officers participating separately from other political subdivision
5 employees.
- 6 b. A portion of the moneys paid by the political subdivision may be used to pay
7 administrative expenses of the retirement board.
- 8 2. Notwithstanding any other provision of law, a political subdivision having an existing
9 police, dispatcher, emergency medical services personnel, or firefighter pension plan
10 may merge that plan into the public employees retirement system under rules adopted
11 by and in a manner determined by the board.
- 12 3. Notwithstanding any other provision of this chapter, a political subdivision of this state
13 not currently participating in the public employees retirement system may not become
14 a participant in the retirement system until an actuarial study is performed under the
15 direction of the board to calculate the required employer contribution for any past
16 service liability and the required employer contribution must be an amount determined
17 sufficient to amortize and fund any past service liability over a period not to exceed
18 thirty years as determined by the board. Any fees incurred in performing the actuarial
19 study must be paid for by the political subdivision in a manner determined by the
20 board.

21 **SECTION 3. AMENDMENT.** Section 54-52-02.15 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **54-52-02.15. Public employees retirement system main plan - Closure to new hires -**
24 **Multiple plan membership.**

- 25 1. Under this section "eligible employee" means a permanent employee who:
 - 26 a. Meets all the eligibility requirements set by this chapter;
 - 27 b. Is at least eighteen years of age;
 - 28 c. Becomes a participating member after December 31, 2024; and
 - 29 d. Is not eligible to participate in the ~~law enforcement~~public safety plan, judges' plan,
30 highway patrol plan, teachers' fund for retirement plan, or alternative retirement
31 program established under section 15-10-17 for university system employees.

2. Effective January 1, 2025, the public employees retirement system defined benefit main plan maintained for employees is closed to new eligible employees. However, an employee who becomes a participating or deferred member under this chapter before January 1, 2025, remains in the defined benefit retirement plan under this chapter, regardless of being rehired after December 31, 2024.
3. Except as otherwise provided under this section, effective January 1, 2025, an eligible employee who begins employment with an employer shall participate in the defined contribution retirement plan under chapter 54-52.6 as provided under section 54-52.6-02.1.
4. This section does not impact an employee to the extent the employee is a participating member in one or more of the following enumerated retirement plans: ~~law enforcement~~ public safety plan, judges' plan, highway patrol plan, teachers' fund for retirement plan, or alternative retirement program established under section 15-10-17 for university system employees.
 - a. A participating or deferred member in the defined contribution retirement plan under chapter 54-52.6 who becomes eligible to participate in a plan enumerated under this subsection is eligible to participate in the retirement plan enumerated under this subsection.
 - b. A participating member of a retirement plan enumerated under this subsection who becomes an eligible employee is not eligible to participate in the defined benefit retirement plan under this chapter but instead participates in the defined contribution retirement plan under chapter 54-52.6. However, this subdivision does not apply to an individual who before January 1, 2025, is a participating or a deferred member under this chapter, as that individual continues to participate in the defined benefit retirement plan under this chapter.
5. The board shall adopt rules to implement this section.

SECTION 4. AMENDMENT. Section 54-52-06.3 of the North Dakota Century Code is amended and reenacted as follows:

54-52-06.3. Contribution by peace officers, firefighters, dispatchers, emergency medical services personnel, and correctional officers employed by political subdivisions - Employer contribution.

1. Each peace officer, firefighter, dispatcher, emergency medical services personnel, or correctional officer employed by a political subdivision that enters an agreement with the retirement board on behalf of its peace officers, firefighters, dispatchers, emergency medical services personnel, 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. Peace officer, firefighter, dispatcher, emergency medical services personnel, or correctional officer contributions increase by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2014. The assessment must be deducted and retained out of the employee's salary in equal monthly installments.
2. The peace officer's, firefighter's, dispatcher's, emergency medical services personnel'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, firefighter's, dispatcher's, emergency medical services personnel'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, firefighter's, dispatcher's, emergency medical services personnel's, or correctional officer's assessment.

