

FISCAL NOTE
Requested by Legislative Council
02/21/2015

Amendment to: HB 1080

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

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

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

The bill adjusts the employee peace officer contributions in the Law Enforcement plan and retirement eligibility & benefits for main system members first enrolled after December 31, 2015.

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

This bill would positively affect the current funding level of the Hybrid Plan. As a result of the proposed plan changes, the Normal Cost of the Main System will be reduced from 10.36% to 9.90%, a decrease in the actuarially required contribution of 0.46% of payroll. Approximately one-half of this decrease, or 0.20% of payroll, would be a result of the change in the benefit multiplier from 2.0% to 1.9% for new employees. The cost savings would be very gradual and would be expected to take 20 to 30 years to completely take effect. Even with this change there is still a 3.48% contribution deficit from the actuarially required contribution required for this year.

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

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

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

As noted above this will reduce the long term contribution requirements it is not noted as having a fiscal effect since the state's present contribution is below the actuarial required contribution.

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

Name: Sparb Collins

Agency: NDPERS

Telephone: 701-328-3900

Date Prepared: 12/30/2014

FISCAL NOTE
Requested by Legislative Council
12/20/2014

Bill/Resolution No.: HB 1080

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

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$4,760,000	\$3,564,000	\$6,346,000	\$4,752,000
Appropriations	\$0	\$0	\$4,760,000	\$3,564,000	\$6,346,000	\$4,752,000

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties	\$0	\$2,089,000	\$2,786,000
Cities	\$0	\$1,062,000	\$1,416,000
School Districts	\$0	\$1,966,000	\$2,621,000
Townships	\$0	\$0	\$0

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

The bill adjusts the employer and employee contributions to the state retirement plans to implement the last year of the four year recovery plan. The first three years were approved in the prior legislative sessions.

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

The bill increases employee and employer contributions for the NDPERS Main and Defined Contribution systems by 1% in January, 2016.

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

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

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

See 2B above.

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

See 2B above, the appropriation is included in the executive budget.

Name: Sparb Collins

Agency: NDPERS

Telephone: 701-328-3900

Date Prepared: 12/30/2014

2015 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1080

2015 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Fort Union, State Capitol

HB 1080
1/22/2015
22359

- Subcommittee
 Conference Committee

Committee Clerk Signature

Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to increases in employer and employee contributions under the PERS defined benefit and defined contribution plans, decreased employee contributions under the PERS for peace officers employed by the BCI, and benefit changes for employees first enrolled after 12/31/15.

Minutes:

Attachments 1-4

Chairman Kasper opened the hearing on HB 1080.

Sparb Collins, Executive Director of the North Dakota Public Employees Retirement System (NDPERS) appeared in support. Attachment 1 (End 9:14)

Chairman Kasper Would you explain the fiscal note to the committee.

Sparb Collins The fiscal note shows what the cost of those contributions would be for our participating employers. It also identifies whether it is general fund and other funds. The fiscal note for 2015-2017 shows what that total cost would be. There is a difference in 2017-2019, and the reason for that is that the first year (2015-2017) would only be in effect for 18 months whereas in the next biennium it would be in effect for the full 24 months.

Chairman Kasper The difference between the general funding and the other funds?

Sparb Collins Our contributions are funded off of payroll, and so they come from the respective funding source that the employee is paid from. If you are in an agency that is paid from the general fund, that will be where those contributions would come from. If you are an agency like PERS which is called other funds, that would come from other funds. WSI is other funds. Other funds also include federal funds which support employees like the Department of Human Services and Health Department.

Chairman Kasper And the county, city, and school districts?

Sparb Collins The counties, cities, and school districts would be the participating employers in PERS. Roughly 50% of our participating members are political subdivisions. Our second largest client is school districts, followed by counties.

Rep. Laning On Page 2 of your handout, the graph references the final average salary and it is changed to the five highest contiguous months. Is that supposed to be years instead of months?

Sparb Collins Yes, years. Thank you!

Rep. Steiner On the fiscal note, there is about \$8 million of state general funds and other funds being invested to bring this fund back to its feet?

Sparb Collins Yes. This is the employer portion. This is all matched from the employees in this bill. For new employees their benefits would be reduced going into the future as well.

Rep. Steiner So this is the end of the fiscal note with the governor putting money in to bring this fund up to a 2035 level of being completely 100% funded? Next session we will not see this fiscal note again?

Sparb Collins It will be on track to 100% funded by 2035.

Rep. Steiner The State Investment Board is getting about 6% on the funds they are investing?

Sparb Collins Eight. If you look at the history that has been achieved, the 8% return over the long term.

Sparb Collins If you didn't adopt these additional contributions and the future funding benefit reductions, our plan now would be on track to being fully funded in 2059. If you adopt this, instead of those contributions staying at that level until 2059, the plan would be funded in by 2035. That means then the contributions can drop back down in 2035. This was the same recovery plan that was fully adopted for TFFR in 2011. Since we didn't include like what TFFR included in theirs originally, that may be one reason why the full recovery wasn't passed then. We have included that here. Let us say you decided we are going to adopt the contributions but we don't want to do the benefits, then we wouldn't be funded in 2035. We would be fully funded in 2040. That adds on about five years off the timeframe.

Rep. Schneider On Page 10, the no recommendation decision by the committee sometimes indicates that there is an uncomfortable compromise between differing views. Can you give us some insight into whether there were some polarizing issues?

Sparb Collins I don't want to speak for the Employee Benefits Committee. Keep in mind this would just be my observation. The one thing that was different this time is we had benefit reductions, and there were some concerns with those benefit reductions. This only applies to new employees.

Sheila Peterson, Director of the Fiscal Management Division of OMB, appeared in support. Attachment #2 (17:45-18:38)

Jane Rupprecht, Uniserve Director and Research Director for North Dakota United, appeared and shared the testimony on behalf of the NDU in Stuart Savelkoul's place. Attachment #3 (19:44-20:46)

Erica Cermak, appeared on behalf of Bill Kalanek of Association for Public Employees. Attachment #4 (21:17-21:43)

No Opposition or Neutral

The hearing was closed.

Rep. Louser Was there any testimony as to what the unfunded liability is currently?

Chairman Kasper No.

Rep. Louser There was testimony in the Senate GVA on the unfunded liability in dollar amount, and I think it would be helpful for this committee. I believe it came from Legislative Council.

Chairman Kasper If you wish to get copies of that testimony for the committee, we can put it into the hands of all our committee members.

2015 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Fort Union, State Capitol

HB 1080
2/19/2015
24176

- Subcommittee
 Conference Committee

Committee Clerk Signature

Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to increases in employer and employee contributions under the PERS defined benefit and defined contribution plans, decreased employee contributions under the PERS for peace officers employed by the BCI, and benefit changes for employees first enrolled after 12/31/15

Minutes:

Attachments 1-2

Chairman Kasper opened the meeting on HB 1080. Attachments 1-2 were handed out to the committee.

Rep. Al Carlson appeared. HB 1080 deals with the public employees and the increases and decreases in compensation. The language proposed in the amendment removes Sections 1, 2, 3, 7, and 8 of the bill which provide for a 1% employee and a 1% employer contribution increase on January 1, 2016. It makes that 4 and 4 a 3 and 3. The second part of the amendment deals with new hires. Over the years we have increased the multiplier from 1.3 or 1.4 up to 2.0. It takes it back to 1.9 for new hires that were hired after December 31, 2015. Obviously, this whole pay package isn't done yet, but with the revenue that we have in place and the projections that we lowered, we needed to make adjustments in the language in this bill. The PERS budget has the money. This language will match up to that money.

Rep. Wallman This bill was actually included in the Governor's budget. Can you explain why the amendments?

Rep. Carlson The amendments are in reaction to the change in the revenue picture for the state.

Chairman Kasper The money is out of this budget. The substantive change is for new hires after December 31, 2015 would have a new formula. They would have to reach the rule of 90 as opposed to the rule of 85 and their multiplier would be 1.9 as opposed to 2. Is that correct?

Rep. Carlson Correct. This actuarially helps the system for everybody when it comes to the stability of the retirement system for all of our public employees.

Chairman Kasper The money part of it will be dealt in the appropriations?

Rep. Carlson It is in the PERS budget which is over in the Senate right now.

Chairman Kasper When it comes over to the House, the house appropriations committee will be dealing with the money, the 3 and 3. Is there a possibility that the 3 and 3 will be looked at if the revenue projections in March comes back more favorable?

Rep. Carlson My opinion is there are going to be a lot of things on the table after crossover. As we crossover, we are probably going to be \$700-800 million in red. The governor had \$700 million of SIF money infused into the general fund budget to balance his budget. Obviously all that money is gone, because all that money tomorrow will be brought up in a bill for the SURGE bill. This is kind of following a national trend where the averages for the retirement age are going up and the multipliers are going down. We are in as good a fiscal position as any state in the country when it comes to our public employee retirement. We were about 68% funded if we closed the retirement fund today where most states are at 23%, 25%, or 28%. Our management has been good. Our returns on our investments have not been very good. All the budgets are funded at 3 and 3.

Rep. Mooney What is the senate bill that has 3 and 3?

Rep. Carlson There is no senate bill that has the 3 and 3. All the budget bills have it, and there is a dollar amount only in the PERS budget. You won't see the 3 and 3, but you will see a large number.

Rep. Schneider Have employees been able to comment in the past or recently about these changes?

Rep. Carlson Not as far as the legislation goes. They are involved in the interim. They have their own compensation commission that they propose to us. The governor submits those numbers. Their concern more than anything is the stability of their retirement fund. We have gone as high as 5 and 5, 4 and 4. The employee benefits committee is ongoing.

Rep. Schneider Are they on record as opposing this? Are you opposed to triggering this back in at some point if the dire predictions don't come true?

Rep. Carlson We have all sorts of things that are going to require an adjustment that are subject to the money. March 18 is the target date for the next snapshot of our revenue forecast. My hope is that it is no worse and, in fact it is better, than we did before. Understand we did not adjust anybody's healthcare. That is a 2.125% raise for each and every employee of the state of North Dakota, because it went from \$890 to over \$1,100 per month for each of their premiums.

Rep. Wallman We have heard a lot about the difficulty we are having recruiting and retaining state employees. Is this really how we want to prioritize this spending? I feel this

might be an area where we want to continue to provide the benefits and incentives that keep our jobs filled with state employees. Do you have an opinion about that?

Rep. Carlson We have had programs where we have signing bonuses which would be something unique only to the private sector. We have given extra allowances for those required to go out West. You have to look at this as a whole package which includes a fully funded \$1,100 a month health program.

Rep. Mooney What is the rationale to moving to the rule of 90 for the new hires?

Rep. Carlson You look at the longevity of the workforce. More states are going to it. You will be retiring at 60 instead of 55. The last five years are used for the multiplier. Those will obviously be your highest five years of salary, and it will benefit them with more money as they retire by holding on.

Chairman Kasper The life expectancy is going up so they are going to be receiving retirement benefits longer, so this helps to keep the fund more stable.

Rep. Dockter TFFR already moved to the rule of 90.

Rep. M. Johnson A lot of the political subdivisions that joined NDPERS were rule of 90.

Rep. Carlson The trouble with keeping a workforce in state government has not been at the higher end of the age bracket. It has been keeping the younger, the more mobile group. When you look at the turnover, it is not much higher than anywhere else.

Rep. B. Koppelman moved to adopt the amendment.

Rep. Steiner seconded the motion.

Rep. Mooney I will vote in favor of the amendment because we need to keep this alive. I am uncomfortable with having our employees on the line this way.

Chairman Kasper Keep in mind, the current employees are not losing anything. The 4-4 is going down to 3-3. This has to do with funding. The new hires will certainly be made aware of the new parameters on the rule of 90 and the 1.9 multiplier.

Rep. Amerman Sparb was talking about starting a four-year recovery plan. This would be the fourth and final year. I don't know what happens now with that. At some point could Stuart give us some insight from the PERS perspective on this hoghouse amendment?

Chairman Kasper I will consider that for a moment. This was not meant to open up the hearing. It was meant to have the amendment explained. As far as the recovery plan, we can ask PERS to give us a new projection on how this would impact the fund. I would suspect they would not want to do it until we might see what the Senate is going to do and where we are going to come together a little bit further down the road.

Rep. Amerman We will find out as the process goes through.

Chairman Kasper I suspect a lot depends on where the oil prices go and if that second trigger hits, there are going to be a whole lot of changes in the next session if we miss the trigger.

Rep. Schneider I understand the dire projections, but I am seeing other things out there that could be subject to cuts that aren't.

Chairman Kasper This has nothing to do with a loss for the current employees. It has to do with the impact on reaching full funding of the retirement benefit fund and the unfunded liability. It may take a little bit longer to get to fully funded. This comes up every session. This isn't the end of the chapter.

Rep. Steiner Former Rep. Frank Wald stated at one point they were more than 100% funded, and they gave an adjustment, and they gave the employees some of that benefit.

Rep. Dockter In 2001 it went from 1.8 to 2. It was 110% funded.

Rep. M. Johnson In boom times they increase the multiplier, and they don't account for actuarially the average over a long number of years. That is exactly where you get into trouble. You want to give your employees a lot, and then you hit 2008 and look what happens.

Rep. Dockter It was .com. The stock market went all the way up to the 2001 session. The tech crash came right after that.

Voice vote. Motion carries.

Rep. M. Johnson made a motion for a DO PASS AS AMENDED.

Rep. B. Koppelman seconded the motion.

A roll call vote was taken. 10 Yeas, 4 Nays, 0 Absent.

Rep. Louser will carry the bill.

AK
2-19-15
102

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1080

- Page 1, line 1, remove "section 54-52-02.9, subsection 2 of section 54-52-05,"
- Page 1, line 2, remove "54-52-06,"
- Page 1, line 2, remove the second comma
- Page 1, line 2, replace the third comma with "and"
- Page 1, line 2, remove ", and sections"
- Page 1, line 3, remove "54-52.6-02 and 54-52.6-09"
- Page 1, line 3, remove "increases in employer"
- Page 1, remove line 4
- Page 1, line 5, remove "defined contribution plans,"
- Page 1, line 6, remove the comma
- Page 1, line 7, after "enrolled" insert "in the public employees retirement system defined benefit retirement plan"
- Page 1, line 7, remove "; and to provide a penalty"
- Page 1, remove lines 9 through 24
- Page 2, remove lines 1 through 31
- Page 3, remove lines 1 through 17
- Page 7, line 27, overstrike "Normal retirement benefits for all retirees, except" and insert immediately thereafter "Except"
- Page 7, line 28, after the comma insert "the normal retirement benefits for:
- (1) All retirees first enrolled before January 1, 2016.
- Page 8, line 1, overstrike "(1)" and insert immediately thereafter "(a)"
- Page 8, line 3, overstrike "(2)" and insert immediately thereafter "(b)"
- Page 8, after line 4 insert:
- (2) All retirees first enrolled after December 31, 2015, reaching normal retirement date equal an amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which is determined as follows:
 - (a) Service benefit equals one and nine-tenths percent of final average salary multiplied by the number of years of service employment.

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(b) Prior service benefit equals one and nine-tenths percent of final average salary multiplied by the number of years of prior service employment."

Page 13, remove lines 22 through 31

Page 14, remove lines 1 through 31

Page 15, remove lines 1 through 31

Page 16, remove lines 1 through 31

Page 17, remove lines 1 through 31

Page 18, remove lines 1 through 31

Page 19, remove lines 1 through 31

Page 20, remove lines 1 through 28

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment removes Sections 1, 2, 3, 7, and 8 of the bill which provide for a 1 percent employee and 1 percent employer contribution increase on January 1, 2016, to the Public Employees Retirement System defined benefit and defined contribution retirement plans.

Date: 2-19-15
 Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1080**

House Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: 15.0137.02002

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By B. Koppelman Seconded By Steiner

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper			Rep. Bill Amerman		
Vice Chair Karen Rohr			Rep. Gail Mooney		
Rep. Jason Dockter			Rep. Mary Schneider		
Rep. Mary C. Johnson			Rep. Kris Wallman		
Rep. Karen Karls					
Rep. Ben Koppelman					
Rep. Vernon Laning					
Rep. Scott Louser					
Rep. Jay Seibel					
Rep. Vicky Steiner					

Vote in Motion

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 2-19-15
 Roll Call Vote #: 2

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1080**

House Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By M. Johnson Seconded By B. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Bill Amerman		X
Vice Chair Karen Rohr	X		Rep. Gail Mooney		X
Rep. Jason Dockter	X		Rep. Mary Schneider		X
Rep. Mary C. Johnson	X		Rep. Kris Wallman		X
Rep. Karen Karls	X				
Rep. Ben Koppelman	X				
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Jay Seibel	X				
Rep. Vicky Steiner	X				

Total (Yes) 10 No 4

Absent 0

Floor Assignment Louser

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

REPORT OF STANDING COMMITTEE

HB 1080: Government and Veterans Affairs Committee (Rep. Kasper, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1080 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "section 54-52-02.9, subsection 2 of section 54-52-05,"

Page 1, line 2, remove "54-52-06,"

Page 1, line 2, remove the second comma

Page 1, line 2, replace the third comma with "and"

Page 1, line 2, remove ", and sections"

Page 1, line 3, remove "54-52.6-02 and 54-52.6-09"

Page 1, line 3, remove "increases in employer"

Page 1, remove line 4

Page 1, line 5, remove "defined contribution plans,"

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Page 1, line 7, after "enrolled" insert "in the public employees retirement system defined benefit retirement plan"

Page 1, line 7, remove "; and to provide a penalty"

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(1) All retirees first enrolled before January 1, 2016.

Page 8, line 1, overstrike "(1)" and insert immediately thereafter "(a)"

Page 8, line 3, overstrike "(2)" and insert immediately thereafter "(b)"

Page 8, after line 4 insert:

"(2) All retirees first enrolled after December 31, 2015, reaching normal retirement date equal an amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which is determined as follows:

(a) Service benefit equals one and nine-tenths percent of final average salary multiplied by the number of years of service employment.

(b) Prior service benefit equals one and nine-tenths percent of final average salary multiplied by the number of years of prior service employment."

Page 13, remove lines 22 through 31

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Page 19, remove lines 1 through 31

Page 20, remove lines 1 through 28

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment removes Sections 1, 2, 3, 7, and 8 of the bill which provide for a 1 percent employee and 1 percent employer contribution increase on January 1, 2016, to the Public Employees Retirement System defined benefit and defined contribution retirement plans.

2015 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1080

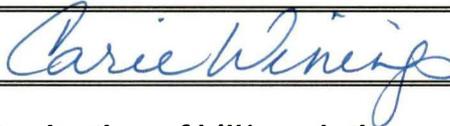
2015 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Missouri River Room, State Capitol

HB 1080
3/13/2015
Job # 24801

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 54-52-06.4 and 54-52-17 and subsection 1 of section 54-52-17.2 of the North Dakota Century Code, relating to decreased employee contributions under the public employees retirement system for peace officers employed by the bureau of criminal investigation and benefit changes for employees first enrolled in the public employees retirement system defined benefit retirement plan after December 31, 2015.

Minutes:

Attachments 1 - 6

Chairman Dever: Opened the hearing in HB 1080.

Sparb Collins, Executive Director, North Dakota PERS: See Attachment #1 for testimony in support of the bill.

(7:00)Chairman Dever: That amendment is drafted on current version?

Sparb Collins: Yes, but our recommendation would be to restore the bill to what it was originally proposed.

Chairman Dever: Was there any conversation in the House since this bill now only a reduction in benefits to new state employees; of reducing the contribution that they would need to make to the plan?

Sparb Collins: I am not aware.

(7:55) Pam Sharp, OMB: Testified in support of the bill if we go back to the original version of the bill. (Echoed Sparb Collins' testimony.) The Governor did fund the increased contributions in the budget and we feel very strongly that this is the time to get this plan on track and finish the recovery plan so that it would be the same recovery plan that the TFFR received. Also, the other caveat would be to remove the decrease of the multiplier for the new employees from the 1.9% that was adjusted in the House back to the 2%. It is very important to finish this recover plan especially know that once we are at fully funded, we can decrease the contributions.

(9:00) Chairman Dever: Can you tell me what the funding was necessary to implement the plan as the bill was when it was introduced?

Pam Sharp: The Governor's budget included about \$5 million in general funds for this 1% increase contribution. There are other funds too and it is about 30 to 40%. It is on the original fiscal note.

Sparb Collins: To restore it to what it was previously (2015-1017 biennium), the general fund was \$4.7 million, and the other funds were \$3.5 million on the state side. On the political subdivision side, counties were \$2 million, cities were \$1million, and school districts were \$2million. Keep in mind that is the employer contribution so the employees would be matching this contribution as well through their 1% contribution. That is 18 months in the 15-17 biennium, and when you go to the 17-19 biennium it would be a 24 month figure.

Chairman Dever: Pam, your agency is involved in the recruiting process of state employees as I understand it and I would imagine larger agencies do their own hiring, but you have a sense for the tight labor market we are in and what does this bill as it is do in your expectations?

Pam Sharp: We do have a tight recruiting market and the benefit package is a very strong component of what the state has to offer for a potential employee. They do look at that. To have this plan fully funded is very important. Besides just the recruiting, it is the rating agencies and how we are looked at by other states. We are the envy of other states with the position that we are in with our financial position, and to not be willing to provide enough contributions to fully fund the plan in a reasonable amount of time is somewhat of a puzzle to some people in the financial areas outside of the state. We should be able to get the fund back to par.

Chairman Dever: A former senator stated that a long time ago we decided to focus on benefits for state employees so with that trade off the salaries are a little lower than the market but the benefits were intended to make up for that.

Pam Sharp: That is true. Our salaries do trend lower than the market and they have continued to be. It used to be that the benefits were the one recruiting tool that we had to compete with the others. Now the studies show that our benefit package is pretty much on par with what else is out there.

Chairman Dever: Before this bill.

Pam Sharp: Yes. Our benefits are not as strong as they used to be. It used to be that we were able to claim that we had much better benefits than the privates, but that was before this recovery plan where we started having the employees contribute as well. Now we really don't have that much more of a benefit than the privates do to use in trying to recruit employees. However, a fully funded plan is certainly something that we want to have.

(14:50) Stuart Savelkoul, Assistant Executive Director, North Dakota United: Testified in opposition to the bill. We oppose the bill if it is not significantly changed from the version as it currently is. I am not really going to say anything substantively different than the

previous testifiers. See Attachment #2 for proposed amendments to the bill. See Attachment #3 for additional testimony on the bill. In 1999 Work Force Safety and Insurance was not exactly the paragon of high moral that it is today. There was a lot of uncertainty regarding its future and there was question if it was going to privatize along with some other issues. An effort was made at that time to unclassify WSI employees and also to give WSI employees along with other unclassified employees throughout the state government to switch over to a defined contribution plan. The employees were really encouraged to do so because of all of the uncertainty. (Reads from Attachment #3) Because of the current funding status of the defined benefit plan and because of the contribution increases that the legislature has enacted in previous legislative sessions, this legislative body has a unique opportunity to allow the folks who then opted out, and we are talking about somewhere around 250 employees or less that are in the North Dakota PERS defined contribution and 50 of whom are still at WSI, to opt back in. The amendment that I introduced would allow those folks to come back into the plan at no cost to the defined benefit retirement system. It would have no substantial impact fiscal impacts except to, as done by an actuarial analysis, perhaps have a net positive impact on the fund. This not about anyone acting with malice. I think they thought that they were advising them with what the thought would be best. We now have the benefit of hind sight. We have an opportunity to undo bad advice at no cost to the state and provide these individual, if they chose, with the retirement plan they prefer. This amendment was built on the assumption that the full recovery plan was going to be adopted. I ask that you strongly consider the remarks of the testifiers to follow. (Gave the history of what has happened with the bill so far.)

(23:40)Senator Cook: Any time we look at projected outcomes of a retirement plan it is based on certain assumptions. I would like to know what assumptions were used between the defined benefit and defined contribution.

Sparb Collins: I do not remember that specific chart. What was provided at that particular time, and it is still provided to day, is a benefits comparison calculator that was available back then. It was up to whoever wanted to use that calculator to decide what numbers in return they wanted to put in, we capped at 11% at that time, and then it would generate an outcome.

Senator Cook: Are you indicating that the individual chose the assumptions and that the assumptions for the defined benefit plan are different than the defined contribution plan?

Sparb Collins: What they were able to choose was the underlying return assumption for the DC plan.

Senator Cook: That will have a big effect.

Sparb Collins: Absolutely. (Referring to Attachment #3) It looks like here that the requested something greater than an 8% return assumption.

Senator Cook: It appears that your name is attached to these charts.

Sparb Collins: We would provide those based on what someone would as for.

Senator Cook: I do not care what year it is, but if you are going to use the same assumptions I find it hard to believe that you are going to see this kind of a contrast between the DB and DC plans.

Sparb Collins: The DB is paid on a formula and so to the extent that you crank up that return on the DC plan, you are going to widen that substantially.

Chairman Dever: Life expectancy is one of those contrasts.

Sparb Collins: (Goes over the charts brought by Stuart.)

(29:25) Senator Cook: It makes it look awfully nice for a younger person.

Sparb Collins: Again, I do not know what return assumption they used. The DB is hardwired at 8% and the DC could be whatever you think you might get.

Chairman Dever: At that time the contribution rates were 4% on the employee side and 4.12% on the employer side and now it is 7% and 7.12%. On the DB plan that 3 points on each side goes to recover the plan and on the DC plan it goes into your account balance.

Sparb Collins: But the employee contribution in the DB always goes into your account balance. Keep in mind, these projections back then would not have had the PEP program.

Stuart Savelkoul: What you see here is what was presented to the employees and I do not necessarily think that the intentions were bad but it did prove to be poor advice for these folks. If this was going to have a significant cost to the state, you still would have a strong debate to have. This bill does not make you make that choice. These amendments say, were they given bad advice, sure, but should we let them back into the plan at absolutely no cost to the taxpayers? The answer is yes.

Chairman Dever: I am not sure that it is necessary to have the argument about what happened then but to discuss where we are at now.

Stuart Savelkoul: I would be inclined to agree with you but unfortunately when we attempted to just make the argument before we did meet some resistance from folks that said that these people were trying to get these people and they were trying to get rich in the market. Considering the status of WSI at the time and the uncertainty of whether or not it was going to privatize combined with the fact that they certainly were being advised by people that they deemed to know more than what they did. The state employees were given advice and it seems to have led them down a path of bad advice.

Senator Nelson: You are asking us to hog house the existing bill and quite frankly I want to go back to the first version of the bill. Is there another amendment out there that goes back to the beginning of the original bill plus HB 1154? Rather than one in place of the other.

Stuart Savelkoul: I would be wild about a bill that goes back to what was in HB 1154 combined with the original of HB 1080. We were of the assumption that no dollars would be available for increasing the contributions. As the Senate has consistently stripped those dollars out of the respective agency budgets we tried to target an amendment that would not create a fiscal note. That being said, I think it would be pretty easy for the very capable attorneys at legislative council to figure out a version of this bill that encompasses both elements.

Chairman Dever: HB 1080 went through the employee benefit actuarial process, before it was introduced and before the amendments were adopted and HB 1154 went through that process as well. How did you arrive at 2 points and how was it determined that would make it revenue neutral?

Stuart Savelkoul: When the analysis of HB 1154 was done it was determined that if HB 1080 in its original form were passed first and then HB 1154 were passed, it would improve the funded status of the retirement fund. The two points that are now in this version of the amendment are saying that if we are not going to increase the employer contributions into the retirement fund, let's just ask the employees who opt to make the switch to sort of pay their own way in so that it does not require the additional state dollars.

Chairman Dever: I recall it was a slight impact either way, slightly negative without it and slightly positive with it, but is it your intention that these 2 points be paid on the employee side?

Stuart Savelkoul: Yes. In this version of the amendments they come from the employee. You have to remember were the committee to restore the bill to its original form and then restore the funding in all of the agency budgets, to increase the contribution rates to the plan, then those two points would not be necessary but this amendment was drafted on the assumption that was not going to happen. The reason for that is that is what happened to us in the House. The bill was sort of lobbied as something that would have no fiscal impact. Then the House decided not to fund the retirement contribution increases and so when the amendments were drafted for the appropriations committee, then refused to take them up.

Senator Nelson: Looking at the original bill and looking at the 3000 version that we have, now we are talking about peace officers and increasing things. Has that gone through the employee benefits committee?

Chairman Dever: I believe that was in the original bill. The amendments removed the contribution increase and reduced the multiplier.

Sparb Collins: That was in the original.

Senator Nelson: Is there anything major that happened between the original bill that was approved and this thing that we got?

Sparb Collins: (Referred to chart on page 1 of attachment #1)

(39:55) Bruce Burkett, North Dakota Peace Officers Association: See Attachment #4 for testimony in opposition to the bill.

(46:35)Chairman Dever: You were proposing an amendment?

Bruce Burkett: Yes, it is just a word change in 54-52.01 that changes and adds game wardens into the peace officer plan hired after December 31st, 2015 into the definition of peace officers.

Senator Davison: As a new employee, will people see this as losing something if they never had it? Is that a fair assessment of that?

Bruce Burkett: That is true. Unless the guy you are working next to has a different benefit and that is the situation that we would have here. The same two people that are working for the same agency can retire at a different time and the purpose of the law enforcement retirement plan was to provide those jobs, which are hands on, out in the field jobs that require a higher physical demand, with the ability to retire at the same age.

(50:41) Senator Nelson: Do Game Wardens get Social Security?

Bruce Burkett: Yes. Highway Patrol does not.

(51:15) Jolene Rohde, Impairment Auditor at WSI: See Attachment #5 for testimony in opposition to the bill. See Attachment #6 for testimony brought from others.

(1:00:10)Chairman Dever: Do the employees that are effected support the 2% contribution?

Jolene Rohde: Yes we do.

Chairman Dever: Can I assume that since this election was made 16 years ago now that most of those employees are mid-career or beyond?

Jolene Rohde: A lot of these people have already left.

Senator Poolman: How many individuals are we talking about here that need to go back in?

Jolene Rohde: I do not know how many would elect to return, but of those that I have talked to because for the past year we have met once a month to get HB 1154 in order, there are about 50 of us.

(1:01:48)Tammy Olson, WSI Employee: Testified in opposition to the bill. Written testimony is in attachment # 6. Since it is a cost neutral issue, I hope that you will see the benefit for rewarding us for our years of service.

Chairman Dever: Closed the hearing on HB 1080.

2015 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Missouri River Room, State Capitol

HB 1080
3/13/2015
Job # 24827

- Subcommittee
 Conference Committee

Committee Clerk Signature



Minutes:

No Attachments

Chairman Dever: Opened HB 1080 for committee discussion. It seems to me that our choices are to defeat the bill, pass the bill, restore it to its original language, restore it to its original language with the suggested hog house amendment, or just hog house the bill.

Senator Davison: At times it felt like we were talking about the whole PERS issue and then I kept going back to the bill and it is talking about peace officers. What were we talking about?

Chairman Dever: Several sessions ago we had a conversation where we separated the peace officers and highway patrol to retire at age 55 or earlier if they qualify. At that time game and fish came in and said that game wardens don't need to retire at that early of an age because although they are all law enforcement officers, the nature of their work was different so they were left in this and now if we move to age 60 and the rule of 90 they may qualify for the rule of 90 when they are 55 and they may need to retire when they are 55 but they cannot draw from their retirement until they are 60 the way the bill is drafted.

Senator Davison: So this has nothing to do with the rest of the PERS people. Then we had the workers comp thing come in there on the side because that was an amendment to this because it was dealing specifically to peace officers that they thought this would be a spot that they could amend that back in to the bill.

Chairman Dever: The conversation about peace officers was unrelated to WSI.

Senator Davison: So this thing is just about peace officers retirement?

Chairman Dever: The testimony of Bruce Burkett was just about the peace officer provision that is a part of the bill because it moves to the rule of 90 and retirement at age 60.

Senator Poolman: I think that the best explanation of what the bill does and how it is different from how it is originally proposed is in Sparb Collins' testimony on page 1. The chart explains it. I think the peace officers were mostly frustrated with the fact that there are

going to be different expectations of people under this plan but that is exactly what happens under TFFR. It is about saving the plan. I am one of those in the middle who now is working longer and contributing more and watching the people just ahead of me not doing any of those things. That is just the way it is.

Chairman Dever: His concern was more about the age 60 than the rule of 90.

Senator Nelson: My preference would be to go back to the original bill and finish the recovery plan.

Chairman Dever: And not do the WSI?

Senator Nelson: This is probably the best bill to add it to but I do not want to do what he did which completely guts 1080 and puts in 1154. If you want to put it on as an amended piece to 1080, but is that going to jeopardize the passage of 1080.

Senator Cook: I would like to get somewhere between the original bill and this bill myself. At some point you are going to have to find out where we are going to end and send something to the Governor. Whether you find somewhere in between as it comes out of here or whether you do that in a conference committee, it is all about a strategy that you want to have. I have often said that the mistake that we have made as legislators over the years since I have been here has been as we have increased the multiplier because the plan was actuarially sound we did not tie that increase to the soundness of the plan. They have dropped the multiplier to 1.9; I would have had some mechanism for new employees, if we are going to keep a defined benefit plan, where that multiplier can fluctuate from a floor to a ceiling. I do not know what the floor and the ceiling should be but I would think the ceiling should be 2.

Senator Nelson: Do we need an Attorney General's opinion because he said we cannot change because it is under contract.

Senator Cook: This is for new employees so we don't need that.

Chairman Dever: I think South Dakota's multiplier is 1.7 but I am not sure. One of the changes that they made is that they had a cola and they removed that.

Senator Cook: If you made that multiplier fluctuate, as far as the employer contributions, it could be hashed out here or ultimately in a conference committee. It does not appear that there is going to be the legislative will to eliminate defined benefit plans and you know that is what I think we should do. I am not a fan of a government financed backed defined benefit plan. Somewhere you have to find something that you can remove the risk on future taxpayers.

Chairman Dever: Another approach to that might be to set it at 1.9 but increase it to 2 when the fund is 100% funded or something.

Senator Cook: There you have one that is fluctuating between 1.9 and 2. We can have a 2008 tomorrow again.

Senator Nelson: We were 100% funded before then.

Senator Poolman: I was thinking the same thing as Senator Cook. If we restore it that is where the negotiating piece is going to be in conference committee is putting that multiplier back on. I think it is a good idea. As far as the temporary employees, I did not support it before but I did not think about the fact that it was a vote of the people that made them stay employees again. I think there is blame to spread around in terms of how that situation occurred but at this point it was not only out of the control of the employee but it was also out of control of the agency heads that were trying to make that privatization and trying to make those changes. I think that maybe we should consider putting that amendment on. It is 50 people and it does not cost any money and I think that will just keep coming back to us every 2 years until these people retire. I do not think they are completely free of blame themselves but I do think that one little factor becomes the bottom line.

Senator Nelson: I think that some of them also looked at the fact that the investment was pretty good back then but they did not look at the fact that they were going to be losing disability and some of the other things that come along with the defined benefit plan.

Senator Poolman: They were advised to seek the advice of a financial advisor as part of all of that. That is why I think there is blame to spread around there but at this point, it really was taken out of their control.

Senator Cook: I am curious to what degree are we setting a precedent here and how many are going to be up here saying me too. There are many taxpayers that had a plan in 2008 that lost quite a bit and they would love to go back and pretend that their plan was in a different place. I have mixed feelings.

Chairman Dever: Some may have no desire to opt back in.

Committee Discussion: The committee continued to look over Sparb Collins' testimony and discuss what to do about the WSI employees and whether the committee would like to try to do something about the situation and if they did what it would look like. The idea of writing an amendment to specifically address the WSI employees and no one else was discussed. The lack of a fiscal impact to the plan was reviewed again between the committee members. It was mentioned that the only unclassified agency is the Department of Commerce. It was discussed that new employees coming in are making decisions about where they are going to be at the end of their career while they are at the beginning of their career and the state makes a promise to them at that point what their situation will be and what the benefits they will have on a defined benefit plan. But on a defined contribution plan the employee is choosing to control their own retirement plan.

Chairman Dever: Closed the committee discussion on HB 1080.

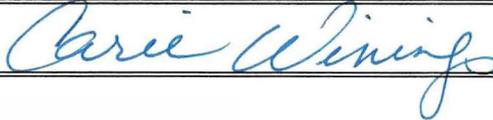
2015 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Missouri River Room, State Capitol

HB 1080
3/26/2015
Job # 25498

- Subcommittee
 Conference Committee

Committee Clerk Signature



Minutes:

No Attachments

Chairman Dever: Opened HB 1080 for committee discussion and reminded the committee what the bill was about and went over what amendments were brought by North Dakota Game and Fish.

Senator Cook: What did the House do to the bill?

Chairman Dever: The House removed the increase in the contributions and they decreased the multiplier to 1.9.

Senator Cook: For new employees only?

Chairman Dever: For new employees.

Senator Cook: They did not do anything to change the retirement benefit package for existing employees in any way?

Chairman Dever: That is correct and there is some question as to whether you can do that. You cannot do that for retired employees but for current employees the closer they are to retirement the more likely you are going to end up in court. At any point you could end up in court. You can do anything with benefits before you are hired.

Committee Discussion: The committee reviewed the testimony that they had from Sparb Collins and the amendment proposed.

(6:50) Chairman Dever: As the bill sits right now I am not supportive.

Senator Cook: I think the whole question in all this is between a defined contribution and a defined benefit plan and if we are going to have a defined benefit plan, how might we make it so that there is less risk on the taxpayers. I have said many times that it is the multiplier that is the key part of that whole formula and I always felt in looking back that the multiplier should be able to go up and down within a range as the plan gets stronger or weaker. This sets a lower multiplier and I would change it so the multiplier could move in a range

between 1.8 and 2 depending on the actuarial nature of the plan. Then you would have the means to keep the defined benefit plan into the future. I think it makes the argument of a defined benefit plan stronger than it is today.

Chairman Dever: What would you see then as the status of an employee at the point of their retirement? That they would have whatever contribution that was in effect at that time?

Senator Cook: At the time of their retirement it would be whatever that multiplier is at that time. The real challenge you have in going this way is these two different groups of employees that are going to have now and the compensation that you actually pay them. You are not going to be able to pay them differently but somebody going to work would look a lot more favorable to a plan that guaranteed them a retirement with a 2 point multiplier verses one that can vary but they are going to pay the same. If we had of just done it right 10 years ago when we started moving that multiplier up we would not be in the problem we are today.

Chairman Dever: Would you see it as having the effect of leaving the 1.9 multiplier in the bill but a provision that at some point that would bump up to 2 - like if the plan reached 90% which is generally considered to be a healthy plan?

Senator Cook: So you are talking about the movement being between 1.9 and 2 verses something a little lower? That is even better yet. I do not know what the right thing is but that is an improvement.

Chairman Dever: The 1.9 does not kick in until new employees retire.

Senator Cook: That will be a long time.

Chairman Dever: The plan as it is projected it will continue to become healthier.

Senator Davison: I thought that Senator Poolman did a nice job of pointing out that teachers are doing that now. They are on the same salary scale but some are grandfathered in at a higher level for retirement. I believe she said that there are three levels of teacher retirement. That seems to be working out fine there. I think what Senator Cook brought up is a good idea.

Chairman Dever: Teachers bought into that.

Senator Cook: Yes they did.

Chairman Dever: There was concern in our committee when we passed that - which teachers were going to sue us, as they could have, and they have not.

Senator Cook: I sometimes wish now that they would have to test it and find out what would happen. We are always told what we can and cannot do yet I see what some other states are doing. It is what happens when you plain can't pay the bill. Hopefully we never find that out.

Chairman Dever: It can be considered a concession on the part of the state employees that when we bump the employer contribution we bump the employee contribution and that was not part of the contract with them when they started.

Senator Cook: Let's let this sit for a while and get some amendments drafted and see what they think.

Chairman Dever: What would you like to see? I think Game and Fish had a legitimate argument. If we are going to raise the retirement age to 60 - they do not have a problem with the rule of 90 but for other law enforcement officers we say 55 is when we say they should retire. I do not have a sense of direction so we will set that aside. Closed the committee discussion on HB 1080.

2015 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee

Missouri River Room, State Capitol

HB 1080
4/2/2015
Job # 25741

- Subcommittee
 Conference Committee

Committee Clerk Signature



Minutes:

Attachments 1 - 3

Chairman Dever: Opened HB 1080 for committee discussion. See Attachment # 1 for a copy of the bill that the House did noting the changes in green and red. I would like to keep the green language and restore the red language. If we do that, I am prepared to support it. Without the money I do not think that we are serious about the effect on the fund. Without the bill the year that it is projected to hit 100% is 2059. As it was introduced with the money in it that year would have been 2034. When they took the money out of it and then reduced the multiplier to 1.9 it made the year 2052. That to me is kind of insignificant. The factors that really make a difference on the fund are the contribution rate and the return on investment. That would make the contribution rate, if we adopt this at 8 on the employee side and 8.12 on the employer side and that .12 goes to the retiree health benefit. Back in the early 80's rather than giving a pay raise to state employees the state assumed the employee side of the contribution. At that point it was 4 points. Right now it is 8 and 8 of which the state pays 4. TFFR when we made those changes in 2011 with all the players at the table, we changed it to the rule of 90, age 60, last five years. Basically the same provisions but the contribution total for teacher now is 24%. State employees have cooperated in the contribution on their side of it going forward and most would consider it part of their compensation. The other provision I would like to address is the Game and Fish request for an amendment to be exempt from the age 60. We would be going back to version to and keeping the House amendment on the 1.9.

(4:33)Committee Discussion: The committee discussed the amendments and what would be done to the bill.

(6:10)Senator Davison: I just don't think there is any appetite on House side for the 1 on 1 in this situation. I would not support the 1 on 1. I support HB 1080 as it is right now. I think that it does not do a lot of things but it continues to help us move towards a more solvent retirement fund and it gets us on the path. To still have the multiplier at 1.9 for new employees is still a really nice retirement fund. In fact on a \$60,000 five year average salary, the difference we are talking about of a 25 year employee as it currently stands at 2.0 is about \$30,000 and how it would stand at 1.9 is about \$28,550. We are talking a difference of about \$100 a month.

Chairman Dever: We need to address the game wardens amendment.

Senator Davison: Moved a Do Pass.

Senator Cook: Seconded. I would be more comfortable if we talk about the game warden issue thought. I forgot about that.

Senator Flakoll: There may be some logic in further amending this if we so choose.

Chairman Dever: Not if we pass the bill. I just got an e mail from the attorney for PERS and it addresses the game warden issue. See Attachment #2 for copy of the e mail.
(11:20)We might need to deal with this next session because it appears to be an issue that needs a little more work.

Senator Flakoll: Do we have the game and fish amendment?

See Attachment #3 for a copy of what game and fish brought in for an amendment proposed.

(13:40)Chairman Dever: I would point out that in 2011 PERS sent forward a recovery plan that would have increased it by 4 points on each side over time and the House passed it to the Senate. We in the Senate decided to do the 2 in the first biennium and consider the other 2 later. The House has not cooperated with that since. I will not be supporting the motion by the way.

Senator Flakoll: I am curious if you would allow to further amend? That would be similar to bringing a bill to the floor and having a floor amendment. Ideally you would put it on before. That would dictate my vote one way or the other.

Chairman Dever: I don't know that we can procedurally adopt a motion while we have the other motion on the floor. Maybe it is more complicated than we are ready to deal with right now and we could deal with it in the next session.

Committee Discussion: The committee reviewed where they were at and what they might want to do with the bill in regards to the game and fish issue.

Senator Davison: I can withdraw my motion if that would help the situation.

Senator Cook: I am alright with that.

Motion for a Do Pass was withdrawn.

(19:50)Chairman Dever: Asked for Jennifer Clark to come down from legislative council to answer a few questions. What do we need to do to accommodate the request of the game wardens?

Jennifer Clark, Legislative Council: My understanding is that they would be changing plans. They are going to change employer contribution and employee contribution. It is a

bit of a discussion. Didn't we just do that with another group of individuals this last session? I believe it was the National Guard. I did get a call from Sparb Collins. He said that it could be done and they could work on it with us on how to do that. It will take more than this. This is just the beginning of the conversation.

Chairman Dever: Should we attempt to do it now with short time or tell them to bring a bill next time?

Jennifer Clark: That is a good question.

Senator Nelson: Could we kill this bill and hog house it with that provision?

Chairman Dever: If we kill the bill we wouldn't need to because the age 60 provision would come out of it.

Jennifer Clark: If I understand this correctly, is part of the impotence for this that the game and fish does not want to go the rule of 90?

Chairman Dever: They are ok with the rule of 90 but they have a problem with the minimum age of 60.

Jennifer Clark: Is that for new hires or is that for existing hires?

Chairman Dever: The bill would be for new hires.

Jennifer Clark: What I am thinking is if there is time to discuss this and is it something that you can get together over the next two years and come to a decision. It is not affecting any of the current employees that want to retire in the next two years.

Chairman Dever: If we move them to a different plan it would be under the provisions of that plan which would not include that. The bill only applies to the main plan doesn't it?

Jennifer Clark: I am not familiar enough to comment on that. In my conversation with Sparb, I asked if it was put through now is there anyone that would be penalized by not doing it. He said anyone who retires in the next two years. I said that in the legislation in front of us are we changing anything that would affect them and he said that no it would be the new hires. It was a quick conversation but that is what I walked away with.

Chairman Dever: Reads from the title of the bill. I think we have bigger problems.

Jennifer Clark: One of the things that Sparb did mention is that if you notice that one of the things in HB 1080 is that we are doing a little adjustment in the peace officers. They got a little bit out of whack and they are trying to bring them so that they are more even with everyone else.

Chairman Dever: This talks about a decrease in their contribution.

Jennifer Clark: They had been pulled up higher than they needed to be.

Chairman Dever: So their plan is stronger than it needs to be?

Jennifer Clark: That is my understanding.

Chairman Dever: It appears to me that what we want to do with the game wardens might need to be done next session.

Jennifer Clark: Sparb did say that he could work with this. There are just some decisions that need to be made. It is just not easy to say throw them in.

Chairman Dever: I think that it is more than we are prepared to do in the last 16 days of the session.

Senator Davison: Moved a Do Pass.

Senator Cook: Seconded.

Chairman Dever: Any further discussion?

Senator Cook: One thought here on this issue. I think it is pretty much that all legislators have been looking at this for some time and the merits of trying to continue a defined benefit plan for all employees. Forget about what is in the bill but just look at from now until we go home, this bill and a Do Pass motion is just the way the House sent it over. That means that if we take it up to the floor and it passes or it dies, in either case there will be no conference committee and the issue will be over with. On the other hand, if it goes up to the floor there will be a lot of people lobbying for the defeat of this bill. I think I almost predict the consequence on the floor but for once the floor will have an opportunity to weigh in on this issue. The last thing I would want to do is see this continue to fight through a conference committee. It will serve no purpose. I think this is a good issue that both chambers need to weigh in on.

Chairman Dever: I do not disagree with that. My concern is that right now it is only a decrease in benefits without any funding to make a real difference in the plan.

Senator Cook: I can hear all of the arguments right now.

A Roll Call Vote Was Taken: 3 yeas, 4 nays, 0 absent.

Motion Failed.

Senator Nelson: Moved a Do Not Pass.

Senator Marcellais: Seconded.

Senate Government and Veterans Affairs Committee

HB 1080

04/02/2015

Page 5

Chairman Dever: Any further discussion?

A Roll Call Vote Was Taken: 4 yeas, 3 nays, 0 absent.

Motion Carried.

Senator Dever will carry the bill.

Date: 4/2
 Roll Call Vote #: 1

**2015 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1080**

Senate Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Davison Seconded By Cook

Senators	Yes	No	Senators	Yes	No
Chairman Dever		✓	Senator Marcellais		✓
Vice Chairman Poolman		✓	Senator Nelson		✓
Senator Cook	✓				
Senator Davison	✓				
Senator Flakoll	✓				

Failed

Total (Yes) 3 No 4

Absent 0

Floor Assignment _____

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

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1080

Senate Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Nelson Seconded By Marcellais

Senators	Yes	No	Senators	Yes	No
Chairman Dever	✓		Senator Marcellais	✓	
Vice Chairman Poolman	✓		Senator Nelson	✓	
Senator Cook		✓			
Senator Davison		✓			
Senator Flakoll		✓			

Total (Yes) 4 No 3

Absent 0

Floor Assignment Dever

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

REPORT OF STANDING COMMITTEE

HB 1080, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends DO NOT PASS (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1080 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

HB 1080

#1
HB 1080
1-22-15

TESTIMONY OF SPARB COLLINS

HOUSE BILL 1080

Good morning, my name is Sparb Collins. I am the Executive Director of the North Dakota Public Employees Retirement System (NDPERS). I appear before you today concerning the retirement plans we administer and in support of HB 1080. Our agency provides retirement plan services to the state and participating political subdivisions.

The proposed legislation before you today is for the last year of the four year recovery plan for the PERS Main Retirement Plan. The first two years were approved during the 2011 session. The third year was approved last session. This last year of the recovery plan would increase both the employer contribution rates and the member contribution rates for the PERS Main/Hybrid Plan (Main/hybrid and Judges only) and the PERS Defined Contribution Plan by 1% for the employer and member beginning January 2016. The bill also would change the member contribution rates for the following groups:

- Temporary employees in the Hybrid Plan and Defined Contribution Plan, for which the member contribution rate would increase by 2% annually, instead of 1%, over the same period.
- Peace officers in the Hybrid Plan employed by the State Bureau of Criminal Investigation, for which member contributions would decrease by .5% of the monthly salary rather than increase.

In addition this bill modifies the recovery plan to add in certain benefit changes for new employees. These changes are in section 5 & 6 of the bill and discussed in the following table.

The following details the above changes in the Bill:

Retirement Fund	HB 1080 <i>Increase employee and employee contributions equally*</i>
Main	<ul style="list-style-type: none"> • 1% employee increase and a 1% employer increase <ul style="list-style-type: none"> ○ Section 1 increases the temporary employee contribution* ○ Section 2 increases the employee contribution ○ Section 3 increases the employer contribution ○ Section 5 & 6 Makes the following benefit modifications for the Hybrid Plan <ul style="list-style-type: none"> ▪ Final average salary for those enrolled after 12/31/15 is changed to the 5 highest consecutive month employed instead of highest 36 months out of 120 months ▪ Minimum age for unreduced benefits for those enrolled after 12/31/15 would be changed from the Rule of 85 to the Rule of 90 and at least 60 years of age. ▪ Early retirement reduction would be increase to 8% per year instead of 6%.
Law Enf	<ul style="list-style-type: none"> • .5% employee decrease <ul style="list-style-type: none"> ○ Section 4 decreases the employee contribution
DC Plan	<ul style="list-style-type: none"> • 1% employee increase and a 1% employer increase (Jan of 2016) <ul style="list-style-type: none"> ○ Section -7 increases temporary employees contribution ○ Section 8 increases employer and employee contributions

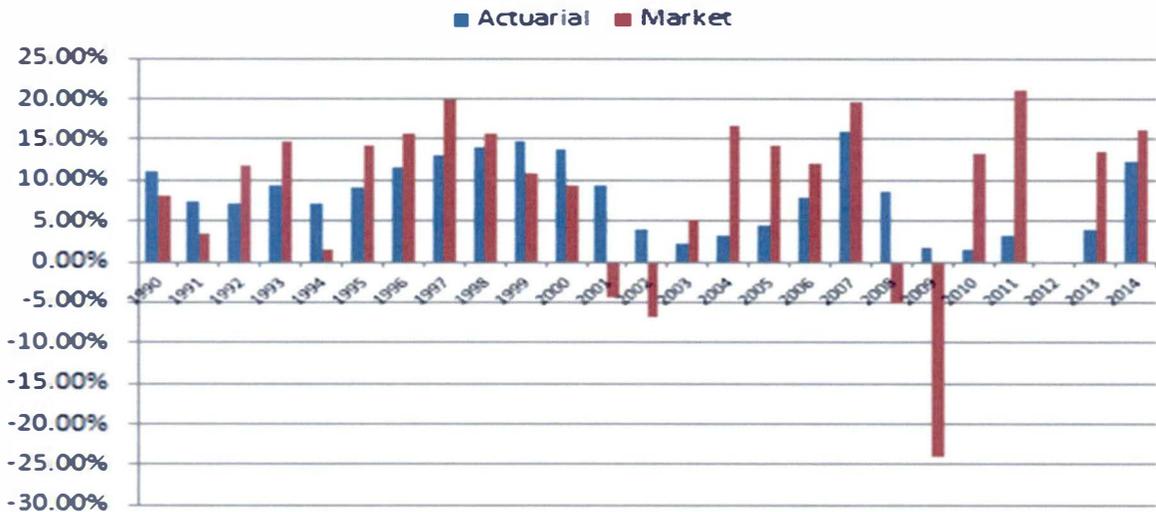
*Temporary employee contributions increase by 2%.

This bill addresses the funding shortfall that has occurred in both the PERS defined contribution plan and the PERS defined benefit/hybrid plans as a result of the downturn in the financial markets. Let me start by providing you some background and a summary of the actions taken to date.

Background

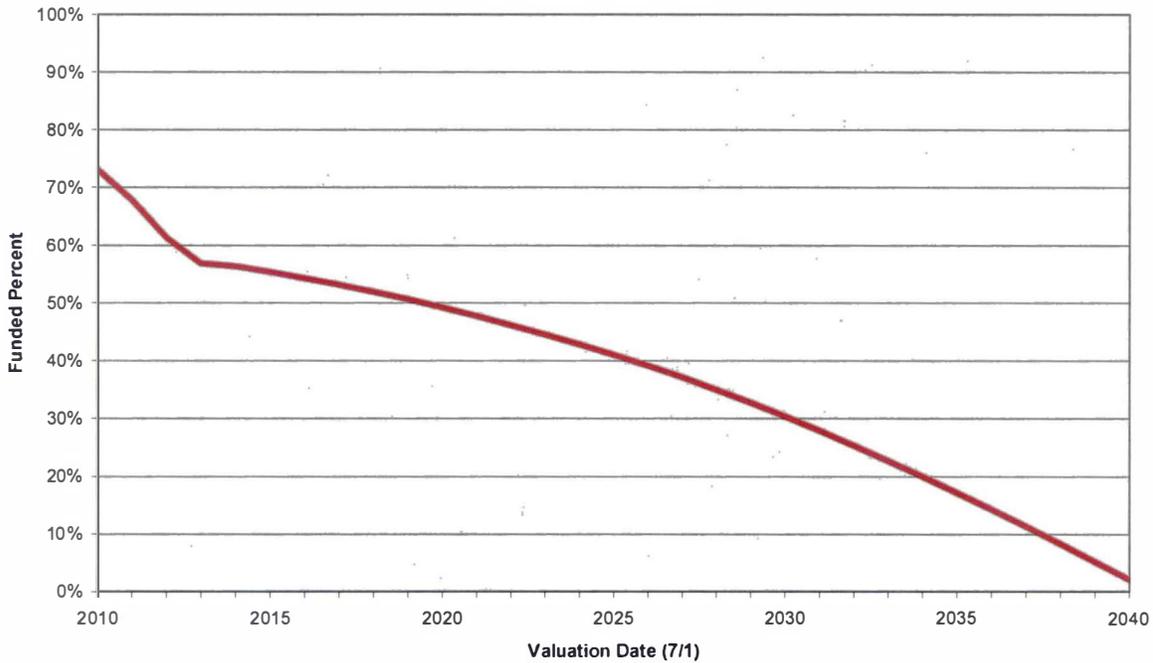
In the 2008/2009 fiscal year the financial market had a major correction that was preceded by the tech market collapse in 2001-2002. However, the most significant effect occurred in 2008/2009 when the PERS plan lost about 24.5%. The following table shows the history of returns and the returns in that year.

NDPERS Main System Investment Returns

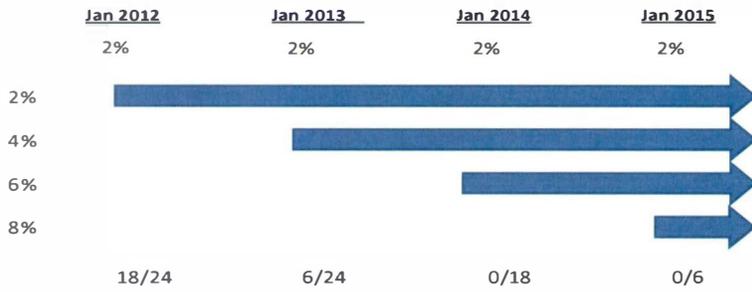


The financial consultant to the State Investment Board, which manages the PERS assets, reported that out of 224 years of US stock performance only 4 years were worse than the returns in 2008. What the plan experienced was truly a unique and significant event. As a result of this dramatic downturn in the financial markets, the long term funded status of PERS was affected as shown on this graph.

PERS (Main System)
Projected Funded Ratio Under Current Plan
(Actuarial Value of Assets to Actuarial Accrued Liability)
Based on July 1, 2010 Data



The above projections of the future funded status of the Main plan showed the plan could become insolvent in approximately 2040. After a significant amount of study, a proposal was brought forward to increase the contributions by 8% over the period from January 2012 to January 2015 which was projected to close this funding deficit. It became known as the PERS 4-year recovery plan and was based upon the concept that the recovery should be shared between the employer and employee. The thought was that neither party should be responsible for the full cost of the recovery. It was proposed to be spread over 4 years to reduce the effect of the increase in any given year on either party.