SECTION 5. AMENDMENT. Section 54-52-06.4 of the North Dakota Century Code is amended and reenacted as follows:

54-52-06.4. Contribution by peace officers and dispatchers employed by the state or security officers employed by the national guard - Employer contribution. (Retroactive application - See note)

1. a. 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

- 1 monthly four percent of the employee's monthly salary. Peace officer
2 contributions increase by one percent of the member's monthly salary beginning
3 with the monthly reporting period of January 2012; with an additional increase of
4 one percent, beginning with the reporting period of January 2013; with an
5 additional increase of one percent, beginning with the reporting period of
6 January 2024; and with an additional increase of one percent, beginning with the
7 reporting period of January 2025.
- 8 b. Each dispatcher and peace officer employed by the state, other than a peace
9 officer employed by the bureau of criminal investigation, who is a member of the
10 public employees retirement system is assessed and shall pay six percent of the
11 employee's monthly salary.
- 12 c. Effective August 1, 2015, each national guard security officer who is a member of
13 the public employee's retirement system is assessed and monthly shall pay
14 six percent of the employee's monthly salary. National guard security officer
15 contributions decrease by one-half of one percent of the member's monthly
16 salary beginning with the monthly reporting period of January 2016.
- 17 d. The assessment under this subsection must be deducted and retained out of the
18 employee's salary in equal monthly installments.
- 19 2. The employer of a dispatcher or peace officer employed by the state or national guard
20 security officer shall contribute an amount determined by the board to be actuarially
21 required to support the level of benefits specified in section 54-52-17. The employer's
22 contribution must be paid from funds appropriated for salary or from any other funds
23 available for such purposes. If the dispatcher's, peace officer's, or security officer's
24 assessment is paid by the employer under subsection 3 of section 54-52-05, the
25 employer shall contribute, in addition, an amount equal to the required dispatcher's,
26 peace officer's, or security officer's assessment.

27 **SECTION 6. AMENDMENT.** Section 54-52-17 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **54-52-17. Formulation of plan. (Retroactive application - [See note](#))**

30 Participating members shall receive benefits according to this section and according to
31 rules adopted by the board, not inconsistent with this chapter. ~~No person~~An individual is not

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1 entitled to receive a prior service benefit if the ~~person~~individual was not continuously employed
2 by a governmental unit in North Dakota for a period of not less than two years immediately prior
3 to ~~preceding~~before eligibility for retirement.

- 4 1. Participating members shall receive credit for full-time employment or its equivalent
5 from the date they attain eligibility until their normal retirement date, postponed
6 retirement date, or early retirement date, as defined in this section. Part-time
7 employment will be recognized as full-time employment on a prorated basis as the
8 board may prescribe.
- 9 2. Retirement benefits are calculated from the participating member's final average
10 salary, which is the average of the highest salary received by the member for any
11 thirty-six months employed during the last one hundred twenty months of employment.
12 For members who terminate employment on or after August 1, 2010, final average
13 salary is the average of the highest salary received by the member for any thirty-six
14 months employed during the last one hundred eighty months of employment. For
15 members who terminate employment between July 31, 2005, and August 1, 2010, final
16 average salary is the average of the highest salary received by the member for any
17 thirty-six months employed during the period for which the board has appropriate and
18 accurate salary records on the board's electronic database, but that period may not be
19 more than the last one hundred eighty months of employment. For members who
20 terminate employment after December 31, 2019, final average salary is the higher of
21 the final average salary calculated on December 31, 2019, or the average salary
22 earned in the three highest periods of twelve consecutive months employed during the
23 last one hundred eighty months of employment. Months without earnings are excluded
24 for the purpose of computing an average. If the participating member has worked for
25 less than thirty-six months at the normal retirement date, the final average salary is the
26 average salary for the total months of employment.
- 27 3. Retirement dates are defined as follows:
 - 28 a. Normal retirement date, except for a national guard security officer or firefighter, a
29 ~~firefighter employed by a political subdivision, a dispatcher or peace officer~~
30 employed by the state, or a firefighter, dispatcher, emergency medical services

1 personnel, peace officer, or correctional officer employed by a political
2 subdivision, is:

3 (1) The first day of the month next following the month in which the member
4 attains the age of sixty-five years; or

5 (2) When the member has a combined total of years of service credit and years
6 of age equal to eighty-five and has not received a retirement benefit under
7 this chapter.