Months increase effective for 2011-2013/ Months effective for 2013-2015

2015 and beyond 100% effective

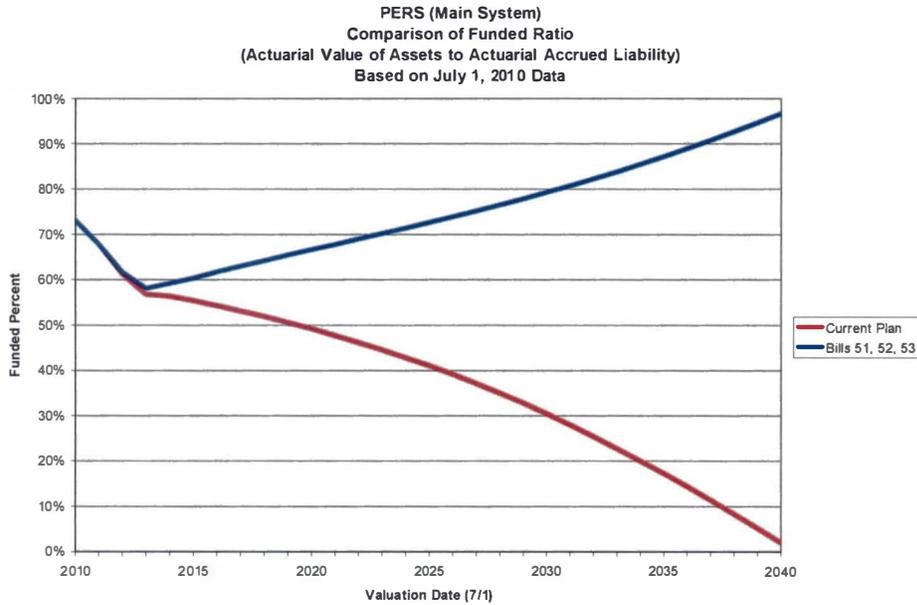
2

This proposal came together in SB 2108 that was considered during the 2011 session. This proposal was intended to accomplish three objectives:

1. To stop the downward trend in the funded status of the plans
2. To stabilize the plans
3. To put the plans on a course back to 100% funded status

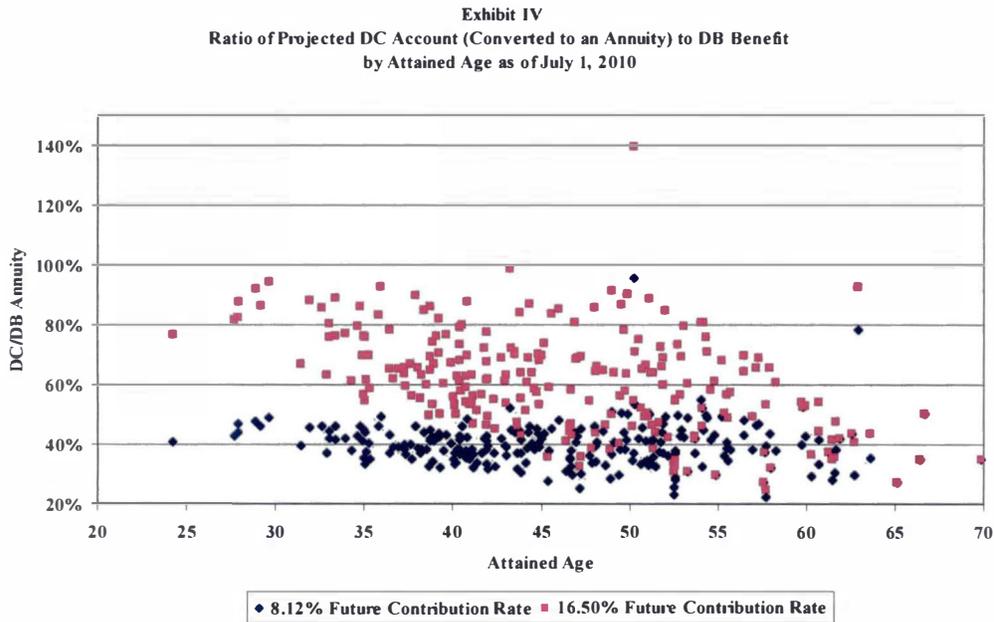
The following graphs were reviewed during that session showing the projected status of the funds without the increase and the projected status with the increases proposed in the recovery plan.

Graph 2



It was also noted that the downturn had a significant impact for members of the PERS defined contribution plan. The following table shows the challenge faced by that plan in 2010:

Graph 2



The -diamonds show the challenge the defined contribution plan members faced and the squares show the benefit of the increase in contributions to 16.5% over a four-year

period. The graph makes it clear that a total contribution level of 8.12% would not meet the objective for long term retirement savings for the members of this plan.

The proposed recovery plan outlined above for the retirement plans, including the DC plan, accomplished all three goals. That is, the downward trend in funding has been reversed. The plans are stabilized and are on a course to 100% funded status. However, for the DC plan we note that while the proposal does much to help the members, they are not returned to a 100% level.

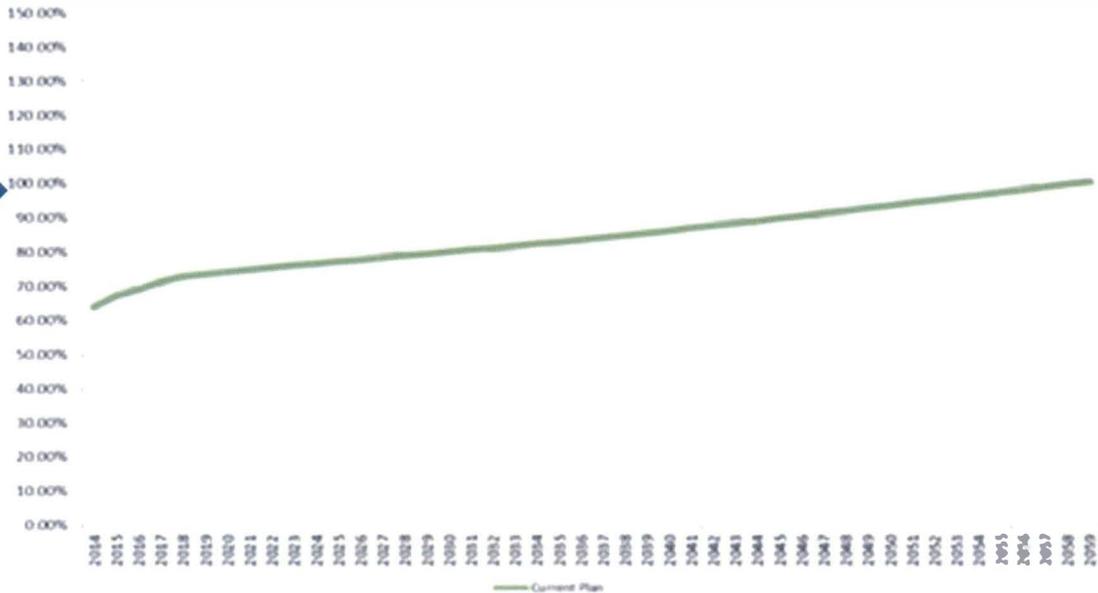
That session, the legislature approved the first two years of the recovery plan which included the 2012 and 2013 increases, and last session the third year was approved for 2014.

Accomplishments and Final year of Recovery Plan

New projections have been completed for the plan this year as part of the ongoing study and consideration process for the last year of the recovery plan. The following graphs show what was accomplished by the action of adopting the first three years of the recovery plan and the effect of adopting the last year of the recovery plan proposed in this bill.

Projected Funded Ratios (AVA Basis) – Main System

CURRENT PLAN



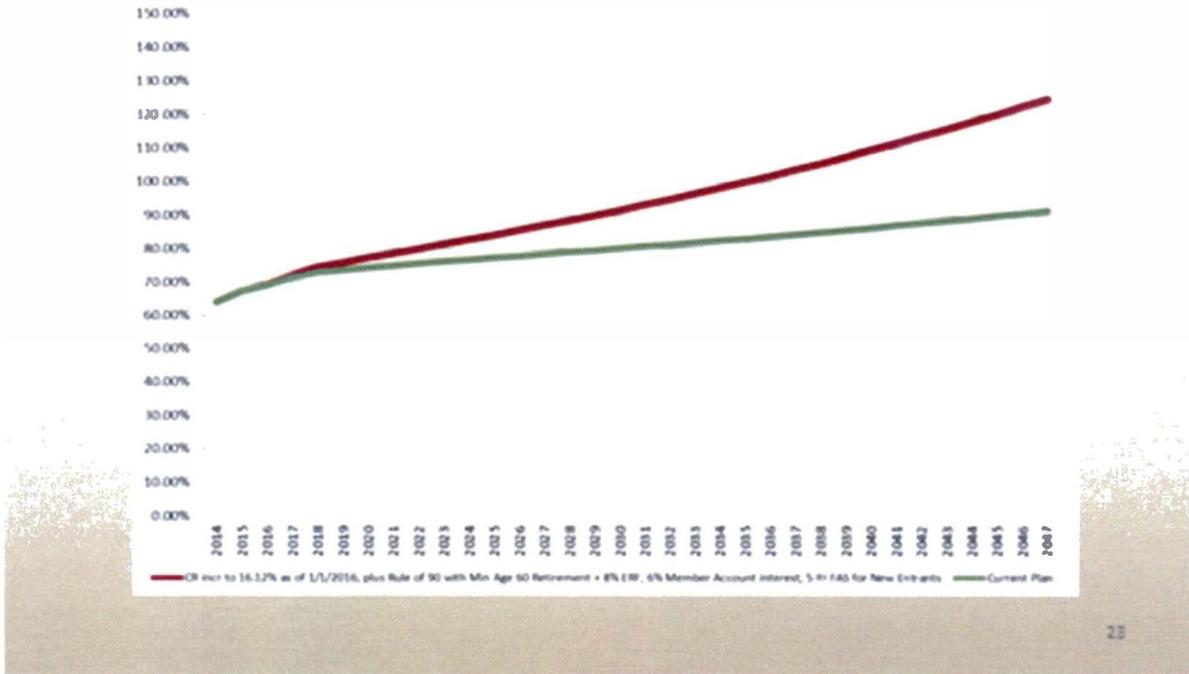
The current plan for Main System is expected to reach a 100% Funded Ratio in the year beginning July 1, 2059.

Segal Consulting 9

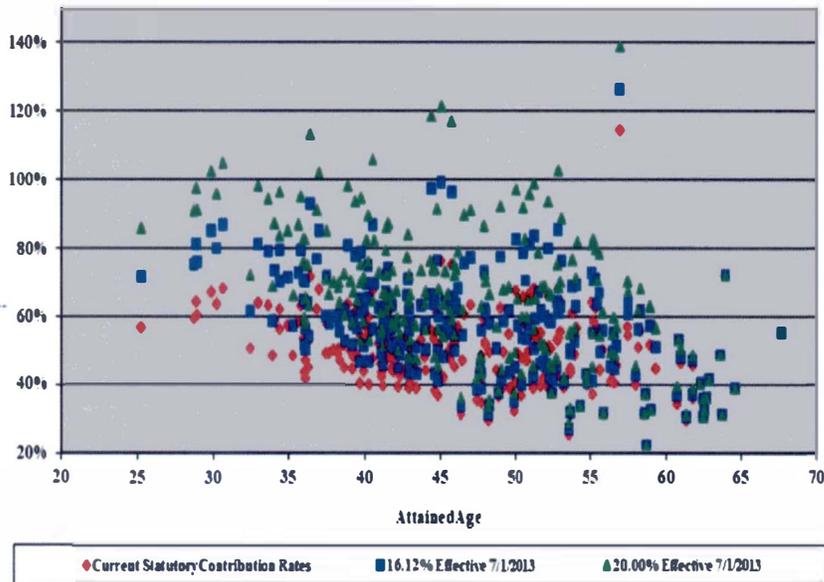
As the above shows, the PERS plan is on a course to 100% funded status by 2059. If the provisions of HB 1080 are passed the following graph shows that the plan will be on a course to 100% funded status by 2035, about 24 years earlier.

Projected Funded Ratios (AVA Basis) – Main System

RULE OF 90 WITH MINIMUM RETIREMENT AGE 60, 8%ERF, 5-YEAR FAS FOR NEW ENTRANTS AND 2% CONTRIB INCREASE ON JANUARY 1, 2016 (IN MILLIONS)



The following table is for the defined contribution plan.



The diamonds show how the adoption of the first three years of the recovery plan has helped this plan's members. The adoption of the last year is shown by the squares. The last set is the triangles and shows the benefit of a 20% contribution level to this plan.

Summary

This recovery plan has had considerable study over the years including:

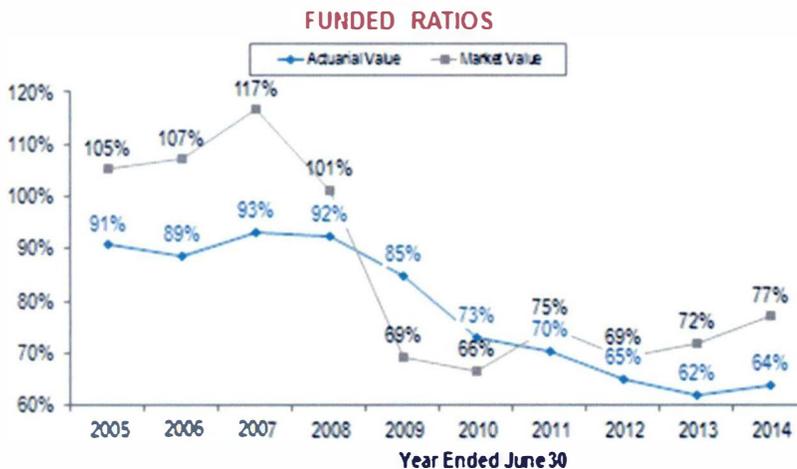
1. The PERS Board worked with our members in developing this proposal. The significant part of this effort is the development of a shared recovery plan with both the member and employer sharing the contribution increase.
2. The Legislative Employee Benefits Committee studied the 4 year recovery proposal in the 2010 interim. They had several hearings on the proposal and reviewed detailed actuarial information over a 5 month period. That committee gave the 4 year recovery plan a favorable recommendation. During the 2012 interim, the Legislative Employee Benefits Committee reviewed the proposal for the last 2 years of the recovery plan. They held hearings and reviewed updated actuarial information and again gave it a favorable recommendation. This interim, after study by the committee the bill was given a "no recommendation".

- The Executive budget for 2011-13 recommended the 2012 and 2013 increases and the Executive budget for 2013 to 2015 recommended the 2014 and 2015 increases to complete the recovery plan. This executive budget for next biennium recommends and funds the 2016 increase, or the last year of the recovery.

Attached is the fiscal note for this bill. We appreciate the cost of the recovery is significant, but we are confident that based upon the studies to date, this will put all plans back on track to 100% funded status in what we believe is a lower cost approach in the long term.

As noted at the beginning, the investment consultant to the State Investment Board stated that the year we had the large loss that created this situation was truly unique. And to have this event preceded by the tech market collapse is truly a significant combination of events which hopefully we will not experience again in our lifetimes. Thankfully, as result of your leadership and that of others, the plans went into this situation in a strong funded position. The following shows the funded status of the PERS plan on both an actuarial and a market basis.

Main System



Due to the investment gain in 2014, the ratio based on both actuarial value and market value of assets has increased.

If we are going to meet our future challenges as effectively as our past leaders have prepared us for this one, we need to regain the same funded basis that they gave us. Consequently, I stand before you today to request your positive consideration of this bill, the last year of the original recovery plan, which will put us on a course back to 100% funded status and make sure we have a strong future.

Thank you and this concludes my testimony. If we can assist you with your considerations, please let me know.

15.0137.02000

FISCAL NOTE
Requested by Legislative Council
12/20/2014

Bill/Resolution No.: HB 1080

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

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$4,760,000	\$3,564,000	\$6,346,000	\$4,752,000
Appropriations	\$0	\$0	\$4,760,000	\$3,564,000	\$6,346,000	\$4,752,000

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties	\$0	\$2,089,000	\$2,786,000
Cities	\$0	\$1,062,000	\$1,416,000
School Districts	\$0	\$1,966,000	\$2,621,000
Townships	\$0	\$0	\$0

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

The bill adjusts the employer and employee contributions to the state retirement plans to implement the last year of the four year recovery plan. The first three years were approved in the prior legislative sessions.

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

The bill increases employee and employer contributions for the NDPERS Main and Defined Contribution systems by 1% in January, 2016.

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

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

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

See 2B above.

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

See 2B above, the appropriation is included in the executive budget.

P. 14.

Name: Sparb Collins
Agency: NDPERS
Telephone: 701-328-3900
Date Prepared: 12/30/2014

TESTIMONY IN SUPPORT OF HB 1080

HOUSE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE

JANUARY 22, 2015

Good morning Chairman Kasper and members of the Government and Veterans Affairs Committee. I'm Sheila Peterson, Director of the Fiscal Management Division of the Office of Management and Budget.

The funding for HB 1080 is included in the Governor's budget. The Governor supports HB 1080 and included it in his budget recommendations for two reasons. The first is that it completes the recovery plan for the PERS retirement system as recommended by the PERS Board in 2011, and second, it aligns the recovery plan and the benefits for new employees to the TFFR retirement plan.

This is a good plan with small, easily doable steps, to speed up the recovery of the PERS retirement plan.

Thank you.

#3 HB 1080 1-22-2015



Great Public Schools

Great Public Service

Testimony before the House Government and Veterans Affairs Committee

Regarding HB 1080

Stuart Savelkoul, North Dakota United

January 22, 2015

Good morning Chairman Kasper and members of the committee. For the record, my name is Stuart Savelkoul and I am the Assistant Executive Director of North Dakota United. Formed as a result of the merger between the ND Education Association and the ND Public Employee Association, we represent over 11,000 educators and public employees across the state. And, it is on behalf of those members that I rise in support of HB 1080 and ask you for a "Do Pass" recommendation.

HB 1080 represents the final year of the recovery plan that was introduced to the legislature during the 2011 session as a response to the stock market collapse of 2008 and 2009. The NDPERS defined benefit main plan is well on its way to recovery. Yet, increasing the contributions by two percent will help it to reach fully-funded status much sooner. Therefore, passing HB 1080 must be considered to be a fiscally prudent course of action at this point, regardless of where a person falls on the question of defined benefit versus defined contribution retirement plans.

That being said, we do question the decision to scale back benefits for future employees at a time when the state is struggling to recruit new workers. Presently, the state is spending hundreds of thousands of dollars each year in recruitment bonuses to entice people to come and work for their government. Coupling that with a reduction in benefits seems like a case of "two steps forward and one step back."

This is a good bill and passing it will benefit the state of North Dakota. But it would be a better bill if the benefit adjustments were removed before its passage. Thank you and I will stand for any questions that you may have.

#4
HB 1080
1-22-2015

Testimony

House Bill 1080 – Bill Kalanek, Association For Public Employees

House Government and Veterans Affairs Committee

Chairman Jim Kasper

January 22, 2015

Chairman Kasper and members of the Committee, my name is Bill Kalanek and I am here representing the Association for Public Employees.

AFPE is a state association comprised of members from communities throughout ND. AFPE serves public employees by advocating on their behalf in an effort to strengthen and maintain the existing retirement plan. I am here to testify in support of House Bill 1080.

During the past several legislative sessions, legislation has been introduced and adopted on behalf of the PERS Board which attempts to address the unfunded liabilities of the PERS retirement plan that were experienced as a result of the 2008 market downturn. Although the previous Legislative Assembly has partially addressed the funding shortfall by passing contribution increases for both the Employer and Employee during the 2011 and 2013 legislative sessions, the full funding recovery plan has thus far not been fully implemented. House Bill 1080 attempts to do just that by increasing both employee and employer contribution by an additional 1 percent each year of the biennium. With the provisions of HB 1080, it is likely the PERS Retirement fund will be fully funded much sooner than otherwise expected.

Governor Dalrymple in his 2015 Budget Address stressed the importance of fully supporting North Dakota public employees by ensuring their retirement plan was “on the path to complete actuarial soundness”. We fully support and echo the sentiments of Governor Dalrymple and believe the bill before this committee provides a reasonable, responsible, and achievable solution for the long term sustainability of the PERS retirement fund. We would urge you to consider a “do pass” recommendation on House Bill 1080.

Thank you Chairman Kasper and members of the committee for the opportunity to testify before you this morning. I'd be happy to answer any questions.

#1 1080
2-19-15

Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1080

Introduced by

Government and Veterans Affairs Committee

(At the request of the Public Employees Retirement System)

1 A BILL for an Act to amend and reenact ~~section 54-52-02.9, subsection 2 of section 54-52-05,~~
2 sections ~~54-52-06,~~ 54-52-06.4, and 54-52-17; and subsection 1 of section 54-52-17.2; ~~and~~
3 ~~sections 54-52.6-02 and 54-52.6-09~~ of the North Dakota Century Code, relating to ~~increases in~~
4 ~~employer and employee contributions under the public employees retirement system defined~~
5 ~~benefit and defined contribution plans,~~ decreased employee contributions under the public
6 employees retirement system for peace officers employed by the bureau of criminal
7 investigation; and benefit changes for employees first enrolled in the public employees
8 retirement system defined benefit retirement plan after December 31, 2015; ~~and to provide a~~
9 ~~penalty.~~

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

11 ~~SECTION 1. AMENDMENT.~~ ~~Section 54-52-02.9 of the North Dakota Century Code is~~
12 ~~amended and reenacted as follows:~~

13 ~~54-52-02.9. Participation by temporary employees.~~

14 ~~A temporary employee may elect, within one hundred eighty days of beginning employment,~~
15 ~~to participate in the public employees retirement system and receive credit for service after~~
16 ~~enrollment. The temporary employee shall pay monthly to the fund an amount equal to eight~~
17 ~~and twelve hundredths percent times the temporary employee's present monthly salary. The~~
18 ~~amount required to be paid by a temporary employee increases by two percent times the~~
19 ~~temporary employee's present monthly salary beginning with the monthly reporting period of~~
20 ~~January 2012, and; with an additional two percent increase, beginning with the reporting period~~
21 ~~of January 2013, and; with an additional increase of two percent, beginning with the monthly~~
22 ~~reporting period of January 2014; and with an additional increase of two percent, beginning with~~
23 ~~the monthly reporting period of January 2016.~~ The temporary employee shall also pay the
24 required monthly contribution to the retiree health benefit fund established under section

1 ~~54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section~~
2 ~~54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary~~
3 ~~employee may continue to participate as a temporary employee in the public employees~~
4 ~~retirement system until termination of employment or reclassification of the temporary employee~~
5 ~~as a permanent employee. A temporary employee may not purchase any additional credit,~~
6 ~~including additional credit under section 54-52-17.4 or past service under section 54-52-02.6.~~

7 ~~—SECTION 2. AMENDMENT. Subsection 2 of section 54-52-05 of the North Dakota Century~~
8 ~~Code is amended and reenacted as follows:~~

9 ~~—2.— Each member must be assessed and required to pay monthly four percent of the~~
10 ~~monthly salary or wage paid to the member, and such assessment must be deducted~~
11 ~~and retained out of such salary in equal monthly installments commencing with the~~
12 ~~first month of employment. Member contributions increase by one percent of the~~
13 ~~monthly salary or wage paid to the member beginning with the monthly reporting~~
14 ~~period of January 2012, and; with an additional increase of one percent, beginning~~
15 ~~with the monthly reporting period of January 2013, and; with an additional increase of~~
16 ~~one percent, beginning with the monthly reporting period of January 2014; and with an~~
17 ~~additional increase of one percent, beginning with the monthly reporting period of~~
18 ~~January 2016.~~

19 ~~—SECTION 3. AMENDMENT. Section 54-52-06 of the North Dakota Century Code is~~
20 ~~amended and reenacted as follows:~~

21 ~~—54-52-06. Employer's contribution to retirement plan.~~

22 ~~— Each governmental unit shall contribute an amount equal to four and twelve-hundredths~~
23 ~~percent of the monthly salary or wage of a participating member. Governmental unit~~
24 ~~contributions increase by one percent of the monthly salary or wage of a participating member~~
25 ~~beginning with the monthly reporting period of January 2012, and; with an additional increase of~~
26 ~~one percent, beginning with the reporting period of January 2013, and with; an additional~~
27 ~~increase of one percent, beginning with the monthly reporting period of January 2014; and with~~
28 ~~an additional increase of one percent, beginning with the monthly reporting period of January~~
29 ~~2016. For those members who elect to exercise their rights under section 54-52-17.14, the~~
30 ~~employing governmental unit, or in the case of a member not presently under covered~~
31 ~~employment the most recent employing governmental unit, shall pay the associated employer~~

~~1 contribution. If the employee's contribution is paid by the governmental unit under subsection 3
2 of section 54-52-05, the employer unit shall contribute, in addition, an amount equal to the
3 required employee's contribution. Each governmental unit shall pay the contribution monthly, or
4 in the case of an election made pursuant to section 54-52-17.14 a lump sum, into the retirement
5 fund from its funds appropriated for payroll and salary or any other funds available for these
6 purposes. Any governmental unit failing to pay the contributions monthly, or in the case of an
7 election made pursuant to section 54-52-17.14 a lump sum, is subject to a civil penalty of fifty
8 dollars and, as interest, one percent of the amount due for each month of delay or fraction
9 thereof after the payment became due. In lieu of assessing a civil penalty or one percent per
10 month, or both, interest at the actuarial rate of return may be assessed for each month the
11 contributions are delinquent. If contributions are paid within ninety days of the date they became
12 due, penalty and interest to be paid on delinquent contributions may be waived. An employer is
13 required to submit contributions for any past eligible employee who was employed after July 1,
14 1977, for which contributions were not made if the employee would have been eligible to
15 become vested had the employee participated and if the employee elects to join the public
16 employees retirement system. Employer contributions may not be assessed for eligible service
17 that an employee has waived pursuant to subsection 1 of section 54-52-05. The board shall
18 report to each session of the legislative assembly the contributions necessary, as determined by
19 the actuarial study, to maintain the fund's actuarial soundness.~~

20 **SECTION 1. AMENDMENT.** Section 54-52-06.4 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **54-52-06.4. Contribution by peace officers employed by the bureau of criminal**
23 **investigation - Employer contribution.**

24 Each peace officer employed by the bureau of criminal investigation who is a member of the
25 public employees retirement system is assessed and shall pay monthly four percent of the
26 employee's monthly salary. Peace officer contributions increase by one percent of the member's
27 monthly salary beginning with the monthly reporting period of January 2012, and with an
28 additional increase of one percent, beginning with the reporting period of January 2013. Peace
29 officer contributions decrease by one-half of one percent of the member's monthly salary
30 beginning with the monthly reporting period of January 2016. The assessment must be
31 deducted and retained out of the employee's salary in equal monthly installments. The peace

1 officer's employer shall contribute an amount determined by the board to be actuarially required
2 to support the level of benefits specified in section 54-52-17. The employer's contribution must
3 be paid from funds appropriated for salary or from any other funds available for such purposes.
4 If the peace officer's assessment is paid by the employer under subsection 3 of section
5 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace
6 officer's assessment.

7 **SECTION 2. AMENDMENT.** Section 54-52-17 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **54-52-17. Formulation of plan.**

10 Participating members shall receive benefits according to this section and according to
11 rules adopted by the board, not inconsistent with this chapter. No person is entitled to receive a
12 prior service benefit if the person was not continuously employed by a governmental unit in
13 North Dakota for a period of not less than two years immediately prior to eligibility for retirement.

- 14 1. Participating members shall receive credit for full-time employment or its equivalent
15 from the date they attain eligibility until their normal retirement date, postponed
16 retirement date, or early retirement date, as defined in this section. Part-time
17 employment will be recognized as full-time employment on a prorated basis as the
18 board may prescribe.
- 19 2. Retirement benefits are calculated from the participating member's final average
20 salary, which is the average of the highest salary received by the member for any
21 thirty-six months employed during the last one hundred twenty months of employment.
22 For members who terminate employment on or after August 1, 2010, final average
23 salary is the average of the highest salary received by the member for any thirty-six
24 months employed during the last one hundred eighty months of employment. For
25 members who terminate employment between July 31, 2005, and August 1, 2010, final
26 average salary is the average of the highest salary received by the member for any
27 thirty-six months employed during the period for which the board has appropriate and
28 accurate salary records on its electronic database, but that period may not be more
29 than the last one hundred eighty months of employment. Except for a national guard
30 security officer or firefighter, a peace officer or correctional officer employed by the
31 bureau of criminal investigation or by a political subdivision, or a supreme court or

1 district court judge, for members first enrolled after December 31, 2015, final average
2 salary is the average salary earned in the five highest periods of twelve consecutive
3 months employed during the last one hundred eighty months of employment. Months
4 not employed without earnings are excluded in arriving at the thirty-six months to be
5 used for the purpose of computing an average. ~~If the~~ For a participating member first
6 enrolled before January 1, 2016, who has worked for less than thirty-six months at the
7 normal retirement date, the final average salary is the average salary for the total
8 months of employment. Except for a national guard security officer or firefighter, a
9 peace officer or correctional officer employed by the bureau of criminal investigation or
10 by a political subdivision, or a supreme court or district court judge, for members first
11 enrolled after December 31, 2015, who worked for less than sixty months at the
12 normal retirement date, the final average salary is the average salary for the total
13 months of employment.