8 b. Normal retirement date for members first enrolled after December 31, 2015,
9 except for a national guard security officer or firefighter, a ~~firefighter employed by~~
10 ~~a political subdivision, a dispatcher or~~ peace officer employed by the state, a
11 firefighter, dispatcher, emergency medical services personnel, peace officer, or
12 correctional officer employed by a political subdivision, or a supreme court or
13 district court judge, is:

14 (1) The first day of the month next following the month in which the member
15 attains the age of sixty-five years; or

16 (2) When the member has a combined total of years of service credit and years
17 of age equal to ninety and the member attains a minimum age of sixty and
18 has not received a retirement benefit under this chapter.

19 c. Normal retirement date for a national guard security officer or firefighter is:

20 (1) The first day of the month next following the month in which the national
21 guard security officer or firefighter attains the age of fifty-five years and has
22 completed at least three eligible years of employment; or

23 (2) When the national guard security officer or firefighter has a combined total
24 of years of service credit and years of age equal to eighty-five and has not
25 received a retirement benefit under this chapter.

26 d. Normal retirement date for a dispatcher, emergency medical services personnel,
27 peace officer, firefighter, or correctional officer employed by a political subdivision
28 is:

29 (1) The first day of the month next following the month in which the dispatcher,
30 emergency medical services personnel, peace officer, firefighter, or

- 1 correctional officer attains the age of fifty-five years and has completed at
- 2 least three eligible years of employment; or
- 3 (2) When the dispatcher, emergency medical services personnel, peace officer,
- 4 firefighter, or correctional officer has a combined total of years of service
- 5 credit and years of age equal to eighty-five and has not received a
- 6 retirement benefit under this chapter.
- 7 e. (1) Normal retirement date for a peace officer employed by the bureau of
- 8 criminal investigation is:
- 9 (a) [1] For a member employed before August 1, 2023, the first day of
- 10 the month next following the month in which the peace officer
- 11 attains the age of fifty-five years and has completed at least
- 12 three eligible years of employment; and
- 13 [2] For a member employed after July 31, 2023, the first day of the
- 14 month next following the month in which the peace officer attains
- 15 the age of fifty-five years and has completed at least ten eligible
- 16 years of employment; or
- 17 (b) When the peace officer has a combined total of years of service credit
- 18 and years of age equal to eighty-five and has not received a
- 19 retirement benefit under this chapter.
- 20 (2) Normal retirement date for a dispatcher or peace officer employed by the
- 21 state, other than a peace officer employed by the bureau of criminal
- 22 investigation, is:
- 23 (a) The first day of the month next following the month in which the
- 24 dispatcher or peace officer attains the age of fifty-five years and has
- 25 completed at least three eligible years of employment; or
- 26 (b) When the dispatcher or peace officer has a combined total of years of
- 27 service credit and years of age equal to eighty-five and has not
- 28 received a retirement benefit under this chapter.
- 29 f. Postponed retirement date is the first day of the month next following the month
- 30 in which the member, on or after July 1, 1977, actually severs or has severed the
- 31 member's employment after reaching the normal retirement date.

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- 1 g. (1) Early retirement date, except for a national guard security officer or
2 firefighter, a dispatcher, emergency medical services personnel, firefighter,
3 peace officer, or correctional officer employed by a political subdivision, or a
4 dispatcher or peace officer employed by the state, is the first day of the
5 month next following the month in which the member attains the age of
6 fifty-five years and has completed three years of eligible employment.
- 7 (2) For a national guard security officer or firefighter, early retirement date is the
8 first day of the month next following the month in which the national guard
9 security officer or firefighter attains the age of fifty years and has completed
10 at least three years of eligible employment.
- 11 (3) For a dispatcher or peace officer employed by the state, other than a peace
12 officer employed by the bureau of criminal investigation, or a dispatcher,
13 emergency medical services personnel, firefighter, peace officer, or
14 correctional officer employed by a political subdivision, early retirement date
15 is the first day of the month next following the month in which the dispatcher,
16 emergency medical services personnel, peace officer, firefighter, or
17 correctional officer attains the age of fifty years and has completed at least
18 three years of eligible employment.
- 19 (4) For a peace officer employed by the bureau of criminal investigation, early
20 retirement date is the first day of the month next following the month in
21 which the peace officer attains the age of fifty years and has completed at
22 least three years of eligible employment.
- 23 h. Disability retirement date is the first day of the month after a member becomes
24 permanently and totally disabled, according to medical evidence called for under
25 the rules of the board, and has completed at least one hundred eighty days of
26 eligible employment. For supreme and district court judges, permanent and total
27 disability is based solely on a judge's inability to perform judicial duties arising out
28 of physical or mental impairment, as determined pursuant to rules adopted by the
29 board or as provided by subdivision a of subsection 3 of section 27-23-03.
- 30 (1) A member is eligible to receive disability retirement benefits only if the
31 member became disabled during the period of eligible employment and

- 1 applies for disability retirement benefits within twelve months of the date the
2 member terminates employment.
- 3 (2) A member is eligible to continue to receive disability benefits as long as the
4 permanent and total disability continues and the member submits the
5 necessary documentation and undergoes medical testing required by the
6 board, or for as long as the member participates in a rehabilitation program
7 required by the board, or both. If the board determines a member no longer
8 meets the eligibility definition, the board may discontinue the disability
9 retirement benefit. The board may pay the cost of any medical testing or
10 rehabilitation services the board deems necessary and these payments are
11 appropriated from the retirement fund for those purposes. A member's
12 receipt of disability benefits under this section is limited to receipt from the
13 fund to which the member was actively contributing at the time the member
14 became disabled.
- 15 4. The board shall calculate retirement benefits as follows:
- 16 a. Normal retirement benefits for all retirees, except supreme and district court
17 judges, and peace officers employed by the bureau of criminal investigation, ~~and~~
18 ~~other peace officers employed by the state~~, reaching normal retirement date
19 equal an annual amount, payable monthly, comprised of a service benefit and a
20 prior service benefit, as defined in this chapter, which is determined as follows:
- 21 (1) For members first enrolled:
- 22 (a) Before January 1, 2020, service benefit equals two percent of final
23 average salary multiplied by the number of years of service
24 employment.
- 25 (b) After December 31, 2019, service benefit equals one and seventy-five
26 hundredths percent of final average salary multiplied by the number of
27 years of service employment.
- 28 (2) Prior service benefit equals two percent of final average salary multiplied by
29 the number of years of prior service employment.
- 30 b. Normal retirement benefits for all supreme and district court judges under the
31 public employees retirement system reaching normal retirement date equal an

- 1 annual amount, payable monthly, comprised of a benefit as defined in this
2 chapter, determined as follows:
- 3 (1) Benefits must be calculated from the time of appointment or election to the
4 bench and must equal three and one-half percent of final average salary
5 multiplied by the first ten years of judicial service, two and eighty hundredths
6 percent of final average salary multiplied by the second ten years of judicial
7 service, and one and one-fourth percent of final average salary multiplied by
8 the number of years of judicial service exceeding twenty years.
- 9 (2) Service benefits must include, in addition, an amount equal to the percent
10 specified in subdivision a of final average salary multiplied by the number of
11 years of nonjudicial employee service and employment.
- 12 c. Normal retirement benefits for a peace officer employed by the bureau of criminal
13 investigation reaching the normal retirement date equals an annual amount,
14 payable monthly, comprised of a service benefit and a prior service benefit
15 determined as follows:
- 16 (1) The first twenty years of credited service multiplied by three percent of final
17 average salary.
- 18 (2) For years in excess of twenty years of credited service multiplied by one
19 and seventy-five hundredths percent of final average salary.
- 20 ~~d. Normal retirement benefits for a peace officer employed by the state, other than~~
21 ~~by the bureau of criminal investigation, reaching the normal retirement date~~
22 ~~equals an annual amount, payable monthly, comprised of a service benefit and a~~
23 ~~prior service benefit determined as follows:~~
- 24 ~~(1) For members first enrolled:~~
- 25 ~~(a) Before January 1, 2020, service benefit equals two percent of final~~
26 ~~average salary multiplied by the number of years of service~~
27 ~~employment.~~
- 28 ~~(b) After December 31, 2019, service benefit equals one and seventy-five~~
29 ~~hundredths percent of final average salary multiplied by the number of~~
30 ~~years of service employment.~~