14 3. Retirement dates are defined as follows:

- 15 a. Normal retirement date, except for a national guard security officer or firefighter
16 or a peace officer or correctional officer employed by the bureau of criminal
17 investigation or by a political subdivision, is:
- 18 (1) The first day of the month next following the month in which the member
19 attains the age of sixty-five years; or
- 20 (2) When the member has a combined total of years of service credit and years
21 of age equal to eighty-five and has not received a retirement benefit under
22 this chapter.
- 23 b. Except for a national guard security officer or firefighter, a peace officer or
24 correctional officer employed by the bureau of criminal investigation or by a
25 political subdivision, or a supreme court or district court judge, normal retirement
26 date for members first enrolled after December 31, 2015 is:
- 27 (1) The first day of the month next following the month in which the member
28 attains the age of sixty-five years; or
- 29 (2) When the member has a combined total of years of service credit and years
30 of age equal to ninety and the member attains a minimum age of sixty and
31 has not received a retirement benefit under this chapter.

1 c. Normal retirement date for a national guard security officer or firefighter is the first
2 day of the month next following the month in which the national guard security
3 officer or firefighter attains the age of fifty-five years and has completed at least
4 three eligible years of employment as a national guard security officer or
5 firefighter.

6 e.d. Normal retirement date for a peace officer or correctional officer employed by a
7 political subdivision is:

8 (1) The first day of the month next following the month in which the peace
9 officer or correctional officer attains the age of fifty-five years and has
10 completed at least three eligible years of employment as a peace officer or
11 correctional officer; or

12 (2) When the peace officer or correctional officer has a combined total of years
13 of service credit and years of age equal to eighty-five and has not received
14 a retirement benefit under this chapter.

15 d.e. Normal retirement date for a peace officer employed by the bureau of criminal
16 investigation is:

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

20 (2) When the peace officer has a combined total of years of service credit and
21 years of age equal to eighty-five and has not received a retirement benefit
22 under this chapter.

23 e.f. Postponed retirement date is the first day of the month next following the month
24 in which the member, on or after July 1, 1977, actually severs or has severed the
25 member's employment after reaching the normal retirement date.

26 f.g. Early retirement date, except for a national guard security officer or firefighter or a
27 peace officer or correctional officer employed by the bureau of criminal
28 investigation or by a political subdivision, is the first day of the month next
29 following the month in which the member attains the age of fifty-five years and
30 has completed three years of eligible employment. For a national guard security
31 officer or firefighter, early retirement date is the first day of the month next

1 following the month in which the national guard security officer or firefighter
2 attains the age of fifty years and has completed at least three years of eligible
3 employment. For a peace officer or correctional officer employed by the bureau of
4 criminal investigation or by a political subdivision, early retirement date is the first
5 day of the month next following the month in which the peace officer or
6 correctional officer attains the age of fifty years and has completed at least three
7 years of eligible employment.

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

15 member is eligible to receive disability retirement benefits only if the member:

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

19 A member is eligible to continue to receive disability benefits as long as the
20 permanent and total disability continues and the member submits the necessary
21 documentation and undergoes medical testing required by the board, or for as
22 long as the member participates in a rehabilitation program required by the
23 board, or both. If the board determines that a member no longer meets the
24 eligibility definition, the board may discontinue the disability retirement benefit.

25 The board may pay the cost of any medical testing or rehabilitation services it
26 deems necessary and these payments are appropriated from the retirement fund
27 for those purposes.

28 4. The board shall calculate retirement benefits as follows:

- 29 a. ~~Normal retirement benefits for all retirees, except~~ Except supreme and district
30 court judges, the normal retirement benefits for:

1 (1) All retirees first enrolled before January 1, 2016, reaching normal retirement
2 date equal an annual amount, payable monthly, comprised of a service
3 benefit and a prior service benefit, as defined in this chapter, which is
4 determined as follows:

5 ~~(1)(a)~~ Service benefit equals two percent of final average salary
6 multiplied by the number of years of service employment.

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

9 (2) All retirees first enrolled after December 31, 2015, reaching normal
10 retirement date equal an amount, payable monthly, comprised of a service
11 benefit and a prior service benefit, as defined in this chapter, which is
12 determined as follows:

13 (a) Service benefit equals one and nine-tenths percent of final average
14 salary multiplied by the number of years of service employment.

15 (b) Prior service benefit equals one and nine-tenths percent of final
16 average salary multiplied by the number of years of prior service
17 employment.

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

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

28 (2) Service benefits must include, in addition, an amount equal to the percent
29 specified in subdivision a of final average salary multiplied by the number of
30 years of nonjudicial employee service and employment.

- 1 c. Postponed retirement benefits are calculated as for single life benefits for those
2 members who retired on or after July 1, 1977.
- 3 d. Early retirement benefits are calculated as for single life benefits accrued to the
4 date of termination of employment, but must be actuarially reduced to account for
5 benefit payments beginning prior to the normal retirement date, which is the
6 earlier of age sixty-five or the age at which current service plus age equals
7 eighty-five. Except for a national guard security officer or firefighter, a peace
8 officer or correctional officer employed by the bureau of criminal investigation or
9 by a political subdivision, or a supreme court or district court judge, early
10 retirement benefits for members first enrolled after December 31, 2015, are
11 calculated for single life benefits accrued to the date of termination of
12 employment, but must be reduced by a fixed rate of eight percent per year to
13 account for benefit payments beginning before the normal retirement date. A
14 retiree, other than a supreme or district court judge, is eligible for early retirement
15 benefits only after having completed three years of eligible employment. A
16 supreme or district court judge retiree is eligible for early retirement benefits only
17 after having completed five years of eligible employment.
- 18 e. Except for supreme and district court judges, disability retirement benefits are
19 twenty-five percent of the member's final average salary. Disability retirement
20 benefits for supreme and district court judges are seventy percent of final
21 average salary reduced by the member's primary social security benefits and by
22 any workforce safety and insurance benefits paid. The minimum monthly
23 disability retirement benefit under this section is one hundred dollars.
- 24 5. Upon termination of employment after completing three years of eligible employment,
25 except for supreme and district court judges, who must complete five years of eligible
26 employment, but before normal retirement date, a member who does not elect to
27 receive early retirement benefits is eligible to receive deferred vested retirement
28 benefits payable commencing on the member's normal retirement date in one of the
29 optional forms provided in subsection 9. Members who have delayed or inadvertently
30 failed to apply for retirement benefits to commence on their normal retirement date
31 may choose to receive either a lump sum payment equal to the amount of missed

1 payments, or an actuarial increase to the form of benefit the member has selected,
2 which increase must reflect the missed payments.

3 6. If before retiring a member dies after completing three years of eligible employment,
4 except for supreme and district court judges, who must have completed five years of
5 eligible employment, the board shall pay the member's account balance to the
6 member's designated beneficiary as provided in this subsection. If the member has
7 designated an alternate beneficiary with the surviving spouse's written consent, the
8 board shall pay the member's account balance to the named beneficiary. If the
9 member has named more than one primary beneficiary, the board shall pay the
10 member's account balance to the named primary beneficiaries in the percentages
11 designated by the member or, if the member has not designated a percentage for the
12 beneficiaries, in equal percentages. If one or more of the primary beneficiaries has
13 predeceased the member, the board shall pay the predeceased beneficiary's share to
14 the remaining primary beneficiaries. If any beneficiary survives the member, yet dies
15 before distribution of the beneficiary's share, the beneficiary must be treated as if the
16 beneficiary predeceased the member. If there are no remaining primary beneficiaries,
17 the board shall pay the member's account balance to the contingent beneficiaries in
18 the same manner. If there are no remaining designated beneficiaries, the board shall
19 pay the member's account balance to the member's estate. If the member has not
20 designated an alternate beneficiary or the surviving spouse is the beneficiary, the
21 surviving spouse of the member may select a form of payment as follows:

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

24 (1) A lump sum payment of the member's retirement account as of the date of
25 death.

26 (2) Payments as calculated for the deceased member as if the member was of
27 normal retirement age at the date of death, payable until the spouse dies.

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

30 (1) A lump sum payment of the member's retirement account as of the date of
31 death.

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

1 account balance at retirement, the difference must be paid to the named beneficiary of
2 the recipient or, if there is no named beneficiary, to the recipient's estate.

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

5 a. Single life.

6 b. An actuarially equivalent joint and survivor option, with fifty percent or one
7 hundred percent options.

8 c. Actuarially equivalent life with ten-year or twenty-year certain options.

9 d. An actuarially equivalent partial lump sum distribution option with a twelve-month
10 maximum lump sum distribution.

11 e. An actuarially equivalent graduated benefit option with either a one percent or
12 two percent increase to be applied the first day of January of each year.

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

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

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

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

5 **SECTION 3. AMENDMENT.** Subsection 1 of section 54-52-17.2 of the North Dakota
6 Century Code is amended and reenacted as follows:

- 7 1. a. For the purpose of determining eligibility for benefits under this chapter, an
8 employee's years of service credit is the total of the years of service credit earned
9 in the public employees retirement system and the years of service credit earned
10 in any number of the following:

- 11 (1) The teachers' fund for retirement.
12 (2) The highway patrolmen's retirement system.
13 (3) The teachers' insurance and annuity association of America - college
14 retirement equities fund (TIAA-CREF), for service credit earned while
15 employed by North Dakota institutions of higher education.

16 Service credit may not exceed twelve months of credit per year.

- 17 b. Pursuant to rules adopted by the board, an employee who has service credit in
18 the system and in any of the plans described in paragraphs 1 and 2 of
19 subdivision a is entitled to benefits under this chapter. The employee may elect to
20 have benefits calculated using the benefit formula in section 54-52-17 under
21 either of the following methods:

- 22 (1) The average of the highest salary received by the member for any thirty-six
23 months employed during the last one hundred twenty months of
24 employment in the public employees retirement system. If the participating
25 member has worked for less than thirty-six months at retirement, the final
26 average salary is the average salary for the total months of employment. If
27 the participating member was first enrolled after December 31, 2015, and
28 worked for less than sixty months at retirement, the final average salary is
29 the average salary for the total months of employment.

- 30 (2) The average of the highest salary received by the member for any thirty-six
31 consecutive months during the last one hundred twenty months of

1 employment with any of the three eligible employers under this subdivision,
2 with service credit not to exceed one month in any month when combined
3 with the service credit earned in the alternate retirement system.

4 The board shall calculate benefits for an employee under this subsection by using only
5 those years of service credit earned under this chapter.

6 ~~SECTION 7. AMENDMENT. Section 54-52.6-02 of the North Dakota Century Code is~~
7 ~~amended and reenacted as follows:~~

8 ~~54-52.6-02. (Effective through July 31, 2017) Election.~~

9 ~~1. The board shall provide an opportunity for eligible employees who are new members~~
10 ~~of the public employees retirement system under chapter 54-52 to transfer to the~~
11 ~~defined contribution plan under this chapter pursuant to the rules and policies adopted~~
12 ~~by the board. An election made by a member of the public employees retirement~~
13 ~~system under chapter 54-52 to transfer to the defined contribution retirement plan~~
14 ~~under this chapter is irrevocable. For an individual who elects to transfer membership~~
15 ~~from the public employees retirement system under chapter 54-52 to the defined~~
16 ~~contribution retirement plan under this chapter, the board shall transfer a lump sum~~
17 ~~amount from the public employees retirement system fund to the participating~~
18 ~~member's account in the defined contribution retirement plan under this chapter.~~
19 ~~However, if the individual terminates employment prior to receiving the lump sum~~
20 ~~transfer under this section, the election made is ineffective and the individual remains~~
21 ~~a member of the public employees retirement system under chapter 54-52 and retains~~
22 ~~all the rights and privileges under that chapter. This section does not affect an~~
23 ~~individual's right to health benefits or retiree health benefits under chapter 54-52.1.~~

24 ~~2. If the board receives notification from the internal revenue service that this section or~~
25 ~~any portion of this section will cause the public employees retirement system or the~~
26 ~~retirement plan established under this chapter to be disqualified for tax purposes~~
27 ~~under the Internal Revenue Code, then the portion that will cause the disqualification~~
28 ~~does not apply.~~

29 ~~3. A participating member who becomes a temporary employee may still participate in~~
30 ~~the defined contribution retirement plan upon filing an election with the board within~~
31 ~~one hundred eighty days of transferring to temporary employee status. The~~

1 participating member may not become a member of the defined benefit plan as a
2 temporary employee. The temporary employee electing to participate in the defined
3 contribution retirement plan shall pay monthly to the fund an amount equal to eight
4 and twelve hundredths percent times the temporary employee's present monthly
5 salary. The amount required to be paid by a temporary employee increases by two
6 percent times the temporary employee's present monthly salary beginning with the
7 monthly reporting period of January 2012 and, with an additional increase of two
8 percent, beginning with the monthly reporting period of January 2013, and with an
9 additional increase of two percent, beginning with the monthly reporting period of
10 January 2014; and with an additional increase of two percent, beginning with the
11 monthly reporting period of January 2016. The temporary employee shall also pay the
12 required monthly contribution to the retiree health benefit fund established under
13 section 54-52.1-03.2. This contribution must be recorded as a member contribution
14 pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's
15 contributions. A temporary employee may continue to participate as a temporary
16 employee until termination of employment or reclassification of the temporary
17 employee as a permanent employee.

18 ~~4. A former participating member who has accepted a retirement distribution pursuant to~~
19 ~~section 54-52.6-13 and who subsequently becomes employed by an entity different~~
20 ~~from the employer with which the member was employed at the time the member~~
21 ~~retired but which does participate in any state-sponsored retirement plan may, before~~
22 ~~reenrolling in the defined contribution retirement plan, elect to permanently waive~~
23 ~~future participation in the defined contribution retirement plan, whatever plan in which~~
24 ~~the new employing entity participates, and the retiree health program and maintain~~
25 ~~that member's retirement status. Neither the member nor the employer are required to~~
26 ~~make any future retirement contributions on behalf of that employee.~~

27 **(Effective after July 31, 2017) Election.**

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

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

24 ~~2.~~ If an individual who is a deferred member of the public employees retirement system
25 on September 30, 2001, is reemployed and by virtue of that employment is again
26 eligible for membership in the public employees retirement system under chapter
27 54-52, the individual may elect in writing to remain a member of the public employees
28 retirement system or if eligible to participate in the defined contribution retirement plan
29 established under this chapter to terminate membership in the public employees
30 retirement system and become a participating member in the defined contribution
31 retirement plan established under this chapter. An election made by a deferred

1 ~~member under this section is irrevocable. The board shall accept written elections~~
2 ~~under this section from a deferred member during the period beginning on the date of~~
3 ~~the individual's reemployment and ending upon the expiration of six months after the~~
4 ~~date of that reemployment. If the board, in its sole discretion, determines that the~~
5 ~~employee was not adequately notified of the employee's option to participate in the~~
6 ~~defined contribution retirement plan, the board may provide the employee a~~
7 ~~reasonable time within which to make that election, which may extend beyond the~~
8 ~~original six-month decision window. A deferred member who makes and files a written~~
9 ~~election to remain a member of the public employees retirement system retains all~~
10 ~~rights and is subject to all conditions as a member of that retirement system. A~~
11 ~~deferred member who does not make a written election or who does not file the~~
12 ~~election during the period specified in this section continues to be a member of the~~
13 ~~public employees retirement system. A deferred member who makes and files a~~
14 ~~written election to terminate membership in the public employees retirement system~~
15 ~~ceases to be a member of the public employees retirement system effective on the~~
16 ~~last day of the payroll period that includes the date of the election; becomes a~~
17 ~~participating member in the defined contribution retirement plan under this chapter~~
18 ~~effective the first day of the payroll immediately following the date of the election; and~~
19 ~~waives all of that person's rights to a pension, an annuity, a retirement allowance,~~
20 ~~insurance benefit, or any other benefit under the public employees retirement system~~
21 ~~effective the last day of the payroll that includes the date of the election. This section~~
22 ~~does not affect any right to health benefits or retiree health benefits to which the~~
23 ~~deferred member may otherwise be entitled.~~

24 ~~3. An eligible employee who elects to participate in the retirement plan established under~~
25 ~~this chapter must remain a participant even if that employee returns to the classified~~
26 ~~service or becomes employed by a political subdivision that participates in the public~~
27 ~~employees retirement system. The contribution amount must be as provided in this~~
28 ~~chapter, regardless of the position in which the employee is employed.~~

29 ~~Notwithstanding the irrevocability provisions of this chapter, if a member who elects to~~
30 ~~participate in the retirement plan established under this chapter becomes a supreme~~
31 ~~or district court judge, becomes a member of the highway patrol, becomes employed~~

1 in a position subject to teachers' fund for retirement membership, or becomes an
2 employee of the board of higher education or state institution under the jurisdiction of
3 the board who is eligible to participate in an alternative retirement program established
4 under subsection 6 of section 15-10-17, the member's status as a member of the
5 defined contribution retirement plan is suspended, and the member becomes a new
6 member of the retirement plan for which that member's new position is eligible. The
7 member's account balance remains in the defined contribution retirement plan, but no
8 new contributions may be made to that account. The member's service credit and
9 salary history that were forfeited as a result of the member's transfer to the defined
10 contribution retirement plan remain forfeited, and service credit accumulation in the
11 new retirement plan begins from the first day of employment in the new position. If the
12 member later returns to employment that is eligible for the defined contribution plan,
13 the member's suspension must be terminated, the member again becomes a member
14 of the defined contribution retirement plan, and the member's account resumes
15 accepting contributions. At the member's option, and pursuant to rules adopted by the
16 board, the member may transfer any available balance as determined by the
17 provisions of the alternate retirement plan into the member's account under this
18 chapter.

19 ~~4.~~ After consultation with its actuary, the board shall determine the method by which a
20 participating member or deferred member may make a written election under this
21 section. If the participating member or deferred member is married at the time of the
22 election, the election is not effective unless the election is signed by the individual's
23 spouse. However, the board may waive this requirement if the spouse's signature
24 cannot be obtained because of extenuating circumstances.

25 ~~5.~~ If the board receives notification from the internal revenue service that this section or
26 any portion of this section will cause the public employees retirement system or the
27 retirement plan established under this chapter to be disqualified for tax purposes
28 under the Internal Revenue Code, then the portion that will cause the disqualification
29 does not apply.

30 ~~6.~~ A participating member who becomes a temporary employee may still participate in
31 the defined contribution retirement plan upon filing an election with the board within

1 ~~one hundred eighty days of transferring to temporary employee status. The~~
2 ~~participating member may not become a member of the defined benefit plan as a~~
3 ~~temporary employee. The temporary employee electing to participate in the defined~~
4 ~~contribution retirement plan shall pay monthly to the fund an amount equal to eight~~
5 ~~and twelve hundredths percent times the temporary employee's present monthly~~
6 ~~salary. The amount required to be paid by a temporary employee increases by two~~
7 ~~percent times the temporary employee's present monthly salary beginning with the~~
8 ~~monthly reporting period of January 2012, and; with an additional increase of two~~
9 ~~percent, beginning with the monthly reporting period of January 2013, and; with an~~
10 ~~additional increase of two percent, beginning with the monthly reporting period of~~
11 ~~January 2014; and with an additional increase of two percent, beginning with the~~
12 ~~monthly reporting period of January 2016. The temporary employee shall also pay the~~
13 ~~required monthly contribution to the retiree health benefit fund established under~~
14 ~~section 54-52.1-03.2. This contribution must be recorded as a member contribution~~
15 ~~pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's~~
16 ~~contributions. A temporary employee may continue to participate as a temporary~~
17 ~~employee until termination of employment or reclassification of the temporary~~
18 ~~employee as a permanent employee.~~

19 ~~7. A former participating member who has accepted a retirement distribution pursuant to~~
20 ~~section 54-52.6-13 and who subsequently becomes employed by an entity different~~
21 ~~from the employer with which the member was employed at the time the member~~
22 ~~retired but which does participate in any state sponsored retirement plan may, before~~
23 ~~reenrolling in the defined contribution retirement plan, elect to permanently waive~~
24 ~~future participation in the defined contribution retirement plan, whatever plan in which~~
25 ~~the new employing entity participates, and the retiree health program and maintain~~
26 ~~that member's retirement status. Neither the member nor the employer are required to~~
27 ~~make any future retirement contributions on behalf of that employee.~~

28 ~~**SECTION 8. AMENDMENT.** Section 54-52.6-09 of the North Dakota Century Code is~~
29 ~~amended and reenacted as follows:~~

~~54-52.6-09. Contributions -- Penalty.~~

~~1. Each participating member shall contribute monthly four percent of the monthly salary or wage paid to the participant, and this assessment must be deducted from the participant's salary in equal monthly installments commencing with the first month of participation in the defined contribution retirement plan established under this chapter. Participating member contributions increase by one percent of the monthly salary or wage paid to the participant beginning with the monthly reporting period of January 2012, and; with an additional increase of one percent, beginning with the reporting period of January 2013, and; with an additional increase of one percent, beginning with the monthly reporting period of January 2014; and with an additional increase of one percent, beginning with the monthly reporting period of January 2016.~~

~~2. The employer shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Employer contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012, and; with an additional increase of one percent, beginning with the monthly reporting period of January 2013, and; with an additional increase of one percent, beginning with the monthly reporting period of January 2014; and with an additional increase of one percent, beginning with the monthly reporting period of January 2016. If the employee's contribution is paid by the employer under subsection 3, the employer shall contribute, in addition, an amount equal to the required employee's contribution. The employer shall pay monthly such contribution into the participating member's account from its funds appropriated for payroll and salary or any other funds available for such purposes. If the employer fails to pay the contributions monthly, it is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due.~~

~~3. Each employer, at its option, may pay the employee contributions required by this section for all compensation earned after December 31, 1999. The amount paid must be paid by the employer in lieu of contributions by the employee. If the employer decides not to pay the contributions, the amount that would have been paid will continue to be deducted from the employee's compensation. If contributions are paid~~

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~~by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. Contributions paid by the employer may not be included as gross income of the employee in determining tax treatment under this code and the federal Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a combination of a reduction in gross salary and offset against future salary increases. Employee contributions paid by the employer must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made before the date on which employee contributions were assumed by the employer. An employer shall exercise its option under this subsection by reporting its choice to the board in writing.~~

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1080

- Page 1, line 1, remove "section 54-52-02.9, subsection 2 of section 54-52-05,"
- Page 1, line 2, remove "54-52-06,"
- Page 1, line 2, remove the second comma
- Page 1, line 2, replace the third comma with "and"
- Page 1, line 2, remove ", and sections"
- Page 1, line 3, remove "54-52.6-02 and 54-52.6-09"
- Page 1, line 3, remove "increases in employer"
- Page 1, remove line 4
- Page 1, line 5, remove "defined contribution plans,"
- Page 1, line 6, remove the comma
- Page 1, line 7, after "enrolled" insert "in the public employees retirement system defined benefit retirement plan"
- Page 1, line 7, remove "; and to provide a penalty"
- Page 1, remove lines 9 through 24
- Page 2, remove lines 1 through 31
- Page 3, remove lines 1 through 17
- Page 7, line 27, overstrike "Normal retirement benefits for all retirees, except" and insert immediately thereafter "Except"
- Page 7, line 28, after the comma insert "the normal retirement benefits for:
- (1) All retirees first enrolled before January 1, 2016.
- Page 8, line 1, overstrike "(1)" and insert immediately thereafter "(a)"
- Page 8, line 3, overstrike "(2)" and insert immediately thereafter "(b)"
- Page 8, after line 4 insert:
- "(2) All retirees first enrolled after December 31, 2015, reaching normal retirement date equal an amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which is determined as follows:
 - (a) Service benefit equals one and nine-tenths percent of final average salary multiplied by the number of years of service employment.

(b) Prior service benefit equals one and nine-tenths percent of final average salary multiplied by the number of years of prior service employment."

Page 13, remove lines 22 through 31

Page 14, remove lines 1 through 31

Page 15, remove lines 1 through 31

Page 16, remove lines 1 through 31

Page 17, remove lines 1 through 31

Page 18, remove lines 1 through 31

Page 19, remove lines 1 through 31

Page 20, remove lines 1 through 28

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment removes Sections 1, 2, 3, 7, and 8 of the bill which provide for a 1 percent employee and 1 percent employer contribution increase on January 1, 2016, to the Public Employees Retirement System defined benefit and defined contribution retirement plans.

TESTIMONY OF SPARB COLLINS

ENGROSSED HOUSE BILL 1080

Good morning, my name is Sparb Collins. I am the Executive Director of the North Dakota Public Employees Retirement System (NDPERS). I appear before you today concerning the retirement plans we administer and in support of House Bill 1080; however, as originally proposed and not the engrossed version of the bill. Attached to my testimony are the amendments that would restore the bill to the form originally proposed by the PERS Board and as funded in the Executive Recommendation. The following table shows the provisions of the bill as originally proposed and as approved by the House.

Provisions	As proposed	As Approved by House
Increase employer/employee contributions by 1% each (Temporary employees 2%)	Included	Deleted
Decrease the contribution for State Bureau of Criminal Investigation by .5%	Included	Included
Final average salary based on 5 years	Included	Included
Change Rule of 85 to 90 with minimum age of 60	Included	Included
Change early retirement reduction from 6% per year to 8%	Included	Included
Reduce Multiplier from 2% to 1.9%		Added
Fully funded status	2035	2052

The attached amendments will restore the bill to as it was proposed and is the version that PERS supports here today. As noted, this will cause the plan to become 100% funded about 17 years earlier than the engrossed version. At that time contributions can be dropped for both the employer and employee and therefore this method would be the lowest cost in the long term for both our members and our employers.

If the attached amendments are accepted, the bill before you today is for the last year of the four year recovery plan for the PERS Main Retirement Plan. The first two years were approved during the 2011 session. The third year was approved last session. This last year of the recovery plan as proposed in the amendments and the Executive Recommendation would increase both the employer contribution rates and the member contribution rates for the PERS Main/Hybrid Plan (Main/hybrid and Judges only) and the PERS Defined Contribution Plan by 1% for the employer and member beginning January 2016. The bill also would change the member contribution rates for the following groups:

- Temporary employees in the Hybrid Plan and Defined Contribution Plan, for which the member contribution rate would increase by 2% annually, instead of 1%, over the same period.
- Peace officers in the Hybrid Plan employed by the State Bureau of Criminal Investigation, for which member contributions would decrease by .5% of the monthly salary rather than increase.

In addition, this bill modifies the recovery plan to add in certain benefit changes for new employees. These changes are in Sections 5 and 6 of the bill and discussed in the following table.

The following details the above changes in the Bill if the attached amendments are accepted which restores the bill to its original form:

Retirement Fund	HB 1080 <i>Increase employee and employer contributions equally*</i>
Main	<ul style="list-style-type: none"> • 1% employee increase and a 1% employer increase <ul style="list-style-type: none"> ○ Section 1 increases the temporary employee contribution* ○ Section 2 increases the employee contribution ○ Section 3 increases the employer contribution ○ Section 5 & 6 <i>Makes the following benefit modifications for the Hybrid Plan</i> <ul style="list-style-type: none"> ▪ Final average salary for those enrolled after 12/31/15 is changed to the 5 highest consecutive 12 month periods employed instead of highest 36 months out of 120 months ▪ Minimum age for unreduced benefits for those enrolled after 12/31/15 would be changed from the Rule of 85 to the Rule of 90 and at least 60 years of age. ▪ Early retirement reduction would be increase to 8% per year instead of 6%.
Law Enf	<ul style="list-style-type: none"> • .5% employee decrease <ul style="list-style-type: none"> ○ Section 4 decreases the employee contribution
DC Plan	<ul style="list-style-type: none"> • 1% employee increase and a 1% employer increase (Jan of 2016) <ul style="list-style-type: none"> ○ Section -7 increases temporary employees contribution ○ Section 8 increases employer and employee contributions

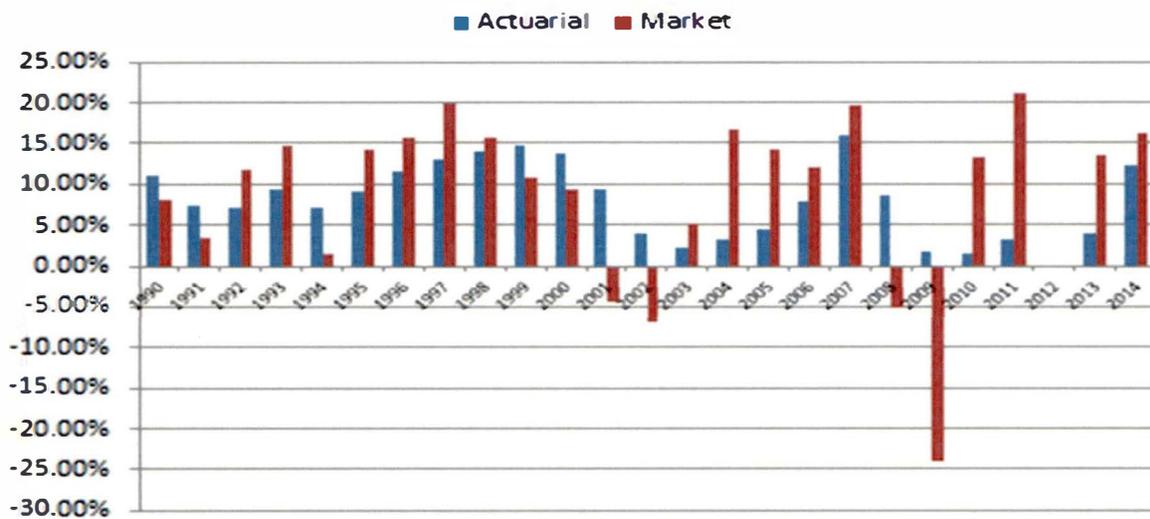
*Temporary employee contributions increase by 2%.