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- 1 ~~(2) Prior service benefit equals two percent of final average salary multiplied by~~
- 2 ~~the number of years of prior service employment.~~
- 3 e. Postponed retirement benefits are calculated as for single life benefits for those
- 4 members who retired on or after July 1, 1977.
- 5 f.e. Early retirement benefits are calculated as for single life benefits accrued to the
- 6 date of termination of employment, but must be actuarially reduced to account for
- 7 benefit payments beginning before the normal retirement date, as determined
- 8 under subsection 3. Except for a national guard security officer or firefighter, a
- 9 dispatcher, emergency medical services personnel, firefighter, peace officer, or
- 10 correctional officer employed by a political subdivision, a dispatcher or peace
- 11 officer employed by the state, or a supreme court or district court judge, early
- 12 retirement benefits for members first enrolled after December 31, 2015, are
- 13 calculated for single life benefits accrued to the date of termination of
- 14 employment, but must be reduced by fixed rate of eight percent per year to
- 15 account for benefit payments beginning before the normal retirement date. A
- 16 retiree, other than a supreme or district court judge, is eligible for early retirement
- 17 benefits only after having completed three years of eligible employment. A
- 18 supreme or district court judge retiree is eligible for early retirement benefits only
- 19 after having completed five years of eligible employment.
- 20 g.f. Except for supreme and district court judges, disability retirement benefits are
- 21 twenty-five percent of the member's final average salary. Disability retirement
- 22 benefits for supreme and district court judges are seventy percent of final
- 23 average salary reduced by the member's primary social security benefits and by
- 24 any workforce safety and insurance benefits paid. The minimum monthly
- 25 disability retirement benefit under this section is one hundred dollars.
- 26 5. Upon termination of employment after completing three years of eligible employment,
- 27 except for supreme and district court judges, who must complete five years of eligible
- 28 employment, but before normal retirement date, a member who does not elect to
- 29 receive early retirement benefits is eligible to receive deferred vested retirement
- 30 benefits payable commencing on the member's normal retirement date in one of the
- 31 optional forms provided in subsection 9. Members who have delayed or inadvertently

- 1 failed to apply for retirement benefits to commence on their normal retirement date
2 may choose to receive either a lump sum payment equal to the amount of missed
3 payments, or an actuarial increase to the form of benefit the member has selected,
4 which increase must reflect the missed payments.
- 5 6. If before retiring a member dies after completing three years of eligible employment,
6 except for supreme and district court judges, who must have completed five years of
7 eligible employment, the board shall pay the member's account balance to the
8 member's designated beneficiary as provided in this subsection. If the member has
9 designated an alternate beneficiary with the surviving spouse's written consent, the
10 board shall pay the member's account balance to the named beneficiary. If the
11 member has named more than one primary beneficiary, the board shall pay the
12 member's account balance to the named primary beneficiaries in the percentages
13 designated by the member or, if the member has not designated a percentage for the
14 beneficiaries, in equal percentages. If one or more of the primary beneficiaries has
15 predeceased the member, the board shall pay the predeceased beneficiary's share to
16 the remaining primary beneficiaries. If any beneficiary survives the member, yet dies
17 before distribution of the beneficiary's share, the beneficiary must be treated as if the
18 beneficiary predeceased the member. If there are no remaining primary beneficiaries,
19 the board shall pay the member's account balance to the contingent beneficiaries in
20 the same manner. If there are no remaining designated beneficiaries, the board shall
21 pay the member's account balance to the member's estate. If the member has not
22 designated an alternate beneficiary or the surviving spouse is the beneficiary, the
23 surviving spouse of the member may select a form of payment as follows:
- 24 a. If the member was a supreme or district court judge, the surviving spouse may
25 select one of the following optional forms of payment:
- 26 (1) A lump sum payment of the member's retirement account as of the date of
27 death.
- 28 (2) Payments as calculated for the deceased member as if the member was of
29 normal retirement age at the date of death, payable until the spouse dies.
- 30 b. The surviving spouse of all other members may select one of the following
31 options:

- 1 (1) A lump sum payment of the member's retirement account as of the date of
- 2 death.
- 3 (2) Payment of a monthly retirement benefit equal to fifty percent of the
- 4 deceased member's accrued single life retirement benefits until the spouse
- 5 dies.
- 6 (3) If the member dies on or after the member's normal retirement date, the
- 7 payment of a monthly retirement benefit equal to an amount that would have
- 8 been paid to the surviving spouse if the member had retired on the day of
- 9 the member's death and had selected a one hundred percent joint and
- 10 survivor annuity, payable until the spouse dies. A surviving spouse who
- 11 received a benefit under this subsection as of July 31, 1995, is entitled to
- 12 the higher of that person's existing benefit or the equivalent of the accrued
- 13 benefit available under the one hundred percent joint and survivor provision
- 14 as if the deceased member were of normal retirement age, with the increase
- 15 payable beginning August 1, 1995.
- 16 7. If a member not coming under the provisions of subsection 6 terminates employment
- 17 because of death, permanent and total disability, or any voluntary or involuntary
- 18 reason prior to retirement, the member or the member's designated beneficiary is
- 19 entitled to the member's account balance at termination. The board automatically shall
- 20 refund a member's account balance if the member has completed less than three
- 21 years of eligible employment, has an account balance of less than one thousand
- 22 dollars, and was not a supreme or district court judge. If the member was a supreme
- 23 or district court judge, the board automatically shall refund a member's account
- 24 balance if the member completed less than five years of eligible employment. A
- 25 member may waive the refund if the member submits a written statement to the board,
- 26 within thirty days after termination, requesting that the member's account balance
- 27 remain in the fund.
- 28 8. The surviving spouse of a member receiving retirement benefits must be the
- 29 member's primary beneficiary unless there is no surviving spouse or the surviving
- 30 spouse designates an alternate beneficiary in writing. If a member receiving retirement
- 31 benefits or the member's surviving spouse receiving retirement benefits dies before

1 the total amount of benefits paid to either or both equals the amount of the member's
2 account balance at retirement, the difference must be paid to the named beneficiary of
3 the recipient or, if there is no named beneficiary, to the recipient's estate. A benefit
4 payment owed to the member, surviving spouse, or alternate beneficiary which was
5 not paid before the death of the member, surviving spouse, or alternate beneficiary
6 must be paid to the named beneficiary of the recipient or, if there is no named
7 beneficiary, to the recipient's estate.

8 9. The board shall adopt rules providing for the receipt of retirement benefits in the
9 following optional forms:

- 10 a. Single life.
11 b. An actuarially equivalent joint and survivor option, with fifty percent or one
12 hundred percent options.
13 c. Actuarially equivalent life with ten-year or twenty-year certain options.
14 d. An actuarially equivalent partial lump sum distribution option with a twelve-month
15 maximum lump sum distribution.
16 e. An actuarially equivalent graduated benefit option with either a one percent or
17 two percent increase to be applied the first day of January of each year.

18 Except for supreme and district court judges, unless a member specifically requests
19 that the member receive benefits according to one of these options at the time of
20 applying for retirement, all retirement benefits must be in the form of a single life
21 benefit. For supreme and district court judges, unless a member specifically requests
22 that the member receive benefits according to one of these options at the time of
23 applying for retirement, all retirement benefits must be in the form of a lifetime monthly
24 pension with fifty percent of the benefit continuing for the life of the surviving spouse, if
25 any.

26 10. The fund may accept rollovers from other eligible plans under rules adopted by the
27 board for the purchase of additional service credit, but only to the extent the transfer is
28 a rollover contribution that meets the requirement of section 408 of the Internal
29 Revenue Code.

30 11. The board may accept trustee-to-trustee transfers as permitted by Internal Revenue
31 Code section 403(b)(13) and section 457(e)(17) from an Internal Revenue Code

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- 1 section 403(b) annuity or Internal Revenue Code section 457 deferred compensation
2 plan for the purchase of permissive service credit, as defined in Internal Revenue
3 Code section 415(n)(3)(A) or as repayment of a cashout from a governmental plan
4 under Internal Revenue Code section 415(k)(3).
- 5 12. The board may establish individual retirement accounts and individual retirement
6 annuities as permitted under section 408(q) of the Internal Revenue Code to allow
7 employees to make voluntary employee contributions. The board may adopt rules to
8 implement and administer the accounts and annuities under this section.

**REPORT OF STANDING COMMITTEE
HB 1419**

State and Local Government Committee (Sen. Roers, Chairman) recommends **AMENDMENTS** ([25.0041.01001](#)) and when so amended, recommends **DO PASS** (4 YEAS, 1 NAY, 1 ABSENT OR EXCUSED AND NOT VOTING). HB 1419 was placed on the Sixth order on the calendar. This bill does not affect workforce development.