This bill addresses the funding shortfall that has occurred in both the PERS defined contribution plan and the PERS defined benefit/hybrid plans as a result of the downturn in the financial markets. Let me start by providing you some background and a summary of the actions taken to date.

Background

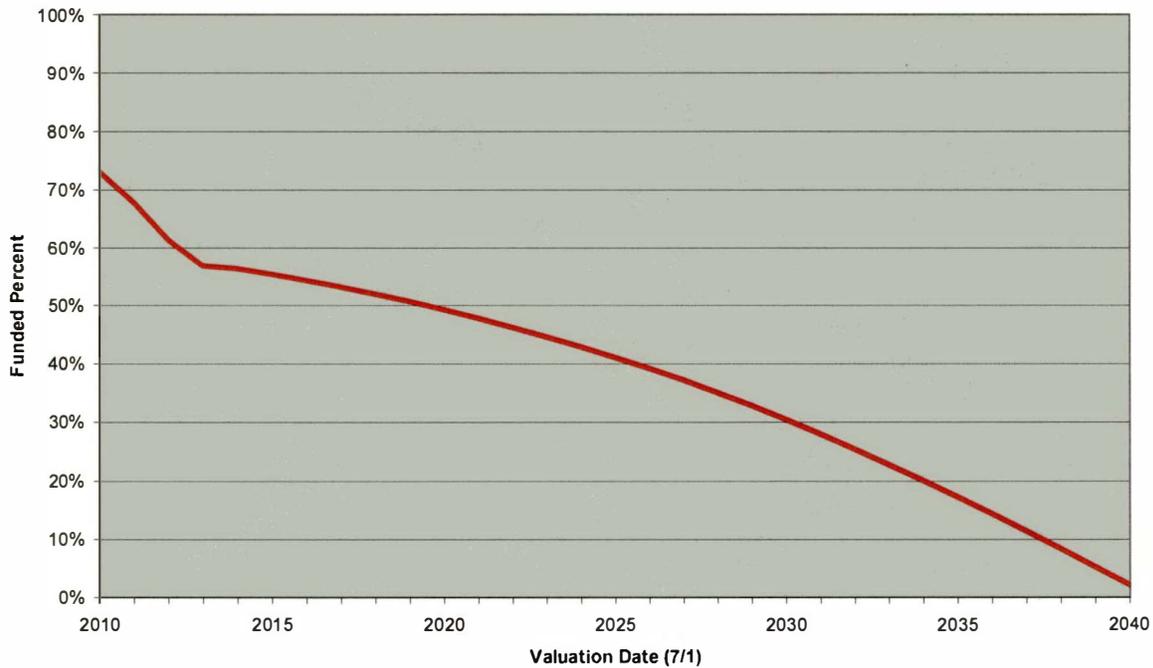
In the 2008/2009 fiscal year the financial market had a major correction that was preceded by the tech market collapse in 2001-2002. However, the most significant effect occurred in 2008/2009 when the PERS plan lost about 24.5%. The following table shows the history of returns and the returns in that year.

NDPERS Main System Investment Returns

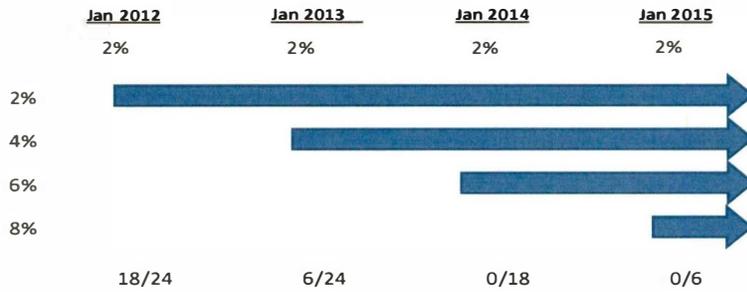


The financial consultant to the State Investment Board, which manages the PERS assets, reported that out of 224 years of US stock performance only 4 years were worse than the returns in 2008. What the plan experienced was truly a unique and significant event. As a result of this dramatic downturn in the financial markets, the long term funded status of PERS was affected as shown on this graph.

PERS (Main System)
Projected Funded Ratio Under Current Plan
(Actuarial Value of Assets to Actuarial Accrued Liability)
Based on July 1, 2010 Data



The above projections of the future funded status of the Main plan showed the plan could become insolvent in approximately 2040. After a significant amount of study, a proposal was brought forward to increase the contributions by 8% over the period from January 2012 to January 2015 which was projected to close this funding deficit. It became known as the PERS 4-year recovery plan and was based upon the concept that the recovery should be shared between the employer and employee. The thought was that neither party should be responsible for the full cost of the recovery. It was proposed to be spread over 4 years to reduce the effect of the increase in any given year on either party.



Months increase effective for 2011-2013/ Months effective for 2013-2015
2015 and beyond 100% effective

2

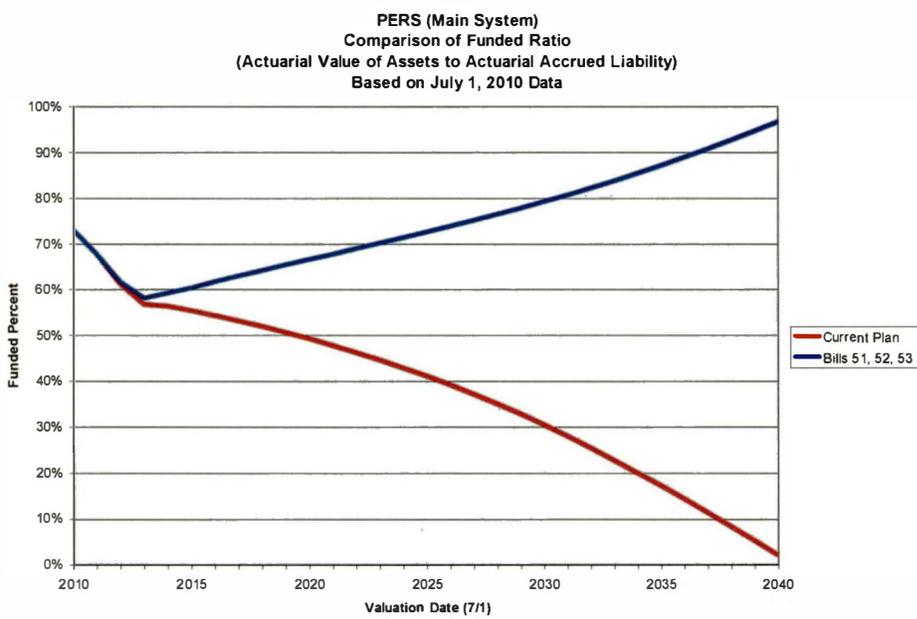
This proposal came together in SB 2108 that was considered during the 2011 session. This proposal was intended to accomplish three objectives:

1. To stop the downward trend in the funded status of the plans
2. To stabilize the plans
3. To put the plans on a course back to 100% funded status

The following graphs were reviewed during that session showing the projected status of the funds without the increase and the projected status with the increases proposed in the recovery plan.

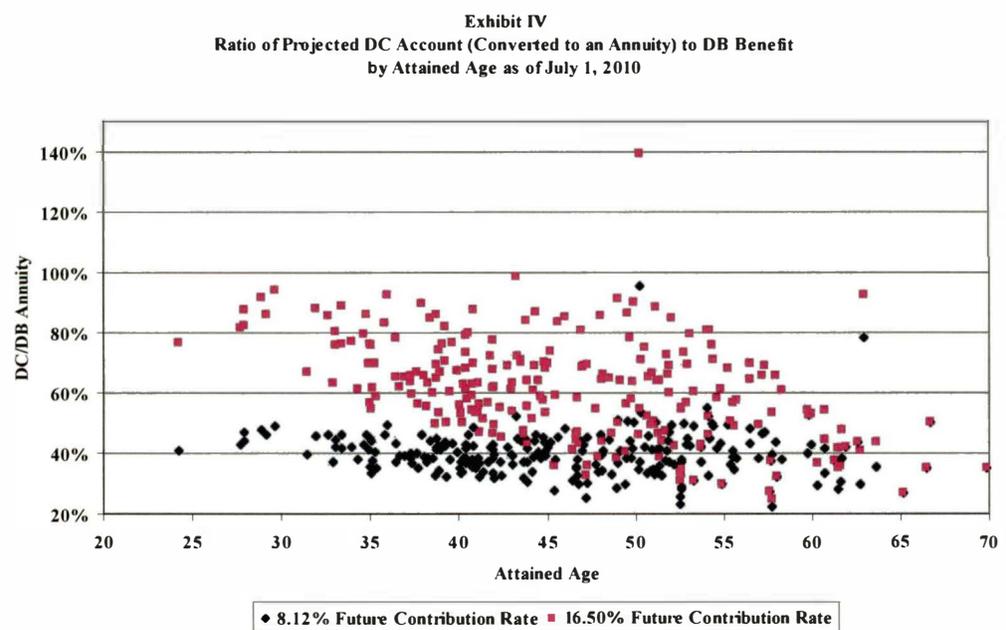
#1 pg 7

Graph 2



It was also noted that the downturn had a significant impact for members of the PERS defined contribution plan. The following table shows the challenge faced by that plan in 2010:

Graph 2



The diamonds show the challenge the defined contribution plan members faced and the squares show the benefit of the increase in contributions to 16.5% over a four-year

period. The graph makes it clear that a total contribution level of 8.12% would not meet the objective for long term retirement savings for the members of this plan.

The proposed recovery plan outlined above for the retirement plans, including the DC plan, accomplished all three goals. That is, the downward trend in funding has been reversed. The plans are stabilized and are on a course to 100% funded status. However, for the DC plan we note that while the proposal does much to help the members, they are not returned to a 100% level.

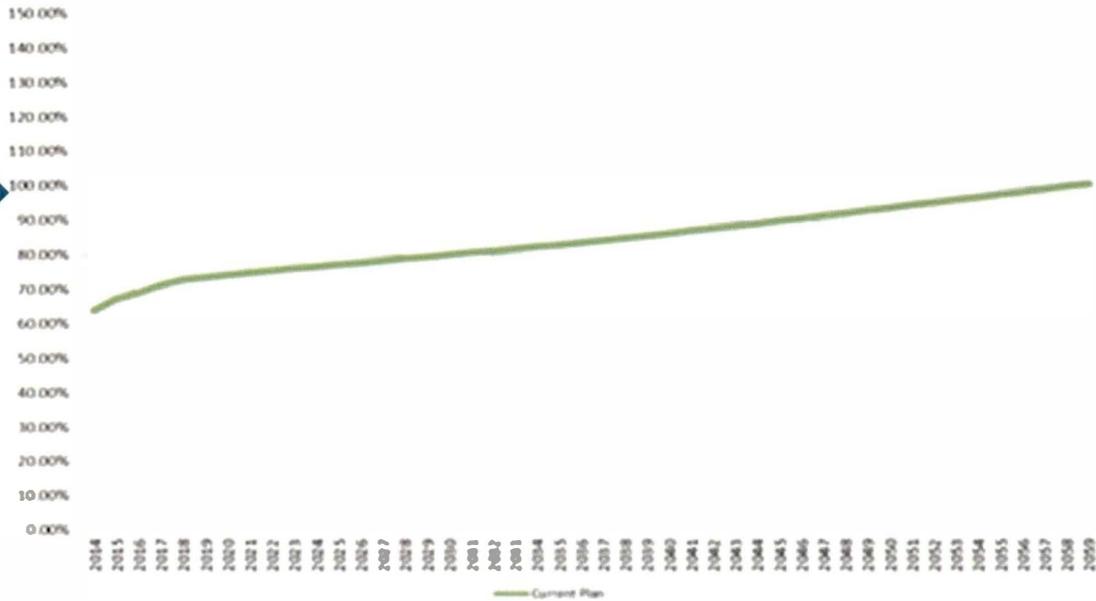
That session, the legislature approved the first two years of the recovery plan which included the 2012 and 2013 increases, and last session the third year was approved for 2014.

Accomplishments and Final Year of Recovery Plan

New projections have been completed for the plan this year as part of the ongoing study and consideration process for the last year of the recovery plan. The following graphs show what was accomplished by the action of adopting the first three years of the recovery plan and the effect of adopting the last year of the recovery plan proposed in this bill.

Projected Funded Ratios (AVA Basis) – Main System

CURRENT PLAN

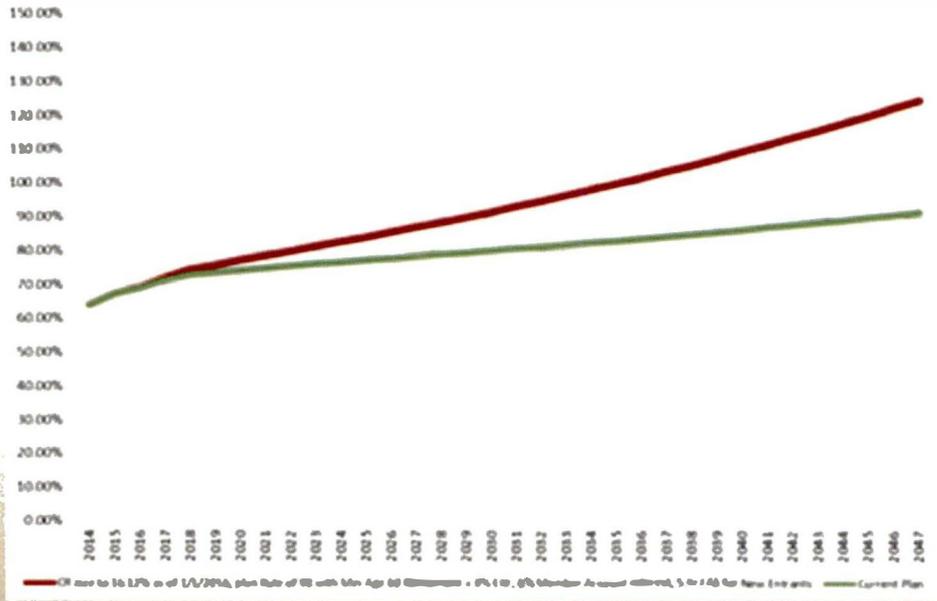


The current plan for Main System is expected to reach a 100% Funded Ratio in the year beginning July 1, 2059.

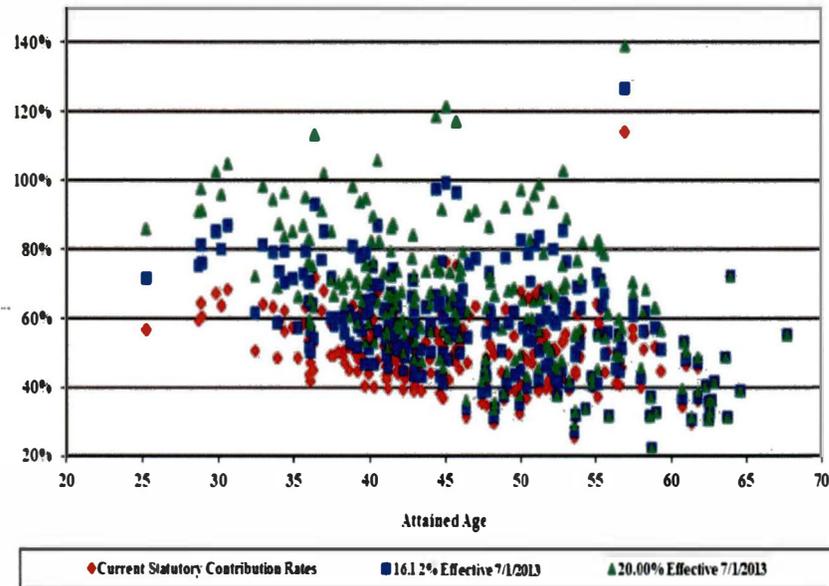
As the above shows, the PERS plan is on a course to 100% funded status by 2059. If the provisions of HB 1080 are passed, the following graph shows that the plan will be on a course to 100% funded status by 2035, about 24 years earlier.

Projected Funded Ratios (AVA Basis) – Main System

RULE OF 90 WITH MINIMUM RETIREMENT AGE 60, 8%ERF, 5-YEAR FAS FOR NEW ENTRANTS AND 2% CONTRIB INCREASE ON JANUARY 1, 2016 (IN MILLIONS)



The following table is for the defined contribution plan.



The diamonds show how the adoption of the first three years of the recovery plan has helped this plan's members. The adoption of the last year is shown by the squares. The last set is the triangles and shows the benefit of a 20% contribution level to this plan.

Summary

This recovery plan as originally proposed and offered in the attached amendments has had considerable study over the years including:

1. The PERS Board worked with our members in developing this proposal. The significant part of this effort is the development of a shared recovery plan with both the member and employer sharing the contribution increase.
2. The Legislative Employee Benefits Committee studied the 4 year recovery proposal in the 2010 interim. They had several hearings on the proposal and reviewed detailed actuarial information over a 5 month period. That committee gave the 4 year recovery plan a favorable recommendation. During the 2012 interim, the Legislative Employee Benefits Committee reviewed the proposal for the last 2 years of the recovery plan. They held hearings and reviewed updated

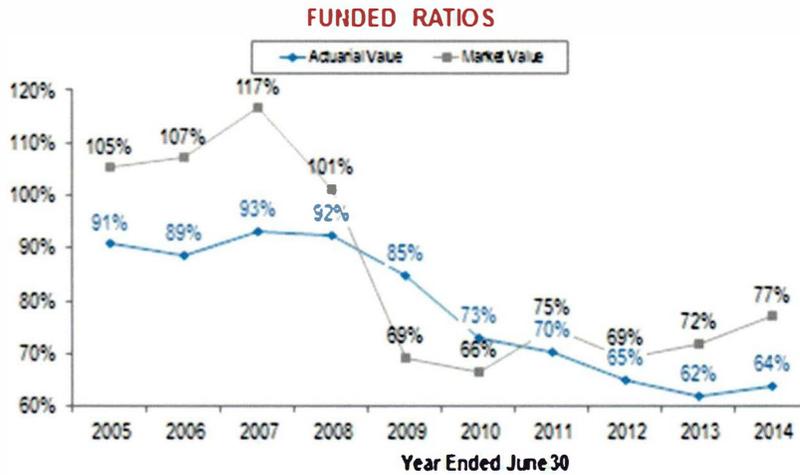
actuarial information and again gave it a favorable recommendation. This interim, after study by the committee the bill was given a “no recommendation”.

3. The Executive budget for 2011-13 recommended the 2012 and 2013 increases and the Executive budget for 2013 to 2015 recommended the 2014 and 2015 increases to complete the recovery plan. This executive budget for next biennium recommends and funds the 2016 increase, or the last year of the recovery.

Attached is the fiscal note for this bill as originally proposed. We appreciate the cost of the recovery is significant, but we are confident that based upon the studies to date, this will put all plans back on track to 100% funded status in what we believe is a lower cost approach in the long term.

As noted at the beginning, the investment consultant to the State Investment Board stated that the year we had the large loss that created this situation was truly unique. And to have this event preceded by the tech market collapse is truly a significant combination of events which hopefully we will not experience again in our lifetimes. Thankfully, as result of your leadership and that of others, the plans went into this situation in a strong funded position. The following shows the funded status of the PERS plan on both an actuarial and a market basis.

Main System



Due to the investment gain in 2014, the ratio based on both actuarial value and market value of assets has increased.

* Segal Consulting 63

If we are going to meet our future challenges as effectively as our past leaders have prepared us for this one, we need to regain the same funded basis that they gave us. Consequently, I stand before you today to request your positive consideration of this bill, the last year of the original recovery plan, which will put us on a course back to 100% funded status and make sure we have a strong future.

Thank you and this concludes my testimony. If we can assist you with your considerations, please let me know.

15.0137.02000

FISCAL NOTE
 Requested by Legislative Council
 12/20/2014

Bill/Resolution No.: HB 1080

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

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$4,760,000	\$3,564,000	\$6,346,000	\$4,752,000
Appropriations	\$0	\$0	\$4,760,000	\$3,564,000	\$6,346,000	\$4,752,000

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties	\$0	\$2,089,000	\$2,786,000
Cities	\$0	\$1,062,000	\$1,416,000
School Districts	\$0	\$1,966,000	\$2,621,000
Townships	\$0	\$0	\$0

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

The bill adjusts the employer and employee contributions to the state retirement plans to implement the last year of the four year recovery plan. The first three years were approved in the prior legislative sessions.

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

The bill increases employee and employer contributions for the NDPERS Main and Defined Contribution systems by 1% in January, 2016.

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

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

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

See 2B above.

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

See 2B above, the appropriation is included in the executive budget.

#1 pg 15

Name: Sparb Collins
Agency: NDPERS
Telephone: 701-328-3900
Date Prepared: 12/30/2014

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1080

Page 1, line 1, remove "sections"

Page 1, line 1, after "reenact" insert "section 54-52-02.9, subsection 2 of section 54-52-05, sections 54-52-06,"

Page 1, line 1, after "54-52-06.4" insert a comma

Page 1, line 1, remove the second "and"

Page 1, line 1, after "54-52-17" insert a comma

Page 1, line 1, remove the third "and"

Page 1, line 2, after "54-52-17.2" insert ", and sections 54-52.6-02 and 54-52.6-09"

Page 1, line 2, after "to" insert "increases in employer and employee contributions under the public employees retirement system defined benefit and defined contribution plans,"

Page 1, after line 6, insert

"SECTION 1. AMENDMENT. Section 54-52-02.9 of the North Dakota Century Code is amended and reenacted as follows:

54-52-02.9. Participation by temporary employees.

A temporary employee may elect, within one hundred eighty days of beginning employment, to participate in the public employees retirement system and receive credit for service after enrollment. The temporary employee shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by two percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January 2012, ~~and~~ with an additional two percent increase, beginning with the reporting period of January 2013, ~~and~~ with an additional increase of two percent, beginning with the monthly reporting period of January 2014; and with an additional increase of two percent, beginning with the monthly reporting period of January 2016. The temporary employee shall also pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee in the public employees retirement system until termination of employment or reclassification of the temporary employee as a permanent

employee. A temporary employee may not purchase any additional credit, including additional credit under section 54-52-17.4 or past service under section 54-52-02.6.

SECTION 2. AMENDMENT. Subsection 2 of section 54-52-05 of the North Dakota Century Code is amended and reenacted as follows:

2. Each member must be assessed and required to pay monthly four percent of the monthly salary or wage paid to the member, and such assessment must be deducted and retained out of such salary in equal monthly installments commencing with the first month of employment. Member contributions increase by one percent of the monthly salary or wage paid to the member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014; and with an additional increase of one percent, beginning with the monthly reporting period of January 2016.

SECTION 3. AMENDMENT. Section 54-52-06 of the North Dakota Century Code is amended and reenacted as follows:

54-52-06. Employer's contribution to retirement plan.

Each governmental unit shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Governmental unit contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012, ~~and~~; with an additional increase of one percent, beginning with the reporting period of January 2013, ~~and~~; with an additional increase of one percent, beginning with the monthly reporting period of January 2014; and with an additional increase of one percent, beginning with the monthly reporting period of January 2016. For those members who elect to exercise their rights under section 54-52-17.14, the employing governmental unit, or in the case of a member not presently under covered employment the most recent employing governmental unit, shall pay the associated employer contribution. If the employee's contribution is paid by the governmental unit under subsection 3 of section 54-52-05, the employer unit shall contribute, in addition, an amount equal to the required employee's contribution. Each governmental unit shall pay the contribution monthly, or in the case of an election made pursuant to section 54-52-17.14 a lump sum, into the retirement fund from its funds appropriated for payroll and salary or any other funds available for these purposes. Any governmental unit failing to pay the contributions monthly, or in the case of an election made pursuant to section 54-52-17.14 a lump sum, is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each

month of delay or fraction thereof after the payment became due. In lieu of assessing a civil penalty or one percent per month, or both, interest at the actuarial rate of return may be assessed for each month the contributions are delinquent. If contributions are paid within ninety days of the date they became due, penalty and interest to be paid on delinquent contributions may be waived. An employer is required to submit contributions for any past eligible employee who was employed after July 1, 1977, for which contributions were not made if the employee would have been eligible to become vested had the employee participated and if the employee elects to join the public employees retirement system. Employer contributions may not be assessed for eligible service that an employee has waived pursuant to subsection 1 of section 54-52-05. The board shall report to each session of the legislative assembly the contributions necessary, as determined by the actuarial study, to maintain the fund's actuarial soundness."

Page 5, line 24, remove the overstrike over "~~Normal retirement benefits for all retirees, except~~"

Page 5, line 24, remove "Except"

Page 5, line 25, remove "the normal retirement benefit for:"

Page 5, line 26, remove "(1) All retirees first enrolled before January 1, 2016,"

Page 5, line 30, remove the overstrike over "{1}"

Page 5, line 30, remove "(a)"

Page 6, line 1, remove the overstrike over "{2}"

Page 6, line 1, remove "(b)"

Page 6, remove lines 3 through 11

Page 11, after line 28 insert

"SECTION 7. AMENDMENT. Section 54-52.6-02 of the North Dakota Century Code is amended and reenacted as follows:

54-52.6-02. (Effective through July 31, 2017) Election.

1. The board shall provide an opportunity for eligible employees who are new members of the public employees retirement system under chapter 54-52 to transfer to the defined contribution plan under this chapter pursuant to the rules and policies adopted by the board. An election made by a member of the public employees retirement system under chapter 54-52

to transfer to the defined contribution retirement plan under this chapter is irrevocable. For an individual who elects to transfer membership from the public employees retirement system under chapter 54-52 to the defined contribution retirement plan under this chapter, the board shall transfer a lump sum amount from the public employees retirement system fund to the participating member's account in the defined contribution retirement plan under this chapter. However, if the individual terminates employment prior to receiving the lump sum transfer under this section, the election made is ineffective and the individual remains a member of the public employees retirement system under chapter 54-52 and retains all the rights and privileges under that chapter. This section does not affect an individual's right to health benefits or retiree health benefits under chapter 54-52.1.

2. If the board receives notification from the internal revenue service that this section or any portion of this section will cause the public employees retirement system or the retirement plan established under this chapter to be disqualified for tax purposes under the Internal Revenue Code, then the portion that will cause the disqualification does not apply.
3. A participating member who becomes a temporary employee may still participate in the defined contribution retirement plan upon filing an election with the board within one hundred eighty days of transferring to temporary employee status. The participating member may not become a member of the defined benefit plan as a temporary employee. The temporary employee electing to participate in the defined contribution retirement plan shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by two percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January 2012, ~~and~~; with an additional increase of two percent, beginning with the monthly reporting period of January 2013, ~~and~~; with an additional increase of two percent, beginning with the monthly reporting period of January 2014; and with an additional increase of two percent, beginning with the monthly reporting period of January 2016. The temporary employee shall also pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee until termination of employment or reclassification of the temporary employee as a permanent employee.
4. A former participating member who has accepted a retirement distribution pursuant to section 54-52.6-13 and who subsequently becomes employed

by an entity different from the employer with which the member was employed at the time the member retired but which does participate in any state-sponsored retirement plan may, before reenrolling in the defined contribution retirement plan, elect to permanently waive future participation in the defined contribution retirement plan, whatever plan in which the new employing entity participates, and the retiree health program and maintain that member's retirement status. Neither the member nor the employer are required to make any future retirement contributions on behalf of that employee.

(Effective after July 31, 2017) Election.

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

2. If an individual who is a deferred member of the public employees retirement system on September 30, 2001, is reemployed and by virtue of that employment is again eligible for membership in the public employees retirement system under chapter 54-52, the individual may elect in writing to remain a member of the public employees retirement system or if eligible to participate in the defined contribution retirement plan established under this chapter to terminate membership in the public employees retirement system and become a participating member in the defined contribution retirement plan established under this chapter. An election made by a deferred member under this section is irrevocable. The board shall accept written elections under this section from a deferred member during the period beginning on the date of the individual's reemployment and ending upon the expiration of six months after the date of that reemployment. If the board, in its sole discretion, determines that the employee was not adequately notified of the employee's option to participate in the defined contribution retirement plan, the board may provide the employee a reasonable time within which to make that election, which may extend beyond the original six-month decision window. A deferred member who makes and files a written election to remain a member of the public employees retirement system retains all rights and is subject to all conditions as a member of that retirement system. A deferred member who does not make a written election or who does not file the election during the period specified in this section continues to be a member of the public employees retirement system. A deferred member who makes and files a written election to terminate membership in the public employees retirement system ceases to be a member of the public employees retirement system effective on the last day of the payroll period that includes the date of the election; becomes a participating member in the defined contribution retirement plan under this chapter effective the first day of the payroll immediately following the date of the election; and waives all of that person's rights to a pension, an annuity, a retirement allowance, insurance benefit, or any other benefit under the public employees retirement system effective the last day of the payroll that includes the date of the election. This section does not affect any right to health benefits or retiree health benefits to which the deferred member may otherwise be entitled.
3. An eligible employee who elects to participate in the retirement plan established under this chapter must remain a participant even if that employee returns to the classified service or becomes employed by a political subdivision that participates in the public employees retirement system. The contribution amount must be as provided in this chapter, regardless of the position in which the employee is employed. Notwithstanding the irrevocability provisions of this chapter, if a member who elects to participate in the retirement plan established under this chapter becomes a supreme or district court judge, becomes a member of

the highway patrol, becomes employed in a position subject to teachers' fund for retirement membership, or becomes an employee of the board of higher education or state institution under the jurisdiction of the board who is eligible to participate in an alternative retirement program established under subsection 6 of section 15-10-17, the member's status as a member of the defined contribution retirement plan is suspended, and the member becomes a new member of the retirement plan for which that member's new position is eligible. The member's account balance remains in the defined contribution retirement plan, but no new contributions may be made to that account. The member's service credit and salary history that were forfeited as a result of the member's transfer to the defined contribution retirement plan remain forfeited, and service credit accumulation in the new retirement plan begins from the first day of employment in the new position. If the member later returns to employment that is eligible for the defined contribution plan, the member's suspension must be terminated, the member again becomes a member of the defined contribution retirement plan, and the member's account resumes accepting contributions. At the member's option, and pursuant to rules adopted by the board, the member may transfer any available balance as determined by the provisions of the alternate retirement plan into the member's account under this chapter.

4. After consultation with its actuary, the board shall determine the method by which a participating member or deferred member may make a written election under this section. If the participating member or deferred member is married at the time of the election, the election is not effective unless the election is signed by the individual's spouse. However, the board may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.
5. If the board receives notification from the internal revenue service that this section or any portion of this section will cause the public employees retirement system or the retirement plan established under this chapter to be disqualified for tax purposes under the Internal Revenue Code, then the portion that will cause the disqualification does not apply.
6. A participating member who becomes a temporary employee may still participate in the defined contribution retirement plan upon filing an election with the board within one hundred eighty days of transferring to temporary employee status. The participating member may not become a member of the defined benefit plan as a temporary employee. The temporary employee electing to participate in the defined contribution retirement plan shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by two percent times the temporary employee's present monthly

salary beginning with the monthly reporting period of January 2012, ~~and~~; with an additional increase of two percent, beginning with the monthly reporting period of January 2013, ~~and~~; with an additional increase of two percent, beginning with the monthly reporting period of January 2014; and with an additional increase of two percent, beginning with the monthly reporting period of January 2016. The temporary employee shall also pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee until termination of employment or reclassification of the temporary employee as a permanent employee.

7. A former participating member who has accepted a retirement distribution pursuant to section 54-52.6-13 and who subsequently becomes employed by an entity different from the employer with which the member was employed at the time the member retired but which does participate in any state-sponsored retirement plan may, before reenrolling in the defined contribution retirement plan, elect to permanently waive future participation in the defined contribution retirement plan, whatever plan in which the new employing entity participates, and the retiree health program and maintain that member's retirement status. Neither the member nor the employer are required to make any future retirement contributions on behalf of that employee.

SECTION 8. AMENDMENT. Section 54-52.6-09 of the North Dakota Century Code is amended and reenacted as follows:

54-52.6-09. Contributions - Penalty.

1. Each participating member shall contribute monthly four percent of the monthly salary or wage paid to the participant, and this assessment must be deducted from the participant's salary in equal monthly installments commencing with the first month of participation in the defined contribution retirement plan established under this chapter. Participating member contributions increase by one percent of the monthly salary or wage paid to the participant beginning with the monthly reporting period of January 2012, ~~and~~; with an additional increase of one percent, beginning with the reporting period of January 2013, ~~and~~; with an additional increase of one percent, beginning with the monthly reporting period of January 2014; and with an additional increase of one percent, beginning with the monthly reporting period of January 2016.
2. The employer shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating

member. Employer contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012, ~~and~~; with an additional increase of one percent, beginning with the monthly reporting period of January 2013, ~~and~~; with an additional increase of one percent, beginning with the monthly reporting period of January 2014; and with an additional increase of one percent, beginning with the monthly reporting period of January 2016. If the employee's contribution is paid by the employer under subsection 3, the employer shall contribute, in addition, an amount equal to the required employee's contribution. The employer shall pay monthly such contribution into the participating member's account from its funds appropriated for payroll and salary or any other funds available for such purposes. If the employer fails to pay the contributions monthly, it is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due.

3. Each employer, at its option, may pay the employee contributions required by this section for all compensation earned after December 31, 1999. The amount paid must be paid by the employer in lieu of contributions by the employee. If the employer decides not to pay the contributions, the amount that would have been paid will continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. Contributions paid by the employer may not be included as gross income of the employee in determining tax treatment under this code and the federal Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a combination of a reduction in gross salary and offset against future salary increases. Employee contributions paid by the employer must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made before the date on which employee contributions were assumed by the employer. An employer shall exercise its option under this subsection by reporting its choice to the board in writing."

Renumber accordingly

1pg25

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL 1080

Page 5, line 26, replace "retirees" with "members"

Page 6, line 3, replace "retirees" with "members"

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1080

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 54-52.6 of the North Dakota Century Code, relating to an election for members of the defined contribution retirement plan to transfer to the public employees retirement system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-52.6 of the North Dakota Century Code is created and enacted as follows:

Changes to election.

1. In this section the term "participating member" is limited in application to a participating member who elected to participate in the defined contribution retirement plan established under this chapter; is an actively participating member of the defined contribution plan as of the effective date of this Act; and is an active employee with a participating employer on the date an election is made under this section. The term does not include a participant who is not actively employed with a participating employer on the date of transfer of the funds under this section, has taken a distribution from the defined contribution plan, is retired, is no longer actively employed with a participating employer, or who is a member who has a qualified domestic relations order or other court order on the member's account.
2. Notwithstanding any other provision of law, the board shall provide an opportunity for each participating member to elect in writing to terminate membership in the defined contribution retirement plan under this chapter and to elect to become a participating member in the public employees retirement system under chapter 54-52.
3. The board shall establish a three-calendar-month election period beginning not later than February 1, 2016. A participating member who does not make a written election or who does not file the election with the North Dakota public employees retirement system office during the period specified in this section continues to be a member of the defined contribution plan. A participating member who makes and files a written election with the North Dakota public employees retirement system office under this section ceases to be a member of the defined contribution plan upon receipt by the public employees retirement system of the accumulated fund balance of the member's defined contribution plan under this chapter and waives all rights to that employee's accumulated fund balance under the defined contribution plan. If the executive director of the North Dakota public employees retirement system determines a participating member was not adequately notified of the option to make an election under this section, the executive director may provide that

participating member a reasonable time, not to exceed three months, within which to make that election.

4. The public employees retirement system shall credit the transferring employee with the service credit and salary history reflected on the public employees retirement system's electronic database.
5. The board shall determine the method by which a participating member may make a written election under this section. If the participating member is married at the time of the election, the election is not effective unless the election is signed by the individual's spouse. However, the executive director of the North Dakota public employees retirement system may waive this spousal signature requirement if the spouse's signature cannot be obtained because of extenuating circumstances.
6. For a participating member who elects to terminate membership in the defined contribution plan under this section, the board shall transfer that member's accumulated fund balance, less any rollovers from other plans made into the defined contribution plan, to the public employees retirement system under chapter 54-52. If funds are transferred from the defined contribution plan to the defined benefit plan under an election made under this section, the board shall record this transfer to the defined benefit plan as employee and employer contributions in the same manner as transferred by the defined contribution provider. If a participating member has a separate account attributable to rollover contributions to the defined contribution plan pursuant to section 54-52.6-09.1, the participating member shall make an election to receive a distribution of the entire amount held in the rollover account at the time of transfer.
7. A participating member who elects a transfer under this section is entitled to vested employer contribution amounts under section 54-52-11.1 prospectively from the date of transfer. A participating member who elects a transfer under this section must be assessed and required to pay monthly to the defined benefit plan an additional employee contribution of an additional two percent of the monthly salary or wages paid to the member."

Renumber accordingly

Prepared by Connie M. Johnson (3/13/2015)
24-Year State of North Dakota Employee (current employment)
16.5 Year Employee of Workforce Safety & Insurance (1989 - 2005)
Current Profession: Human Resources

Committee Members,

My name is Connie M. Johnson and I am a current 24-year employee with the State of North Dakota. I served Workforce Safety & Insurance for 16.5 of those years.

Let me begin by going back in time a bit to provide you a history of where WSI was at just a few years prior to when employees were faced with making the important decision on selecting either the Defined Benefit or the Defined Contribution plan.

Employees at Workforce Safety & Insurance experienced a great deal of change in the mid to late 1990's. The workers' compensation reform package passed by the 54th legislative assembly (1995-96) was comprised of 28 bills.

Then, in January of 1996, it was announced that WSI was no longer part of Central Personnel. That meant that Central Personnel was not guiding the salary administration of WSI. WSI leadership touted the "pay for performance" plan to employees as being a positive thing for them and the agency overall – and that was the justification by management of the agency's removal from Central Personnel. Many employees had grave concerns about this move away from Central Personnel and the oversight that Central Personnel was no longer able to provide. (NOTE: WSI was put back under Central Personnel years later after some agency turmoil.)

Sometime later, the legislature passed a bill which authorized NDPERS to offer a Defined Contribution retirement plan to all employees not classified by Central Personnel, except employees of higher education and the Supreme Court. This new plan was to become effective January 2000.

Workforce Safety & Insurance is an agency with a speckled history containing massive change and turmoil. With the introduction of the DB vs. DC issue, employees asked themselves, "Why did WSI separate from Central Personnel - and - now why are we faced with making a retirement plan choice?" These issues heightened employee concern and confusion – and employees faced uncertainty about the agency's future as well as their own.

I offer you an example of a document that was presented to employees by the Human Resources Department of WSI on December 7, 1999 (attached). It displays a comparison of the two plans. If one was to look at the figures in this document, it would seem as though the Defined Contribution plan is the best choice to make. After all, the illustration shows the example that after 8 years of service, the DB (pension) plan retirement amount is just over \$93,000, while the DC (new) plan was \$610,000. Another illustration is 13 years of State service – the DB plan is \$179,000, while the DC plan is \$919,000. Still another illustration is at 23 years

Prepared by Connie M. Johnson (3/13/2015)
24-Year State of North Dakota Employee (current employment)
16.5 Year Employee of Workforce Safety & Insurance (1989 – 2005)
Current Profession: Human Resources

of service. The DB plan is \$443,000, while the DC plan is a whopping \$1.3 million. This is an example of information provided to employees at WSI that was very misleading.

I have been in a Human Resources position for several years. When there is going to be a change in a policy or guidance in my agency - I - as a Human Resources person and one who can influence management on the communication within the agency, have a responsibility to the employees I serve in my agency. That responsibility includes educating employees so each and every one of them understands a change that will be taking place. This is accomplished by giving them information that is accurate, easy to understand, concise, and if it means drawing on a white board and displaying examples – I will do it if that is what it takes. It is imperative that employees feel like they understand a change because only then can they go forward to make an educated decision and one that they feel comfortable with now and into the future.

That was not the case in what occurred at WSI in the fall/winter of 1999. In the case of WSI and the employee comfort level with the magnitude of the decision they needed to make, it would have been so simple for WSI Human Resources/management leadership to better assist employees. It would have made a huge difference to employees instead of the confusing, misleading information as portrayed in the December 7, 1999, memo.

Some employees who were at WSI and made the decision to move to the DC plan are no longer at WSI; they have moved on to other State agencies. No matter where they work now, many of these employees have dedicated many, many years in their careers to State Government service in North Dakota. They do so because they like their jobs and want to make a difference; are proud of where they work; and are dedicated, hardworking, and loyal employees.

It is because of these reasons that I ask this committee for their consideration. And that is to allow those employees who were faced with the decision in December of 1999 to either select the DB or DC plan to be given another selection period in which to opt out of the DC plan and return to the DB plan. These employees have done outstanding things for the State of North Dakota – they are dedicated – and due to the circumstances I have outlined before you today, I believe they all deserve the chance to make another decision – this time an educated decision and one they can feel comfortable with moving forward with in their lives and their careers.

Thank you!

HUMAN RESOURCES MEMORANDUM

DATE: 12/07/1999
 TO: ALL BUREAU EMPLOYEES
 FROM: LYNN BRUGARD
 RE: DEFINED BENEFIT/DEFINED CONTRIBUTION PROGRAM

As you know you have an important decision to make regarding your retirement plan, by December 15, 1999. As you know you can stay in the current Defined Benefit Plan or move to the new Defined Contribution Plan.

Attached are some illustrations provided by Sparb Collins of the Public Employees Retirement System. The illustrations compare the Defined Benefit and Defined Contribution plans retirement amounts when an employee terminates with different years of service.

<u>Years of Service</u>	✓ <u>Defined Benefit Plan (Current Plan)</u>	✓ <u>Defined Contribution Plan (New Plan)</u>	<u>Retirement Age</u>
08	\$93,908	\$610,607	65
13	\$179,141	\$919,527	65
23	\$443,430	\$1,371,070	65
33*	\$1,300,297	\$951,753	55

* In the last example the person meets the rule of 85 and is able to retire at age 55. Because of this they will be collecting benefits longer under the Defined Benefit Plan and the amount of retirement income is larger. Because the Defined Contribution is figured to only 55 instead of 65 the amount of retirement income is smaller.

As you can see by the examples given, if you do not plan to retire with the State the Defined Contribution Plan may be your best option. If you do plan to retire with the State the Defined Benefit Plan may be your best option. Although, before making any financial decisions it is best to contact your financial advisor.

Please let me know if you have any questions.

8 Years of Service



Hypothetical Personal Benefit Illustration for John M Participant

Your Benefits Comparison

Custom Retirement Age (Age 30)

Defined Benefit Plan

Lump Sum Distribution: N/A

Final average salary: \$32,143

Final average salary earned: 15.59%

Defined Contribution Plan

Balance at separation: \$23,978

Balance at distribution: \$354,534

Percent vested at separation: 100.00%

Years in Retirement	Monthly Benefit ¹	Lifetime Benefit	Monthly Benefit ²	Lifetime Benefit
5 Yrs	\$417	\$25,055	\$6,899	\$413,955
10 Yrs	\$417	\$50,111	\$4,003	\$480,462
15 Yrs	\$417	\$75,167	\$3,071	\$552,897
20 Yrs	\$417	\$100,222	\$2,628	\$630,945
25 Yrs	\$417	\$125,278	\$2,380	\$714,258
30 Yrs	\$417	\$150,334	\$2,228	\$802,350
35 Yrs	\$417	\$175,389	\$2,130	\$894,717
40 Yrs	\$417	\$200,445	\$2,064	\$990,873
18.74 Years*	\$417	\$93,908	\$2,715	\$610,607

*This figure represents normal life expectancy and is based on the GAM 83 Normal Life Expectancy Table.

¹This is based on the distribution option selected. Your benefit will be reduced if you choose to cover the life of your spouse or select a distribution option other than Single Life.

²Assumes that you are 100% vested when you leave employment.

Pre-tax contributions are subject to the annual IRS dollar limit.

This document only provides a single scenario under your employer's retirement plan offering, and the Plan documents will govern in the event of any discrepancies.

These hypothetical projections are for illustrative purposes only based on the assumptions provided by you and your employer. They do not reflect performance of a specific investment product and do not constitute investment advice. Returns will vary and your defined contribution account may earn more or less than the amounts in this example. Past performance is no guarantee of future results. Monthly withdrawals during retirement from both the Defined Benefit Plan and Defined Contribution Plan will be taxed as ordinary income.

All benefits shown are Pre-Tax. Applicable Federal Income tax will be withheld when benefits are paid to you in retirement.

It's important to remember that with the defined contribution plan, you may live longer than your life expectancy, and you run the risk of reducing your account balance to \$0 during your lifetime.

13 Years
of Service



Hypothetical Personal Benefit Illustration for
John M Participant

Your Benefits Comparison

Custom Retirement Age (Age 35)

Defined Benefit Plan

Lump Sum Distribution: N/A

Final average salary: \$38,176

Final average salary earned: 25.04%

Defined Contribution Plan

Balance at separation: \$53,057

Balance at distribution: \$533,899

Percent vested at separation: 100.00%

Years in Retirement	Monthly Benefit ¹	Lifetime Benefit	Monthly Benefit ²	Lifetime Benefit
5 Yrs	\$796	\$47,796	\$10,389	\$623,386
10 Yrs	\$796	\$95,593	\$6,029	\$723,536
15 Yrs	\$796	\$143,389	\$4,625	\$832,617
20 Yrs	\$796	\$191,186	\$3,959	\$950,167
25 Yrs	\$796	\$238,983	\$3,585	\$1,075,614
30 Yrs	\$796	\$286,779	\$3,356	\$1,208,275
35 Yrs	\$796	\$334,576	\$3,208	\$1,347,402
40 Yrs	\$796	\$382,372	\$3,108	\$1,492,204
18.74 Years*	\$796	\$179,141	\$4,088	\$919,527

*This figure represents normal life expectancy and is based on the GAM 83 Normal Life expectancy table.

¹ This is based on the distribution option selected. Your benefit will be reduced if you choose to cover the life of your spouse or select a distribution option other than Single Life.

² Assumes that you are 100% vested when you leave employment.

Pre-tax contributions are subject to the annual IRS dollar limit.

This document only provides a single scenario under your employer's retirement plan offering, and the Plan documents will govern in the event of any discrepancies.

These hypothetical projections are for illustrative purposes only based on the assumptions provided by you and your employer. They do not reflect performance of a specific investment product and do not constitute investment advice. Returns will vary and your defined contribution account may earn more or less than the amounts in this example. Past performance is no guarantee of future results. Monthly withdrawals during retirement from both the Defined Benefit Plan and Defined Contribution Plan will be taxed as ordinary income.

All benefits shown are Pre-Tax. Applicable Federal Income tax will be withheld when benefits are paid to you in retirement.

It's important to remember that with the defined contribution plan, you may live longer than your life expectancy, and you run the risk of reducing your account balance to \$0 during your lifetime.

23 Years
of Service



Hypothetical Personal Benefit Illustration for
John M Participant

4 Your Benefits Comparison

Custom Retirement Age (Age 45)

Defined Benefit Plan

Lump Sum Distribution: N/A

Final average salary: \$53,851

Final average salary earned: 43.94%

Defined Contribution Plan

Balance at separation: \$170,796

Balance at distribution: \$796,077

Percent vested at separation: 100.00%

Years in Retirement	Monthly Benefit ¹	Lifetime Benefit	Monthly Benefit ²	Lifetime Benefit
5 Yrs	\$1,971	\$118,311	\$15,491	\$929,506
10 Yrs	\$1,971	\$236,622	\$8,990	\$1,078,837
15 Yrs	\$1,971	\$354,933	\$6,897	\$1,241,481
20 Yrs	\$1,971	\$473,245	\$5,903	\$1,416,756
25 Yrs	\$1,971	\$591,556	\$5,346	\$1,603,806
30 Yrs	\$1,971	\$709,867	\$5,004	\$1,801,612
35 Yrs	\$1,971	\$828,178	\$4,783	\$2,009,057
40 Yrs	\$1,971	\$946,490	\$4,635	\$2,224,972
18.74 Years*	\$1,971	\$443,430	\$6,096	\$1,371,070

* This figure represents normal life expectancy and is based on the GAM 83 Normal Life Expectancy Table.

¹ This is based on the distribution option selected. Your benefit will be reduced if you choose to cover the life of your spouse or select a distribution option other than Single Life.

² Assumes that you are 100% vested when you leave employment.

Pre-tax contributions are subject to the annual IRS dollar limit.

This document only provides a single scenario under your employer's retirement plan offering, and the Plan documents will govern in the event of any discrepancies.

These hypothetical projections are for illustrative purposes only based on the assumptions provided by you and your employer. They do not reflect performance of a specific investment product and do not constitute investment advice. Returns will vary and your defined contribution account may earn more or less than the amounts in this example. Past performance is no guarantee of future results. Monthly withdrawals during retirement from both the Defined Benefit Plan and Defined Contribution Plan will be taxed as ordinary income.

All benefits shown are Pre-Tax. Applicable Federal Income tax will be withheld when benefits are paid to you in retirement.

It's important to remember that with the defined contribution plan, you may live longer than your life expectancy, and you run the risk of reducing your account balance to \$0 during your lifetime.



33 Years of Service.
Eligible for retirement under the rule of 85

Hypothetical Personal Benefit Illustration for John M Participant

4 Your Benefits Comparison

Custom Retirement Age (Age 55)

Defined Benefit Plan

Defined Contribution Plan

Lump Sum Distribution: N/A

Balance at separation: \$448,082

Final average salary: \$75,962

Balance at distribution: \$448,082

Final average salary earned: 62.84%

Percent vested at separation: 100.00%

Years in Retirement:	Monthly Benefit ¹	Lifetime Benefit	Monthly Benefit ²	Lifetime Benefit
5 Yrs	\$3,977	\$238,674	\$8,719	\$523,185
10 Yrs	\$3,977	\$477,348	\$5,060	\$607,238
15 Yrs	\$3,977	\$716,022	\$3,882	\$698,785
20 Yrs	\$3,977	\$954,697	\$3,322	\$797,440
25 Yrs	\$3,977	\$1,193,371	\$3,009	\$902,724
30 Yrs	\$3,977	\$1,432,045	\$2,816	\$1,014,062
35 Yrs	\$3,977	\$1,670,720	\$2,692	\$1,130,824
40 Yrs	\$3,977	\$1,909,394	\$2,609	\$1,252,353
27.24 Years*	\$3,977	\$1,300,297	\$2,911	\$951,753

*This figure represents normal life expectancy and is based on the GAM 83 Normal Life expectancy table.

¹This is based on the distribution option selected. Your benefit will be reduced if you choose to cover the life of your spouse or select a distribution option other than Single Life.

²Assumes that you are 100% vested when you leave employment.

Pre-tax contributions are subject to the annual IRS dollar limit.

This document only provides a single scenario under your employer's retirement plan offering, and the Plan documents will govern in the event of any discrepancies.

These hypothetical projections are for illustrative purposes only based on the assumptions provided by you and your employer. They do not reflect performance of a specific investment product and do not constitute investment advice. Returns will vary and your defined contribution account may earn more or less than the amounts in this example. Past performance is no guarantee of future results. Monthly withdrawals during retirement from both the Defined Benefit Plan and Defined Contribution Plan will be taxed as ordinary income.

All benefits shown are Pre-Tax. Applicable Federal Income tax will be withheld when benefits are paid to you in retirement.

It's important to remember that with the defined contribution plan, you may live longer than your life expectancy, and you run the risk of reducing your account balance to \$0 during your lifetime.

HOUSE BILL 1080

Chairman Dever and members of the Government and Veterans Affairs Committee, my name is Bruce Burkett a spokesperson for the North Dakota Peace Officers Association. House Bill 1080 if passed as written will have a divisive impact on sworn officers in the North Dakota Game and Fish department. If passed without any changes, it will create two retirement plans for Game Wardens. Currently, sworn law enforcement officers that are enrolled in the Public Employee's Retirement system are located in the Highway Patrol System, the "Peace Officer" option or the general PERS plan. Game Wardens could have been included into the "Peace Officer" option when it was created. The general PERS plan allows normal retirement to occur at the age of 55 with a rule of 85. The 37 sworn officers of the Game and Fish are covered now by the general PERS parameters. New officers hired after December 31st 2015 will have to work till age 60 with a combination of a rule of 90. Since a game warden hired at the age of 25, by working in that job till 60 would have a combination of rule 95. In addition they will lose 5% in retirement benefits with a 1.9 multiplier.

Because the "Peace Officer" option was designed for retirement eligibility at 55, most wardens would be at rule

game and fish and to exercise the supervisory direction and control of all protectors and to cause to be brought to the proper courts actions and proceedings to recover penalties and to punish violations of the statutes and laws.

The "Commissioner" would recommend to the Governor not to exceed two names of men per county to be appointed as **"Game and Fish Protectors"**. **The Governor would appoint the "Protectors" for a term of 4 years.** Each Protector would be bonded in the amount of \$500. The "Commissioner" would oversee the enforcement and report to the Governor all cases filed by the "Protectors". Any "Protector" neglecting his duties would be removed from office by the Governor.

"Protectors" would receive \$5 for each conviction in court for an offense. After statehood there were 45 counties. After 1897, the Game and Fish Commissioner was changed to the Fish Commissioner and the Governor appointed a Chief Game Warden who would appoint game wardens in every county: One for every county with a population of 3000 people; two in every county with a population of more than 3000 but less than 7000 people and three wardens in counties larger than that. As of today there are 37 sworn game wardens in the Game and Fish Department out of 160+ fte's.

Warden Country can be described as Law Enforcement off the pavement! Where we work and under different

circumstances that other law enforcement officers can be described in the following article. Final Chapter of the book "I Didn't Know Game Wardens Did That!" as reprinted below;

FINAL CHAPTER

WHERE DO WE GO FROM HERE?

NORTH DAKOTA GAME AND FISH DEPARTMENT- 1972 TILL NOW

The North Dakota Game and Fish Department has always been a very small agency compared with other states. In 1972 there were 23 warden positions in the Department which included the chief warden. Competition for warden jobs has always been difficult since most of the time if an opening occurred it was for one position. The Department at that time had about 73 full time employees for all divisions. Prior to 1970 the minimum age to compete in the warden exam was 25 but was lowered to 21. Only a high school degree was required. In 1972 only one warden had a college degree. I had taken the exam in 1970 and came in second. So in 1972 and after taking the test for a second time, I was hired. The opening was in Beulah North Dakota.

Game wardens at that time were not required to attend any formal police training. A new police academy had been completed in Bismarck in 1971, and being employed as Chief of Police of Steele at the time, I got to graduate in the first class held. Only the State Highway Patrol had a formal training program. With the new academy, the early 1970's was a time for change in law enforcement. Licensing of officers was still a ways off. New law enforcement assistance programs blossomed encouraging officers to take college training and better and more specialized topics were offered. Legal requirement and court decisions forced officers to be better trained in procedures, not only to successfully prosecute violators but to protect the officers from civil law suits. Nationwide agencies too became the targets for suits for failure to properly train officers. So in 1972, I became the second college graduate and first police academy graduate on the warden staff.

On July 1st 1972, I reported to Bismarck for duty. The chief warden gave me a car, boat and trailer, a set of law books, report forms, binoculars and spotting scope, three badges, maps for the area, a couple of uniform shirts that fit ok, and had me work in the office for two days with my supervisor. The 4th and 5th of July I rode with my supervisor as we checked fishermen and boaters on the Missouri River. I was cut loose on my own the next day.

Our move from Steele to Beulah at the end of June 1972 would be the beginning of our new life adventure that would evolve over the next 40 years. My wife Beverly and I added a new

addition to our family while in Steele, our first daughter Jackie. We bought our house in Beulah for \$3000. My pay was \$450 per month, a \$50 per month reduction from being Chief of Police of Steele.

The warden has to walk in two professions, in the wildlife field and as a law enforcement officer. How a game and fish agency views the warden role has changed as society has changed. Most game and fish agencies started as a protector, relying on law enforcement as the main way of managing wildlife. In the first half of the 20th Century changes occurred by increasing budgets and programs to fund habitat and biological studies. The warden's role stayed as a gate keeper. The structure of wildlife agencies gives it a mixed mission, one as a regulatory agency and one as a biological agency. Other state regulatory agencies such as the State Highway Patrol have a singular mission, where all agency employees work to deliver the same product, law enforcement services. In most states the director of the agency has little or no law enforcement experience. Agency directors whether they are in a DNR (Department of Natural Resources) or a Game and Fish agency almost universally are hired by or report to elected officials. Law enforcement activity many times involves politically connected people. Law enforcement divisions sometimes are looked upon by the directors as a necessary evil. In 1972, the 23 law enforcement positions were about 31% of the agency staff. By 2011, the warden staff grew to 36, or about 22% of the current 157 FTE staff.

What's in a name! The head of the North Dakota Game and Fish Department in 1972 was called the Game and Fish "Commissioner". It was changed in the 1980's to "Director". The Director and Deputy Director are given all the police powers of "game warden" and are "peace officers" by definition. North Dakota law gives the "Chief Game Warden" the responsibility to conduct day to day law enforcement operations and shall report to the Director. Game Wardens are called by many titles. Illinois and Indiana they are called "Conservation Police Officers"; New York "Environmental Conservation Police"; Georgia "Game Rangers"; Wisconsin "Conservation Warden"; Iowa, South Dakota and Minnesota "Conservation Officer". There was a bill in the ND Legislature during the 1980's to change the title in North Dakota from game warden to conservation officer but was turned down. It was highlighted by one of the bill's opponents with an ignorant comment "What do game wardens have to do with conservation?!?"

The law enforcement profession in the 1970's was also undergoing changes. College programs started developing criminal justice degree programs. The street cop image as a door shaker or dog catcher would be replaced by specialty needs of the law enforcement community. Within the law enforcement community the field warden was a welcome partner. Excluding the 4 major cities in North Dakota the 22 resident field wardens were relied upon for assistance by sheriff's offices and local small town police departments when serious incidents happen in their community. Within the next 4 years the Department hired 4 more wardens. All had 4 years of college or equivalent.

The 1977 legislature mandated the Department to increase the law enforcement staff by 5 warden positions. With one vacant position to be filled that year also, the class of 6 officers in 1977 would be the largest in the Department history. That class included Keith Trego, Roger Rostvet, Gary Rankin, Bill Schaller, Pat Headrick and Rick Witkowski.

In addition they expanded the Department's law enforcement responsibilities requiring the officers to attend police basic training and be licensed as peace officers. Licensing would require the individual to pass a physiological test. After 1977, a bachelor's degree or equivalent would be required to take the warden test. Warden screening and testing would emphasize wildlife biology in addition to law enforcement issues.

Improvements in equipment and advanced training has brought the warden staff of the mid 1970's till 2013 to be one of the most capable law enforcement unit within North Dakota. That improvement in capability occurred progressively with each agency director after 1979. The venue where wardens work historically contained hunting and fishing activity. Now warden country includes just about any type of criminal activity that can be found in any urban area. Drug encounters rarely seen in the 1960's (at least in North Dakota) now routinely occur.

Technology improvement alone has changed the daily duties of the warden. In 1972, the main mode of communication was the two way radio. While they are still used today, they are now coupled with cell phones, computers, gps tracking, video recording, wireless monitoring, and satellite imagery. Forensic advancements from 1972 include DNA databases both for wildlife and humans, firearms analysis and finger print screening.

The warden's tool kit has sufficient items to be self-contained for several days of operation without needing logistic support. In 1972, no firearms were provided by the agency. If the warden wanted a handgun or handcuffs he had to furnish it himself. Boats were at most 16 foot long. A few snowmobiles were available but very unreliable. You did not want to ride them any further then you wanted to walk. ATV's were not available. The modern warden has a boat averaging over 18'; either has been issued or has access to an ATV and snowmobile; complete duty belt that includes a handgun, handcuffs, pepper spray, collapsible baton and utility knife, a 12 gauge riot shotgun, a semi-automatic rifle, bullet proof vest, Tasers, crime scene and forensic evidence collection kits including quality photography equipment.

The warden's job has always been filled with freedoms and responsibilities. In the era of the 1970's and before, the warden was expected to work as many hours in the month needed to get his work done. It was not unusual for a typical work month to consist of over 300 hours. Each warden usually worked alone and rarely visited his neighboring officer. The state was divided into 4 warden regions with one of the warden designated as a supervisor. The supervisor at that time still had a district too, so direct supervision was rare. As part of his freedom the warden had to plan his work day as to when and where to work. My first monthly report from July 1972 showed 400 hours worked in 30 days and 4800 miles driven. That would all change in the mid 80's with the passage of the Fair Labor Standards Act. Later called the Garcia decision, law enforcement jobs not considered management would require the employing agency to pay the officer overtime for hours worked in excess of 171 hour in any 28 day period. The days of letting officers work at will was over. This brought about a perceived change by the officers and a management change by the agency. After the Garcia ruling the agency became liable for passed work that exceeded the limits if they had not been paid; so back pay went to the wardens. The agency needed to define what work was. The wardens had to become responsible for planning the work within the limits. All the supervisors were given

advanced management training. Work schedules were created for 28 day periods. The regions needed to work as a team. Past restriction of traveling outside the warden's district changed to promote team work covering investigations and calls for service when the resident warden was off duty. Communications that relied only on radios changed in the 1980's to pagers. Then in the late 1990's cell phones made the warden more available and efficient during his work day.

One of the biggest mutations in North Dakota involved the legal system and the structure of game and fish laws. Prior to 1973 game and fish laws were classified as misdemeanors with a variety of potential maximum sentences. For example an out of season deer case or shining violation carried a maximum penalty of \$100 fine and 30 days in jail. The biggest hammer was loss of equipment. The 1973 legislature completely codified all criminal laws of the century code. Penalties for big game laws were classified as Class A misdemeanors which now days carry a maximum penalty of \$2000 fine, one year in jail plus multiple years loss of license privileges and continued forfeiture of equipment used. Over time the Legislature has continued to increase penalties for game and fish laws. Several statutes make some game and fish offenses potential felony level charges, representing the increased value of our wildlife resources by the public.

I mentioned earlier that I worked for about 5 days with a supervisor before being cut loose on my own. The hiring and training procedure has changed dramatically since the 1970's. A series of competitive exams replaced the one general knowledge test of the past. An oral interview examining the applicant's background is conducted followed by an extensive background investigation. Potential candidates appear before a final oral interview where they are put through a series of questions. Individuals that are offered a warden position must then pass a physiological test, a prerequisite for licensing as a certified law enforcement officer. Those that are hired are in a probationary status during which each must complete the 12 week Law Enforcement Police Basic academy. After that they are put through another 12-14 week field training program. After the FTO program, the probationary warden works in their assigned district with their regional supervisor for another 6 months.

Prior to 1995 a game warden in North Dakota was a guy. While women had taken the warden test in prior years, the first female warden that survived probationary status was hired. Since then two more women wardens have been added to the staff. The first one hired in 1995 was the child I moved from Steele to Beulah in 1972, **my daughter Jackie**.

The warden's job is more than running around catching "bad guys". It's selling what we stand for, integrity and the value of our outdoor heritage. We each need to do this by being the best we can in each aspect of the job. By getting involved in the community the warden can influence the image of the agency and the role of enforcement. Being good at catching "bad guys" is good too.

Prepared by Bruce Burkett

85 by age 55. Being included in the "Peace Officer" option would not be a benefit to the officers or the Department. Moving the age to 60 and rule 90 will have a drastic impact on future wardens. Placing new hired wardens after December 31st, 2015 into the "Peace Officer" option would solve the issue created by HB 1080.

I became a warden in 1972 and retired from full time service in 2013. There were 23 game wardens out of about 73 full time employees of the Game and Fish Department at that time. Most of the wardens in that era were hired at 30 years old or older. In the last 20 years wardens are as young as 22 with four year degrees or higher. Game Wardens are the Oldest State Wide Law Enforcement Unit in North Dakota; created in 1893.

The first creation of the position of "Game and Fish Commissioner" occurred by the designation of the Superintendent of Irrigation and Forestry as Game and Fish Commissioner on March 13th, 1893. The "Commissioner" was given two directives; 1- to stock the waters of this state with fish best adapt to furnish cheap and nutritious food, maintain hatcheries as established or may be deem to be required and to equip; and prescribe and design fishways to be erected upon dams and obstructions in the waters of the State; 2- to see to the enforcement of laws and statutes for the preservation of

Good Morning, Mr. Chairman and Members of the Committee, my name is Jolene Rohde, I am the Impairment Auditor at Workforce Safety and Insurance (WSI). I am here today to testify in support of the amendment to HB1080 and ask for your support to approve this amendment.

Some of you may remember me as I was here 2 years ago before you asking that you support an amendment to a bill on this same issue. You graciously agreed to that amendment which then lost in the Appropriations Committee. I testified last month, on February 2nd, before the House Government and Veterans Affairs Committee in regards to HB 1154, which was this same issue and they graciously, gave a DUE PASS to the bill; however, I was then called a liar on the House floor by Rep. Kasper in his speech to defeat this bill. This was in despite of the written testimony of my co-workers that corroborated my testimony and the assurances to Rep. Kasper by Mr. Sparb Collins of NDPERS during the committee hearing, that my testimony of the events was accurate. In that case, Mr. Kasper won as the bill was defeated by 11 votes. Thus, I am here today once again to ask for your support of this amendment and to tell you that what I am about to tell you is the truth, the whole truth and nothing but the truth, so help me God as I am a catholic girl from western North Dakota whose parents always told me, "tell the truth and you won't ever have to try to remember what you said". I would hope that I will be able to enlighten you as to how this amendment affects me and why I have taken annual leave to be here today.

I began my employment with WSI, then known as the Workers' Compensation Bureau in 1997. In 1999, Legislative action removed our Agency from the control of the Governor of North Dakota and placed us under the control of an Agency Board. At that time, the Administration of WSI held meetings with agency personnel in which they informed us of the legislative change and informed us that, if we planned to be with the organization for longer than 10 years or had greater than 10 years prior to retirement, it would be in our best interest to remove ourselves from the Defined Benefit Retirement Fund and enroll in the Defined Contribution Fund since **NOT IF** but rather **WHEN** the Agency privatized we would lose our retirement funds. We were informed that this change in fund choice would in no way change our retirement benefits or what we were entitled to, but was merely another method of investing our funds and would allow us to have our retirement funds available **WHEN** the Agency became a private Insurance Fund. These facts can be verified by numerous of my co-workers who were also employed with WSI in 1999. Some of whom are here today and others who were unable to attend due to work constraints, but have provided their written testimony.

Since that time, of course WSI has not privatized and the Agency, by a vote of the people, was placed back under the control of the Governor of ND in 2009. Thus, WSI employees were again placed under the constraints of HRMS, placed back into the classified employee status and our retirement funds are controlled by the State as to

where they can be invested, in what funds they are invested and what company manages the funds, etc. However, there have been no provisions nor are we allowed an opportunity to return to the Defined Benefit Retirement Plan. Yes, we erred in believing the Administration of WSI that our benefits would be no different in the Defined Contribution Plan than that of the Defined Benefit Plan, but would merely be invested differently. However, were we really wrong to believe that the Administration of our employer would not have our best interest at heart? This lack of information and understanding was so prevalent that I have had co-workers, 1 of whom has provided written testimony, that actually contacted NDPERS for information on when they would meet the rule of 85 and requested information on buying years of service, only to be told, "What are you doing, this doesn't apply to you".

I am not talking about WSI employees who wanted to "take their money and run" in 1999, unlike Agency administration. I am talking about hard-working, dedicated state employees who have stuck with the Agency and the State of ND, who have continued to service the State of North Dakota and its' injured workers. I don't believe it is entirely our fault that we believed and trusted the Administration of WSI and it is not in any way our fault that the Agency has been removed from the control of the Agency Board and placed under the control of the Governor. Yet, we do not have the rights and benefits of the State Defined Benefit Retirement System.

The **Defined Contribution Retirement Program Election form** that I signed on December 7th of 1999 states, and I quote:... *I will be unable to rejoin the defined benefit retirement program even if I later become employed in a position which would be ineligible for the defined contribution program except if I become an employee of the judicial branch, the board of higher education or a state institution under the jurisdiction of the board of higher education.* Nowhere in this election form does it say that I am ineligible to rejoin or would be precluded from a return to the defined benefit program in the event that my position was changed to classified status through a method beyond my control and through no fault of my own.

I respectfully request that approve this amendment to HB1080 or at the very least provide for provisions to allow WSI employees to be allowed the opportunity to return to the Defined Benefit Retirement Plan given the change of status of our Organization and the misinformation we were provided. ND United leadership can also tell you that they were not allowed to contact agency employees to discuss this legislation in 1999 and I know for a fact that agency staff were told that NDPEA and PERS were not be to contacted for assistance or direction.

My ill-advised decision in 1999, compounded by the change in my employment status back to that of a classified employee, has caused me a great deal of anxiety as the facts of what I lost have come to light. I can tell you that I truly love my job, because I feel

that I make a difference for the injured workers' I serve and that I am an asset to the employers, providers, my co-workers, WSI and the State. However, that being said, I would like to have the peace of mind to know that when the time comes that I no longer can be or feel that I am an asset, that I can make that decision knowing that I can retire.

You would be righting a wrong for hard-working, dedicated state employees who were blatantly misled, who through no fault of theirs had their employment status changed, but have remained in their positions with WSI through the turmoil that fell upon the agency and the vote of the people that returned them to classified status employment. All through events beyond their control. I and likely none of my co-workers in this situation, will see this opportunity as a "get out of jail free card". We realize that this option will come at a price despite the interim actuarial study which supported that allowing employees of our Agency the opportunity to return to the Defined Benefit Retirement Plan would and/or could strengthen the fund, rather than hurt the fund, but more important than that, I believe it is the right thing for you to do. I would ask that you please approve this amendment.

Testimony for HB1080 Amendment

#6 pg 1

3/13/2015

To Mr. Chairman Dever and Members of the Senate Government and Veterans Affairs Committee:

I would like to introduce myself. My name is Sheree Schafer and this testimony is written on my behalf in support for the amendment to HB1080 and respectfully asking for your support also.

In 1994, I started working for the state agency known as Workers Compensation Bureau back then, as a temp. I was only 22 at the time and could have not known that I would still be here (now Workforce Safety and Ins) many years later. It wasn't just a job for me, its became my lively hood. I was blessed with an FTE position within just a few months of employment. Even after the huge influx of duties due to the oil boom that many state agencies have endured, I am still today, 20 years later, a very dedicated, hardworking state employee who is doing my part to care for ND'S injured workforce. I am grateful to have a job knowing one day I would be granted the benefits of being a dedicated worker for the state of ND for so long.

About 3 years ago, I got a wake up call when I found out that THOSE benefits that I was looking forward too in my retirement were not a reality as I had believed for many years. A co-worker of mine was checking into buying years of service to meet the rule of 85, when she was shockingly told by NDPERS that she was not eligible due to being in the Defined Contribution Plan. Along with this info, other info of the benefits that were taken from those of us, who moved to the DC plan from the DB plan, also flowed thru the agency like a tidal wave of NEW information about our retirement. Many coworkers were unaware of any of this in the months that followed as people started asking outside sources for info. I was heartbroken, to realize my administration and leaders back in 1999, that I believed to have my best interest in, mislead so many of us and did not present a clear picture to the differences in the 2 plans. Very important information was not given to us to make a sound decision on which plan to choose. I recall now, thinking back so many years, how a decision was pushed on us to make this life changing choice very quickly because legislation had just passed this bill in 1999. At that time the administration of WSI informed agency personnel of this legislative change and indicated if we had greater then 10 yrs prior to retirement, it would be in our best interest to remove ourselves from the Defined Benefit Retirement plan and enroll in the Defined Contribution Fund since the direction our agency was headed toward privatization and we would lose our retirement. We were left to believe how marvelous this move to DB was going to be. I didn't make the move to DC from DB for greed sake, I did it because I was young, naive and very uninformed by those I trusted. Workforce Safety was in such uncertainty back in those days and a push for privatization was hugely portrayed to us by our leaders. I was scared by what I was being told that there was a huge risk of loosing our retirement. Yet now, we find our agency back under the direction of the Governor as a vote by the people in 2009. There are definitely other agencies who had employees move plans due to this bill passing in 1999, but if you take a look at the volume of how many WSI employees moved to the DC plan, because of the huge number that should raise alarm as to something doesn't add up for our agency.

I am single and have no one else to rely on or assist me in my future. No words can express the amount of tears and anxiety that I have over this error that I made because I didn't ask the right questions of the right individuals who could have given me the right information. We were given direction at that time not to contact NDPEA or PERS for assistance.

Mr Chairman and members of the committee, I am asking for your support to the amendment on HB1080 and that you will vote for a one time chance for us to become members of the public employees retirement system again and get out of the Defined Contribution Fund. Please help me right a wrong so I can choose to retire someday.

Thank you,

Sheree Schafer

Sheree Schafer 3/13/2015

March 12, 2015

Re: Amendment to HB 1080

Please consider the amendment proposed to HB1080 which would allow individuals to return to the state pension plan. As previous testimony indicated the information provided at the time of choosing the defined contribution option was incomplete and then the rules changed placing us back under the state. The state pension plan is referred to as being in the "good" plan.

Please support this amendment which would allow us to return to the better pension plan at no cost the state. It would be a neutral effect for the state but would let me retire at a reasonable age and with less anxiety.

Sincerely,

Wendy Malard

March 13, 2015

RE: Amendment to House Bill 1080

Mr. Chairman, Members of the Committee:

I am writing the testimony in hopes that you will approve the amendment to House Bill 1080.

I began working for WSI in 1997 and have been a dedicated and loyal WSI employee for the past 18 years. In 1999, Legislative action removed WSI from the control of the Governor of North Dakota and placed us under the control of an Agency Board. WSI staff was told at that time if we planned to be with WSI for any length of time it would be in our best interest to remove ourselves from the Defined Benefit Retirement Fund and enroll in the Defined Contribution Fund.

It later came to my attention the leaders of WSI were not forthcoming with all the facts regarding the Defined Contribution Plan. This lack of information and understanding of what was truly happening is now affecting my future.

In 2008 WSI employees were placed in to the state personnel system and the Governor. I feel with this major change it placed us in a different position. I ask that you please take the time and review all the facts of what transpired in 1999.

I have invested and am proud to say I have worked at WSI for the past 18 years. My plan is to continue to serve the injured worker, employer and the State of North Dakota.

Please approve the amendment to House Bill 1080. Thank you for your time in considering the matter.

Sincerely,



Diane Weide

March 12, 2015

Good morning,

Mr. Chairman and Members of the Committee, my name is Becky Paul. I am a Utilization Review Nurse at Workforce Safety and Insurance (WSI) and I am here today to testify to amend the House Bill 1080.

I have been working for WSI since 1996, where initially I was hired as a contract nurse. It was in 2001 that WSI hired me on as a State employee of North Dakota. At this time of hire to the state with WSI, they offered the Defined Benefit Retirement Program along with the Defined Contribution Retirement Program, with little explanation of each program; this was due to short time to make a decision. I trusted our employer to provide guidance during the decision making process, and with lack of information provided to me, I felt rushed and confused. In addition to this I felt pressured that the Defined Contribution Program was a onetime opportunity and was the best choice to make. My husband is a state employee and he is in the Defined Benefit Retirement Program.

I recommend that long term employees with the State of North Dakota, and who also plan on making a long career with the State of North Dakota to be able to transfer their retirement funds to the Defined Benefit Retirement Program. I would like the House Bill 1080 to be amended to allow people who are under the Defined Contribution Program in the past to be able to have the opportunity to be offered the Defined Benefit Retirement Program. This will allow me to be able to retire someday. Thank you for your time and consideration.

Sincerely,


Becky Paul

**2015 Engrossed House Bill No. 1080
Written Testimony before the Senate Government
and Veterans Affairs Committee
March 13, 2015**

Mr. Chairman, Members of the Committee, my name is Julie Porsborg and I am asking for your support of the proposed amendment to Engrossed House Bill No. 1080 regarding an election to switch from the Defined Contribution Plan to the Defined Benefit Plan. As a matter of background, I became an employee of North Dakota Workers Compensation in 1992 and I was a member of the Defined Benefit Plan. In the late 1990s, as an employee of N.D. Workers Compensation, I was removed from Human Resource Management Services and on or about 1999, I elected to become a member of the Defined Contribution Plan. As the result of an Initiated Measure dated November 2008, I was again placed back into Human Resource Management Services as an employee of N.D. Workers Compensation. Thus, I please request your support of the proposed amendment to Engrossed House Bill No. 1080 allowing me the opportunity to again become a member of the Defined Benefit Plan.

Testimony for HB 1080

Chairman Dever and Members of the Committee, my name is Al Schmidt and I give testimony in support of the amendment to HB 1080. I have been employed with the State of North Dakota for 18 years.

In 1999, I as an employee of Workers Compensation Bureau, was advised by the administration, of a choice between two plans. The Defined Benefit Plan (which is the PERS State Benefit Plan) and the Defined Contribution Plan. As presented to me, in the Defined Benefit Plan, the State Investment Board chose how to invest my money, and in the Defined Contribution Plan, the company Fidelity, will invest my money. When I inquired about the choice differences, I was told this is just another way to invest my retirement funds, and all ND State benefits will still apply to me, no matter what plan I choose. The only choice I needed to make was who will invest my retirement funds for me.

During this time, it was vocalized numerous times by the Administration at that time, that the Agency will be privatized, and not choosing this plan, I may not have a retirement plan at all. I was also informed I was a non-classified State employee since Workers Compensation was not under the control of the Governor. The picture, as presented to me was clear and I chose the Defined Contribution Plan. Again, I inquired about the plans and was not told I was giving up the Rule of 85, Disability Benefits, and the opportunity to buy early retirement, thus I was not concerned about the "not irrevocable clause". As presented, this was a great plan. Both plans had the same options and benefits. Only in 2009, when WSI was placed back under the Governor, and WSI was not privatized, did I began to realize what had happened. I was consumed with disbelief to learn what I had lost in choosing the Defined Contribution Plan. I have no viable retirement plan after 18 years with the State of North Dakota and a company I enjoy working for.

Now I am a classified state employee again, subject to the constraints of HRMS and subject to State classifications and salary caps, but I do not receive the benefits of a viable retirement plan. I have been overwhelmed with concern, worry and can't begin to express the personal impact this decision has on me. Yet, I continue to work for the State of North Dakota. I ask myself how I will retire, maybe someday when I am very old. Please, I ask for your help to change my outcome. The State of North Dakota will be fine, and by supporting the amendment to HB 1080, my family and I will have a viable retirement plan.

Mr. Chairman and Committee Members, I am asking for this opportunity to give me and my family a viable retirement plan with the State of North Dakota. I respectfully ask for your help in allowing me to choose the State of North Dakota's Defined Benefit Plan.

Thank you for your support and consideration.

Al Schmidt

Testimony for HB 1080 Amendment

3/13/15

To Chairman Dever and Members of the Senate Government and Veterans Affairs Committee:

My name is Brenda Schlomer and I am asking for support from this committee to please approve the amendment to HB 1080.

I am a current state employee for the past 29+ years. I began working for WSI at the age of 22, which was in 1985. Little did I know at that time that WSI would become my career. 29 years later I am still a dedicated, loyal state employee helping injured workers through the workers compensation process, and a state employee who was looking forward to retirement and the Rule of 85.

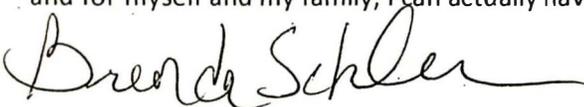
Several years ago I contacted PERS about buying years of service credit to see if it would be an affordable option for sooner retirement. I sent them the required paperwork and within the same day I received a disturbing phone call from PERS asking me what I thought I was doing? What did I want? I was informed at that time that I was NOT ELIGIBLE to buy years of service credit, and I was NOT ELIGIBLE for the Rule of 85 because I was in the Defined Contribution Plan.

Over the course of that day followed by the weeks, and months to follow, it has become crystal clear that the leaders and the administration department of WSI in 1999 did not present clear or true information to employees, nor did they have the well-being or best interest of their employees in mind, nor did they provide necessary and crucial information for me regarding the Defined Contribution Plan. This was a life changing decision. I was simply trying to protect what I had for retirement, I was not trying to get rich. The decision I made cost me the dream of retirement. People that I trusted told us what to do. The Defined Contribution Plan is not a viable retirement option. When I meet with my financial planner, I am constantly told that I "might" have enough funds to retire on for about 7 years total; then better plan on finding another job and working a long time. This is not a retirement plan.

I cannot describe my disappointment, my sleepless nights, my tears, my frustrations over this terrible situation that I find myself in.

Mr. Chairman and members of the committee, I hope that you will approved the amendment to HB 1080 and allow participating members a one-time opportunity to terminate membership in the defined contribution retirement plan and elect to become a participating member in the public-employees retirement system. I deserve this opportunity, my family deserves this, and the State of North Dakota can afford it.

I feel with this opportunity granted, the state of North Dakota will be just fine. The fund will be just fine and for myself and my family, I can actually have a viable retirement plan to work towards.



Brenda Schlomer

Mr. Charman and Members of the Committee....I wish to testify in support of the amendment to HB 1080 and ask for your support.

Thank you for taking the time to read my testimony regarding the defined contribution (DC program). To this day I struggle to understand how this situation regarding the DC plan happened. The prior administration at WSI led us as employees to believe things that were not true, and therefore I and many of my co workers opted into the DC plan, causing us to lose benefits we would have had if we had not bought into the administrations tactics to convince us to switch. It is extremely disheartening to know that we were working for an administration that did not consider our best interest, but rather felt it appropriate to manipulate the facts in order to convince us to do what they wanted. I did not opt to make this move in the hopes of getting rich in the market, but to the contrary I was led to believe if I did not change to the DC plan, when WSI privatized I would have lost all of my retirement that I had already built up. Please note that this was sold to us on the basis of WHEN our agency was privatized we would lose or benefits, not IF we were privatized. As you may recall we opted out in 1999 but in 2009 the legislature voted us back under the HRMS system but we were not allowed back into the DB program.

For those of us who have been long-term employees, who saw our future careers to be that of state service, we were told if we wanted to work for the state in the future for 10 years or more, it was in our best interest to change over to the DC plan. Had I been a less trusting employee, I might have realized that they had their own ulterior motives in selling us on the DC plan. However, having dedicated so much time and effort to my career with WSI, I believed at the time that the company would not lead us astray or push us to make a decision that would have detrimental effects on our livelihood in the future. Please don't mislead future hires to make the same terrible mistake we were led to make. It will not be in their best interest.

I have dedicated my work life to WSI for 21 plus years as a claims adjustor. We have been through good times as well as some very trying times. At times we have endured a great deal of negative media attention and very stressful work conditions which led many people to leave the company. However, some of us who have endured high rates of turnover and stuck it out, either because we felt there was great merit in the work we do or because we felt we would be rewarded for all our years of dedication in the end are now suffering the consequences of the decision to change to the defined contribution plan.

During the last legislative session I discovered that with the change to the DC plan we also lost the rule of 85 and now I feel I may never have the opportunity to retire. As someone who has dedicated so much time, energy, and commitment to this company and this state, I am extremely frustrated by this matter. I am a single parent of two children who I have raised alone. I have worked full time at WSI since 1993. I have also worked a second full-time job for the past 10 years in order to help my children get through college. I do not regret working the second job but would like to think at some point I would be able to retire. However now it is unrealistic to believe that I will ever be able to retire despite my extensive commitment to and history of state service.

At WSI our jobs are getting harder all the time with the nature of the global workforce working in North Dakota, yet every day I come to work with the goal of trying to ease the burden for injured workers and making the difficult situations they are facing while being injured less daunting. These injured workers are concerned about their livelihood and futures. In a way, those of us who were convinced to switch to the DC plan now have similar fears and uncertainties despite having dedicated many years of service to the state of North Dakota. We too are facing an uncertain future of not knowing if we will ever be able to retire.

Accordingly, I ask that you please consider the proposed amendment to house bill 1080 to allow those of us who have dedicated our work lives to state service the security we deserve by allowing us to return to the defined benefit plan so that we might be able to retire at some point in the future.

Thank you for your time and attention to this matter. Tami Olson

Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1080

Introduced by

Government and Veterans Affairs Committee

(At the request of the Public Employees Retirement System)

1 A BILL for an Act to amend and reenact ~~section 54-52-02.9, subsection 2 of section 54-52-05,~~
2 sections ~~54-52-06,~~ 54-52-06.4, and 54-52-17, and subsection 1 of section 54-52-17.2, ~~and~~
3 ~~sections 54-52.6-02 and 54-52.6-09~~ of the North Dakota Century Code, relating to ~~increases in~~
4 ~~employer and employee contributions under the public employees retirement system defined~~
5 ~~benefit and defined contribution plans,~~ decreased employee contributions under the public
6 employees retirement system for peace officers employed by the bureau of criminal
7 investigation, and benefit changes for employees first enrolled in the public employees
8 retirement system defined benefit retirement plan after December 31, 2015; ~~and to provide a~~
9 ~~penalty.~~

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

11 ~~SECTION 1. AMENDMENT.~~ Section ~~54-52-02.9~~ of the North Dakota Century Code is
12 amended and reenacted as follows:

13 ~~54-52-02.9. Participation by temporary employees.~~

14 ~~A temporary employee may elect, within one hundred eighty days of beginning employment,~~
15 ~~to participate in the public employees retirement system and receive credit for service after~~
16 ~~enrollment. The temporary employee shall pay monthly to the fund an amount equal to eight~~
17 ~~and twelve-hundredths percent times the temporary employee's present monthly salary. The~~
18 ~~amount required to be paid by a temporary employee increases by two percent times the~~
19 ~~temporary employee's present monthly salary beginning with the monthly reporting period of~~
20 ~~January 2012, and; with an additional two percent increase, beginning with the reporting period~~
21 ~~of January 2013, and; with an additional increase of two percent, beginning with the monthly~~
22 ~~reporting period of January 2014; and with an additional increase of two percent, beginning with~~
23 ~~the monthly reporting period of January 2016.~~ The temporary employee shall also pay the
24 ~~required monthly contribution to the retiree health benefit fund established under section~~

1 ~~54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section~~
2 ~~54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary~~
3 ~~employee may continue to participate as a temporary employee in the public employees~~
4 ~~retirement system until termination of employment or reclassification of the temporary employee~~
5 ~~as a permanent employee. A temporary employee may not purchase any additional credit,~~
6 ~~including additional credit under section 54-52-17.4 or past service under section 54-52-02.6.~~

7 ~~— **SECTION 2. AMENDMENT.** Subsection 2 of section 54-52-05 of the North Dakota Century~~
8 ~~Code is amended and reenacted as follows:~~

9 ~~— 2. — Each member must be assessed and required to pay monthly four percent of the~~
10 ~~monthly salary or wage paid to the member, and such assessment must be deducted~~
11 ~~and retained out of such salary in equal monthly installments commencing with the~~
12 ~~first month of employment. Member contributions increase by one percent of the~~
13 ~~monthly salary or wage paid to the member beginning with the monthly reporting~~
14 ~~period of January 2012, and; with an additional increase of one percent, beginning~~
15 ~~with the monthly reporting period of January 2013, and; with an additional increase of~~
16 ~~one percent, beginning with the monthly reporting period of January 2014; and with an~~
17 ~~additional increase of one percent, beginning with the monthly reporting period of~~
18 ~~January 2016.~~

19 ~~— **SECTION 3. AMENDMENT.** Section 54-52-06 of the North Dakota Century Code is~~
20 ~~amended and reenacted as follows:~~

21 ~~— **54-52-06. Employer's contribution to retirement plan.**~~

22 ~~— Each governmental unit shall contribute an amount equal to four and twelve-hundredths~~
23 ~~percent of the monthly salary or wage of a participating member. Governmental unit~~
24 ~~contributions increase by one percent of the monthly salary or wage of a participating member~~
25 ~~beginning with the monthly reporting period of January 2012, and; with an additional increase of~~
26 ~~one percent, beginning with the reporting period of January 2013, and with; an additional~~
27 ~~increase of one percent, beginning with the monthly reporting period of January 2014; and with~~
28 ~~an additional increase of one percent, beginning with the monthly reporting period of January~~
29 ~~2016. For those members who elect to exercise their rights under section 54-52-17.14, the~~
30 ~~employing governmental unit, or in the case of a member not presently under covered~~
31 ~~employment the most recent employing governmental unit, shall pay the associated employer~~

1 ~~contribution. If the employee's contribution is paid by the governmental unit under subsection 3~~
2 ~~of section 54-52-05, the employer unit shall contribute, in addition, an amount equal to the~~
3 ~~required employee's contribution. Each governmental unit shall pay the contribution monthly, or~~
4 ~~in the case of an election made pursuant to section 54-52-17.14 a lump sum, into the retirement~~
5 ~~fund from its funds appropriated for payroll and salary or any other funds available for these~~
6 ~~purposes. Any governmental unit failing to pay the contributions monthly, or in the case of an~~
7 ~~election made pursuant to section 54-52-17.14 a lump sum, is subject to a civil penalty of fifty~~
8 ~~dollars and, as interest, one percent of the amount due for each month of delay or fraction~~
9 ~~thereof after the payment became due. In lieu of assessing a civil penalty or one percent per~~
10 ~~month, or both, interest at the actuarial rate of return may be assessed for each month the~~
11 ~~contributions are delinquent. If contributions are paid within ninety days of the date they became~~
12 ~~due, penalty and interest to be paid on delinquent contributions may be waived. An employer is~~
13 ~~required to submit contributions for any past eligible employee who was employed after July 1,~~
14 ~~1977, for which contributions were not made if the employee would have been eligible to~~
15 ~~become vested had the employee participated and if the employee elects to join the public~~
16 ~~employees retirement system. Employer contributions may not be assessed for eligible service~~
17 ~~that an employee has waived pursuant to subsection 1 of section 54-52-05. The board shall~~
18 ~~report to each session of the legislative assembly the contributions necessary, as determined by~~
19 ~~the actuarial study, to maintain the fund's actuarial soundness.~~

20 **SECTION 1. AMENDMENT.** Section 54-52-06.4 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **54-52-06.4. Contribution by peace officers employed by the bureau of criminal**
23 **investigation - Employer contribution.**

24 Each peace officer employed by the bureau of criminal investigation who is a member of the
25 public employees retirement system is assessed and shall pay monthly four percent of the
26 employee's monthly salary. Peace officer contributions increase by one percent of the member's
27 monthly salary beginning with the monthly reporting period of January 2012, and with an
28 additional increase of one percent, beginning with the reporting period of January 2013. Peace
29 officer contributions decrease by one-half of one percent of the member's monthly salary
30 beginning with the monthly reporting period of January 2016. The assessment must be
31 deducted and retained out of the employee's salary in equal monthly installments. The peace

1 officer's employer shall contribute an amount determined by the board to be actuarially required
2 to support the level of benefits specified in section 54-52-17. The employer's contribution must
3 be paid from funds appropriated for salary or from any other funds available for such purposes.
4 If the peace officer's assessment is paid by the employer under subsection 3 of section
5 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace
6 officer's assessment.

7 **SECTION 2. AMENDMENT.** Section 54-52-17 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **54-52-17. Formulation of plan.**

10 Participating members shall receive benefits according to this section and according to
11 rules adopted by the board, not inconsistent with this chapter. No person is entitled to receive a
12 prior service benefit if the person was not continuously employed by a governmental unit in
13 North Dakota for a period of not less than two years immediately prior to eligibility for retirement.

- 14 1. Participating members shall receive credit for full-time employment or its equivalent
15 from the date they attain eligibility until their normal retirement date, postponed
16 retirement date, or early retirement date, as defined in this section. Part-time
17 employment will be recognized as full-time employment on a prorated basis as the
18 board may prescribe.
- 19 2. Retirement benefits are calculated from the participating member's final average
20 salary, which is the average of the highest salary received by the member for any
21 thirty-six months employed during the last one hundred twenty months of employment.
22 For members who terminate employment on or after August 1, 2010, final average
23 salary is the average of the highest salary received by the member for any thirty-six
24 months employed during the last one hundred eighty months of employment. For
25 members who terminate employment between July 31, 2005, and August 1, 2010, final
26 average salary is the average of the highest salary received by the member for any
27 thirty-six months employed during the period for which the board has appropriate and
28 accurate salary records on its electronic database, but that period may not be more
29 than the last one hundred eighty months of employment. Except for a national guard
30 security officer or firefighter, a peace officer or correctional officer employed by the
31 bureau of criminal investigation or by a political subdivision, or a supreme court or

1 district court judge, for members first enrolled after December 31, 2015, final average
2 salary is the average salary earned in the five highest periods of twelve consecutive
3 months employed during the last one hundred eighty months of employment. Months
4 not employed without earnings are excluded in arriving at the thirty-six months to be
5 used for the purpose of computing an average. ~~If the~~For a participating member first
6 enrolled before January 1, 2016, who has worked for less than thirty-six months at the
7 normal retirement date, the final average salary is the average salary for the total
8 months of employment. Except for a national guard security officer or firefighter, a
9 peace officer or correctional officer employed by the bureau of criminal investigation or
10 by a political subdivision, or a supreme court or district court judge, for members first
11 enrolled after December 31, 2015, who worked for less than sixty months at the
12 normal retirement date, the final average salary is the average salary for the total
13 months of employment.

14 3. Retirement dates are defined as follows:

- 15 a. Normal retirement date, except for a national guard security officer or firefighter
16 or a peace officer or correctional officer employed by the bureau of criminal
17 investigation or by a political subdivision, is:
- 18 (1) The first day of the month next following the month in which the member
19 attains the age of sixty-five years; or
- 20 (2) When the member has a combined total of years of service credit and years
21 of age equal to eighty-five and has not received a retirement benefit under
22 this chapter.
- 23 b. Except for a national guard security officer or firefighter, a peace officer or
24 correctional officer employed by the bureau of criminal investigation or by a
25 political subdivision, or a supreme court or district court judge, normal retirement
26 date for members first enrolled after December 31, 2015 is:
- 27 (1) The first day of the month next following the month in which the member
28 attains the age of sixty-five years; or
- 29 (2) When the member has a combined total of years of service credit and years
30 of age equal to ninety and the member attains a minimum age of sixty and
31 has not received a retirement benefit under this chapter.

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

1 following the month in which the national guard security officer or firefighter
2 attains the age of fifty years and has completed at least three years of eligible
3 employment. For a peace officer or correctional officer employed by the bureau of
4 criminal investigation or by a political subdivision, early retirement date is the first
5 day of the month next following the month in which the peace officer or
6 correctional officer attains the age of fifty years and has completed at least three
7 years of eligible employment.

8 g-h. Disability retirement date is the first day of the month after a member becomes
9 permanently and totally disabled, according to medical evidence called for under
10 the rules of the board, and has completed at least one hundred eighty days of
11 eligible employment. For supreme and district court judges, permanent and total
12 disability is based solely on a judge's inability to perform judicial duties arising out
13 of physical or mental impairment, as determined pursuant to rules adopted by the
14 board or as provided by subdivision a of subsection 3 of section 27-23-03. A
15 member is eligible to receive disability retirement benefits only if the member:
16 (1) Became disabled during the period of eligible employment; and
17 (2) Applies for disability retirement benefits within twelve months of the date the
18 member terminates employment.

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

- 28 4. The board shall calculate retirement benefits as follows:
- 29 a. ~~Normal retirement benefits for all retirees, except~~ Except supreme and district
30 court judges, the normal retirement benefits for:

1 (1) All retirees first enrolled before January 1, 2016, reaching normal retirement
2 date equal an annual amount, payable monthly, comprised of a service
3 benefit and a prior service benefit, as defined in this chapter, which is
4 determined as follows:

5 ~~—(1)(a)~~ Service benefit equals two percent of final average salary
6 multiplied by the number of years of service employment.

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

9 (2) All retirees first enrolled after December 31, 2015, reaching normal
10 retirement date equal an amount, payable monthly, comprised of a service
11 benefit and a prior service benefit, as defined in this chapter, which is
12 determined as follows:

13 (a) Service benefit equals one and nine-tenths percent of final average
14 salary multiplied by the number of years of service employment.

15 (b) Prior service benefit equals one and nine-tenths percent of final
16 average salary multiplied by the number of years of prior service
17 employment.

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

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

28 (2) Service benefits must include, in addition, an amount equal to the percent
29 specified in subdivision a of final average salary multiplied by the number of
30 years of nonjudicial employee service and employment.

- 1 c. Postponed retirement benefits are calculated as for single life benefits for those
2 members who retired on or after July 1, 1977.
- 3 d. Early retirement benefits are calculated as for single life benefits accrued to the
4 date of termination of employment, but must be actuarially reduced to account for
5 benefit payments beginning prior to the normal retirement date, which is the
6 earlier of age sixty-five or the age at which current service plus age equals
7 eighty-five. Except for a national guard security officer or firefighter, a peace
8 officer or correctional officer employed by the bureau of criminal investigation or
9 by a political subdivision, or a supreme court or district court judge, early
10 retirement benefits for members first enrolled after December 31, 2015, are
11 calculated for single life benefits accrued to the date of termination of
12 employment, but must be reduced by a fixed rate of eight percent per year to
13 account for benefit payments beginning before the normal retirement date. A
14 retiree, other than a supreme or district court judge, is eligible for early retirement
15 benefits only after having completed three years of eligible employment. A
16 supreme or district court judge retiree is eligible for early retirement benefits only
17 after having completed five years of eligible employment.
- 18 e. Except for supreme and district court judges, disability retirement benefits are
19 twenty-five percent of the member's final average salary. Disability retirement
20 benefits for supreme and district court judges are seventy percent of final
21 average salary reduced by the member's primary social security benefits and by
22 any workforce safety and insurance benefits paid. The minimum monthly
23 disability retirement benefit under this section is one hundred dollars.
- 24 5. Upon termination of employment after completing three years of eligible employment,
25 except for supreme and district court judges, who must complete five years of eligible
26 employment, but before normal retirement date, a member who does not elect to
27 receive early retirement benefits is eligible to receive deferred vested retirement
28 benefits payable commencing on the member's normal retirement date in one of the
29 optional forms provided in subsection 9. Members who have delayed or inadvertently
30 failed to apply for retirement benefits to commence on their normal retirement date
31 may choose to receive either a lump sum payment equal to the amount of missed

1 payments, or an actuarial increase to the form of benefit the member has selected,
2 which increase must reflect the missed payments.

3 6. If before retiring a member dies after completing three years of eligible employment,
4 except for supreme and district court judges, who must have completed five years of
5 eligible employment, the board shall pay the member's account balance to the
6 member's designated beneficiary as provided in this subsection. If the member has
7 designated an alternate beneficiary with the surviving spouse's written consent, the
8 board shall pay the member's account balance to the named beneficiary. If the
9 member has named more than one primary beneficiary, the board shall pay the
10 member's account balance to the named primary beneficiaries in the percentages
11 designated by the member or, if the member has not designated a percentage for the
12 beneficiaries, in equal percentages. If one or more of the primary beneficiaries has
13 predeceased the member, the board shall pay the predeceased beneficiary's share to
14 the remaining primary beneficiaries. If any beneficiary survives the member, yet dies
15 before distribution of the beneficiary's share, the beneficiary must be treated as if the
16 beneficiary predeceased the member. If there are no remaining primary beneficiaries,
17 the board shall pay the member's account balance to the contingent beneficiaries in
18 the same manner. If there are no remaining designated beneficiaries, the board shall
19 pay the member's account balance to the member's estate. If the member has not
20 designated an alternate beneficiary or the surviving spouse is the beneficiary, the
21 surviving spouse of the member may select a form of payment as follows:

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

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

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

- 30 (1) A lump sum payment of the member's retirement account as of the date of
31 death.

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

1 account balance at retirement, the difference must be paid to the named beneficiary of
2 the recipient or, if there is no named beneficiary, to the recipient's estate.

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

5 a. Single life.

6 b. An actuarially equivalent joint and survivor option, with fifty percent or one
7 hundred percent options.

8 c. Actuarially equivalent life with ten-year or twenty-year certain options.

9 d. An actuarially equivalent partial lump sum distribution option with a twelve-month
10 maximum lump sum distribution.

11 e. An actuarially equivalent graduated benefit option with either a one percent or
12 two percent increase to be applied the first day of January of each year.

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

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

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

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

5 **SECTION 3. AMENDMENT.** Subsection 1 of section 54-52-17.2 of the North Dakota
6 Century Code is amended and reenacted as follows:

- 7 1. a. For the purpose of determining eligibility for benefits under this chapter, an
8 employee's years of service credit is the total of the years of service credit earned
9 in the public employees retirement system and the years of service credit earned
10 in any number of the following:

- 11 (1) The teachers' fund for retirement.
12 (2) The highway patrolmen's retirement system.
13 (3) The teachers' insurance and annuity association of America - college
14 retirement equities fund (TIAA-CREF), for service credit earned while
15 employed by North Dakota institutions of higher education.

16 Service credit may not exceed twelve months of credit per year.

- 17 b. Pursuant to rules adopted by the board, an employee who has service credit in
18 the system and in any of the plans described in paragraphs 1 and 2 of
19 subdivision a is entitled to benefits under this chapter. The employee may elect to
20 have benefits calculated using the benefit formula in section 54-52-17 under
21 either of the following methods:

- 22 (1) The average of the highest salary received by the member for any thirty-six
23 months employed during the last one hundred twenty months of
24 employment in the public employees retirement system. If the participating
25 member has worked for less than thirty-six months at retirement, the final
26 average salary is the average salary for the total months of employment. If
27 the participating member was first enrolled after December 31, 2015, and
28 worked for less than sixty months at retirement, the final average salary is
29 the average salary for the total months of employment.

- 30 (2) The average of the highest salary received by the member for any thirty-six
31 consecutive months during the last one hundred twenty months of

1 employment with any of the three eligible employers under this subdivision,
2 with service credit not to exceed one month in any month when combined
3 with the service credit earned in the alternate retirement system.

4 The board shall calculate benefits for an employee under this subsection by using only
5 those years of service credit earned under this chapter.

6 ~~SECTION 7. AMENDMENT. Section 54-52.6-02 of the North Dakota Century Code is
7 amended and reenacted as follows:~~

8 ~~54-52.6-02. (Effective through July 31, 2017) Election.~~

9 ~~1. The board shall provide an opportunity for eligible employees who are new members
10 of the public employees retirement system under chapter 54-52 to transfer to the
11 defined contribution plan under this chapter pursuant to the rules and policies adopted
12 by the board. An election made by a member of the public employees retirement
13 system under chapter 54-52 to transfer to the defined contribution retirement plan
14 under this chapter is irrevocable. For an individual who elects to transfer membership
15 from the public employees retirement system under chapter 54-52 to the defined
16 contribution retirement plan under this chapter, the board shall transfer a lump sum
17 amount from the public employees retirement system fund to the participating
18 member's account in the defined contribution retirement plan under this chapter.
19 However, if the individual terminates employment prior to receiving the lump sum
20 transfer under this section, the election made is ineffective and the individual remains
21 a member of the public employees retirement system under chapter 54-52 and retains
22 all the rights and privileges under that chapter. This section does not affect an
23 individual's right to health benefits or retiree health benefits under chapter 54-52.1.~~

24 ~~2. If the board receives notification from the internal revenue service that this section or
25 any portion of this section will cause the public employees retirement system or the
26 retirement plan established under this chapter to be disqualified for tax purposes
27 under the Internal Revenue Code, then the portion that will cause the disqualification
28 does not apply.~~

29 ~~3. A participating member who becomes a temporary employee may still participate in
30 the defined contribution retirement plan upon filing an election with the board within
31 one hundred eighty days of transferring to temporary employee status. The~~

1 participating member may not become a member of the defined benefit plan as a
2 temporary employee. The temporary employee electing to participate in the defined
3 contribution retirement plan shall pay monthly to the fund an amount equal to eight
4 and twelve hundredths percent times the temporary employee's present monthly
5 salary. The amount required to be paid by a temporary employee increases by two
6 percent times the temporary employee's present monthly salary beginning with the
7 monthly reporting period of January 2012 and, with an additional increase of two
8 percent, beginning with the monthly reporting period of January 2013, and with an
9 additional increase of two percent, beginning with the monthly reporting period of
10 January 2014; and with an additional increase of two percent, beginning with the
11 monthly reporting period of January 2016. The temporary employee shall also pay the
12 required monthly contribution to the retiree health benefit fund established under
13 section 54-52.1-03.2. This contribution must be recorded as a member contribution
14 pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's
15 contributions. A temporary employee may continue to participate as a temporary
16 employee until termination of employment or reclassification of the temporary
17 employee as a permanent employee.

18 — 4. — A former participating member who has accepted a retirement distribution pursuant to
19 section 54-52.6-13 and who subsequently becomes employed by an entity different
20 from the employer with which the member was employed at the time the member
21 retired but which does participate in any state-sponsored retirement plan may, before
22 reenrolling in the defined contribution retirement plan, elect to permanently waive
23 future participation in the defined contribution retirement plan, whatever plan in which
24 the new employing entity participates, and the retiree health program and maintain
25 that member's retirement status. Neither the member nor the employer are required to
26 make any future retirement contributions on behalf of that employee.

27 — **(Effective after July 31, 2017) Election.**

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

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

24 —2.— If an individual who is a deferred member of the public employees retirement system
25 on September 30, 2001, is reemployed and by virtue of that employment is again
26 eligible for membership in the public employees retirement system under chapter
27 54-52, the individual may elect in writing to remain a member of the public employees
28 retirement system or if eligible to participate in the defined contribution retirement plan
29 established under this chapter to terminate membership in the public employees
30 retirement system and become a participating member in the defined contribution
31 retirement plan established under this chapter. An election made by a deferred

1 member under this section is irrevocable. The board shall accept written elections
2 under this section from a deferred member during the period beginning on the date of
3 the individual's reemployment and ending upon the expiration of six months after the
4 date of that reemployment. If the board, in its sole discretion, determines that the
5 employee was not adequately notified of the employee's option to participate in the
6 defined contribution retirement plan, the board may provide the employee a
7 reasonable time within which to make that election, which may extend beyond the
8 original six-month decision window. A deferred member who makes and files a written
9 election to remain a member of the public employees retirement system retains all
10 rights and is subject to all conditions as a member of that retirement system. A
11 deferred member who does not make a written election or who does not file the
12 election during the period specified in this section continues to be a member of the
13 public employees retirement system. A deferred member who makes and files a
14 written election to terminate membership in the public employees retirement system
15 ceases to be a member of the public employees retirement system effective on the
16 last day of the payroll period that includes the date of the election; becomes a
17 participating member in the defined contribution retirement plan under this chapter
18 effective the first day of the payroll immediately following the date of the election; and
19 waives all of that person's rights to a pension, an annuity, a retirement allowance,
20 insurance benefit, or any other benefit under the public employees retirement system
21 effective the last day of the payroll that includes the date of the election. This section
22 does not affect any right to health benefits or retiree health benefits to which the
23 deferred member may otherwise be entitled.

24 ~~3.~~ An eligible employee who elects to participate in the retirement plan established under
25 this chapter must remain a participant even if that employee returns to the classified
26 service or becomes employed by a political subdivision that participates in the public
27 employees retirement system. The contribution amount must be as provided in this
28 chapter, regardless of the position in which the employee is employed.
29 Notwithstanding the irrevocability provisions of this chapter, if a member who elects to
30 participate in the retirement plan established under this chapter becomes a supreme
31 or district court judge, becomes a member of the highway patrol, becomes employed

1 in a position subject to teachers' fund for retirement membership, or becomes an
2 employee of the board of higher education or state institution under the jurisdiction of
3 the board who is eligible to participate in an alternative retirement program established
4 under subsection 6 of section 15-10-17, the member's status as a member of the
5 defined contribution retirement plan is suspended, and the member becomes a new
6 member of the retirement plan for which that member's new position is eligible. The
7 member's account balance remains in the defined contribution retirement plan, but no
8 new contributions may be made to that account. The member's service credit and
9 salary history that were forfeited as a result of the member's transfer to the defined
10 contribution retirement plan remain forfeited, and service credit accumulation in the
11 new retirement plan begins from the first day of employment in the new position. If the
12 member later returns to employment that is eligible for the defined contribution plan,
13 the member's suspension must be terminated, the member again becomes a member
14 of the defined contribution retirement plan, and the member's account resumes
15 accepting contributions. At the member's option, and pursuant to rules adopted by the
16 board, the member may transfer any available balance as determined by the
17 provisions of the alternate retirement plan into the member's account under this
18 chapter.

19 ~~4. After consultation with its actuary, the board shall determine the method by which a~~
20 ~~participating member or deferred member may make a written election under this~~
21 ~~section. If the participating member or deferred member is married at the time of the~~
22 ~~election, the election is not effective unless the election is signed by the individual's~~
23 ~~spouse. However, the board may waive this requirement if the spouse's signature~~
24 ~~cannot be obtained because of extenuating circumstances.~~

25 ~~5. If the board receives notification from the internal revenue service that this section or~~
26 ~~any portion of this section will cause the public employees retirement system or the~~
27 ~~retirement plan established under this chapter to be disqualified for tax purposes~~
28 ~~under the Internal Revenue Code, then the portion that will cause the disqualification~~
29 ~~does not apply.~~

30 ~~6. A participating member who becomes a temporary employee may still participate in~~
31 ~~the defined contribution retirement plan upon filing an election with the board within~~

1 one hundred eighty days of transferring to temporary employee status. The
2 participating member may not become a member of the defined benefit plan as a
3 temporary employee. The temporary employee electing to participate in the defined
4 contribution retirement plan shall pay monthly to the fund an amount equal to eight
5 and twelve hundredths percent times the temporary employee's present monthly
6 salary. The amount required to be paid by a temporary employee increases by two
7 percent times the temporary employee's present monthly salary beginning with the
8 monthly reporting period of January 2012, and; with an additional increase of two
9 percent, beginning with the monthly reporting period of January 2013, and; with an
10 additional increase of two percent, beginning with the monthly reporting period of
11 January 2014; and with an additional increase of two percent, beginning with the
12 monthly reporting period of January 2016. The temporary employee shall also pay the
13 required monthly contribution to the retiree health benefit fund established under
14 section 54-52.1-03.2. This contribution must be recorded as a member contribution
15 pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's
16 contributions. A temporary employee may continue to participate as a temporary
17 employee until termination of employment or reclassification of the temporary
18 employee as a permanent employee.

19 — 7. — A former participating member who has accepted a retirement distribution pursuant to
20 section 54-52.6-13 and who subsequently becomes employed by an entity different
21 from the employer with which the member was employed at the time the member
22 retired but which does participate in any state sponsored retirement plan may, before
23 reenrolling in the defined contribution retirement plan, elect to permanently waive
24 future participation in the defined contribution retirement plan, whatever plan in which
25 the new employing entity participates, and the retiree health program and maintain
26 that member's retirement status. Neither the member nor the employer are required to
27 make any future retirement contributions on behalf of that employee.

28 — **SECTION 8. AMENDMENT.** Section 54-52.6-09 of the North Dakota Century Code is
29 amended and reenacted as follows:

~~54-52.6-09. Contributions--Penalty.~~

~~1. Each participating member shall contribute monthly four percent of the monthly salary or wage paid to the participant, and this assessment must be deducted from the participant's salary in equal monthly installments commencing with the first month of participation in the defined contribution retirement plan established under this chapter. Participating member contributions increase by one percent of the monthly salary or wage paid to the participant beginning with the monthly reporting period of January 2012, and; with an additional increase of one percent, beginning with the reporting period of January 2013, and; with an additional increase of one percent, beginning with the monthly reporting period of January 2014; and with an additional increase of one percent, beginning with the monthly reporting period of January 2016.~~

~~2. The employer shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Employer contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012, and; with an additional increase of one percent, beginning with the monthly reporting period of January 2013, and; with an additional increase of one percent, beginning with the monthly reporting period of January 2014; and with an additional increase of one percent, beginning with the monthly reporting period of January 2016. If the employee's contribution is paid by the employer under subsection 3, the employer shall contribute, in addition, an amount equal to the required employee's contribution. The employer shall pay monthly such contribution into the participating member's account from its funds appropriated for payroll and salary or any other funds available for such purposes. If the employer fails to pay the contributions monthly, it is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due.~~

~~3. Each employer, at its option, may pay the employee contributions required by this section for all compensation earned after December 31, 1999. The amount paid must be paid by the employer in lieu of contributions by the employee. If the employer decides not to pay the contributions, the amount that would have been paid will continue to be deducted from the employee's compensation. If contributions are paid~~

1 by the employer, they must be treated as employer contributions in determining tax
2 treatment under this code and the federal Internal Revenue Code. Contributions paid
3 by the employer may not be included as gross income of the employee in determining
4 tax treatment under this code and the federal Internal Revenue Code until they are
5 distributed or made available. The employer shall pay these employee contributions
6 from the same source of funds used in paying compensation to the employee. The
7 employer shall pay these contributions by effecting an equal cash reduction in the
8 gross salary of the employee or by an offset against future salary increases or by a
9 combination of a reduction in gross salary and offset against future salary increases.
10 Employee contributions paid by the employer must be treated for the purposes of this
11 chapter in the same manner and to the same extent as employee contributions made
12 before the date on which employee contributions were assumed by the employer. An
13 employer shall exercise its option under this subsection by reporting its choice to the
14 board in writing.

#2

NDLA, Intern 04 - Grossman, Tiffany

From: Clark, Jennifer S.
Sent: Thursday, April 02, 2015 9:11 AM
To: NDLA, Intern 04 - Grossman, Tiffany
Subject: FW: HB 1080

Tiffany, this is the email I received last night-

Jenn

From: Collins, J. Sparb
Sent: Wednesday, April 01, 2015 5:44 PM
To: Clark, Jennifer S.
Subject: Fwd: HB 1080

Here are some observations from Jan Murtha. If it would be helpful we could develop some language. Let me know, hope this is helpful

sparb

Begin forwarded message:

From: "Murtha, Janilyn K." <jmurtha@nd.gov>
Date: April 1, 2015 at 4:40:35 PM CDT
To: "Collins, J. Sparb" <scollins@nd.gov>
Subject: RE: HB 1080

My first observation that if the intent is to move game and fish officers to the law enforcement plan then there will need to be clarification of this language as well as the need to make changes to a few other statutes:

For example 54-52-05, 54-52-06, either 54-52-6.3 or 54-52-6.4 and 54-52-17. Since game and fish officers are not employed by either BCI or poli subs, there would need to be further modification to 54-52-01 than what is proposed. You would also need to confirm whether game and fish officers are peace officers as defined in section 12-63-01. The National Guard bill 2102 is a good example of the type of wording that may be needed as it illustrates a move of current employees from one fund to another and the need for their past contributions to follow them into the new fund. Let me know if you want to discuss further.

From: Collins, J. Sparb
Sent: Wednesday, April 1, 2015 7:38 AM
To: Murtha, Janilyn K.
Subject: FW: HB 1080

Thoughts,

sparb

From: Clark, Jennifer S.
Sent: Tuesday, March 31, 2015 10:41 PM

To: Collins, J. Sparb
Cc: Dever, Dick D.
Subject: HB 1080

Sparb-

Senator Dever provided me with the attached document, which his committee received from Mr. Bruce Burkett, NDPOA, as a proposed amendment to HB 1080.

When you have time, can you touch base with me so we can discuss whether this proposed amendment will accomplish what Mr. Burkett hopes to accomplish?

Thank you-

Jenn

Jennifer Clark
Counsel
ND Legislative Council
(701) 328-2916
jclark@nd.gov

CHAPTER 54-52

PUBLIC EMPLOYEES RETIREMENT SYSTEM

54-52-01. (Effective through July 31, 2017) Definition of terms.

11. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the bureau of criminal investigation or by a political subdivision and, notwithstanding subsection 12, for persons employed after August 1, 2005, by game and fish department after December 31, 2015, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. Participating members of the law enforcement retirement plan created by this chapter who begin employment after August 1, 2005, or game and fish department after December 31, 2015, are ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.