

**FIRST ENGROSSMENT  
with Senate Amendments**

**ENGROSSED HOUSE BILL NO. 1069**

Introduced by

Government and Veterans Affairs Committee

(At the request of the Public Employees Retirement System)

1 A BILL for an Act to create and enact a new section to chapter 39-03.1, a new section to  
2 chapter 54-52, a new section to chapter 54-52.1, a new subsection to section 54-52.6-02, and a  
3 new section to chapter 54-52.6 of the North Dakota Century Code, relating to military service  
4 retirement credit and temporary employee participation in the defined contribution retirement  
5 plan under the public employees retirement system and the acceptance and expenditure of  
6 funds by the retirement board for the uniform group insurance program from third parties; to  
7 amend and reenact section 39-03.1-10.1, subsection 9 of section 39-03.1-11, sections  
8 39-03.1-11.2, 39-03.1-28, and 39-03.1-30, subsection 11 of section 54-52-01, subsection 3 of  
9 section 54-52-05, section 54-52-06, subsections 9 and 10 of section 54-52-17, sections  
10 54-52-17.4 and 54-52-28, subsection 3 of section 54-52.6-01, and section 54-52.6-13 of the  
11 North Dakota Century Code, relating to the purchase of service credit for qualified military  
12 service, highway patrol retirement options, compliance with Internal Revenue Code provisions,  
13 confidentiality of records, purchase of sick leave, eligibility for the law enforcement retirement  
14 plan, temporary employee participation in the defined contribution retirement plan, and  
15 retirement benefit options under the public employees retirement system; to repeal sections  
16 54-52-19.2 and 54-52.6-09.3 of the North Dakota Century Code, relating to prior service credit  
17 under the public employees retirement system and retirement contributions for military service;  
18 to provide a continuing appropriation; to provide an appropriation; and to provide an effective  
19 date.

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

21 **SECTION 1. AMENDMENT.** Section 39-03.1-10.1 of the North Dakota Century Code  
22 is amended and reenacted as follows:

1           **39-03.1-10.1. Refund and repurchase of contributions.** Except as provided in  
2 ~~subsection 3~~ section 2 of this Act, a contributor whose employment has been terminated for at  
3 least thirty days is entitled to a refund of or to repurchase contributions as follows:

- 4           1.    a.    If the contributor has less than ten years of service at termination of  
5                    employment, the refund is payable either on application of the contributor or,  
6                    if within thirty days after termination the contributor has not provided a written  
7                    statement to the board waiving the refund and requesting the contributor's  
8                    account remain in the fund, automatically.
- 9            b.    If the contributor has at least ten years of service at the date of termination,  
10                   the contributor may apply for a refund of accumulated deductions instead of  
11                   retirement benefits. By receiving the refund of accumulated deductions under  
12                   this subdivision, the contributor forfeits all months of service to the date of  
13                   refund and cannot use those months for any future benefit calculations.
- 14          2.    A contributor who was paid a refund under subdivision a of subsection 1 may,  
15                   upon reemployment, elect to repurchase the forfeited past service for the  
16                   retirement program and the retiree health benefits program in accordance with the  
17                   rules adopted by the board.
- 18          ~~3.    A member may elect to purchase qualified military service credit pursuant to the~~  
19                   ~~Uniformed Services Employment and Reemployment Rights Act of 1994~~  
20                   ~~[Pub. L. 103-353; 108 Stat. 3150; 38 U.S.C. 4301-4307] at any time prior to~~  
21                   ~~retirement by submitting a valid application and paying the member portion~~  
22                   ~~pursuant to rules adopted by the board. It is the responsibility of the applicant to~~  
23                   ~~supply any documentation required by the board.~~

24           **SECTION 2.** A new section to chapter 39-03.1 of the North Dakota Century Code is  
25 created and enacted as follows:

26           **Military service under the Uniformed Services Employment and Reemployment**  
27 **Rights Act - Member retirement credit.** A member reemployed under the Uniformed  
28 Services Employment and Reemployment Rights Act of 1994, as amended [Pub. L. 103-353;  
29 108 Stat. 3150; 38 U.S.C. 4301-4333], is entitled to receive retirement credit for the period of  
30 qualified military service. The required contribution for the credit, including payment for retiree  
31 health benefits, must be made in the same manner and by the same party as would have been

1 made had the employee been continuously employed. If the salary the member would have  
2 received during the period of service is not reasonably certain, the member's average rate of  
3 compensation during the twelve-month period immediately preceding the member's period of  
4 service or, if shorter, the period of employment immediately preceding that period, times the  
5 number of months of credit being purchased must be used. Employees must be allowed up to  
6 three times the period of military service or five years, whichever is less, to make any required  
7 payments. This provision applies to all qualifying periods of military service since October 1,  
8 1994. Any payments made by the member to receive qualifying credit inconsistent with this  
9 provision must be refunded. Employees shall make application to the employer for credit and  
10 provide a DD Form 214 to verify service.

11 **SECTION 3. AMENDMENT.** Subsection 9 of section 39-03.1-11 of the North Dakota  
12 Century Code is amended and reenacted as follows:

- 13 9. The board shall adopt rules providing for the receipt of retirement benefits in the  
14 following optional forms:
- 15 a. ~~A~~ An actuarially equivalent joint and survivor one hundred percent option.
  - 16 b. ~~Life~~ An actuarially equivalent life with ~~five-year or ten-year or twenty-year~~  
17 certain options.
  - 18 c. An actuarially equivalent partial lump sum distribution option with a  
19 twelve-month maximum lump sum distribution.

20 Unless a contributor requests that the contributor receive benefits according to one  
21 of these options at the time of applying for retirement, all retirement benefits must  
22 be in the form of a lifetime monthly pension, with a fifty percent option to the  
23 surviving spouse.

24 **SECTION 4. AMENDMENT.** Section 39-03.1-11.2 of the North Dakota Century Code  
25 is amended and reenacted as follows:

26 **39-03.1-11.2. Internal Revenue Code compliance.** The board shall administer the  
27 plan in compliance with section 415, section 401(a)(9), section 401(a)(17), and section  
28 401(a)(31) of the Internal Revenue Code in effect on August 1, 2005, as it applies for  
29 governmental plans.

30 **SECTION 5. AMENDMENT.** Section 39-03.1-28 of the North Dakota Century Code is  
31 amended and reenacted as follows:

- 1           **39-03.1-28. Confidentiality of records.** All records relating to the retirement benefits  
2 of a member or a beneficiary under this chapter are confidential and are not public records.  
3 The information and records may be disclosed, under rules adopted by the board only to:
- 4           1. A person to whom the member has given written consent to have the information  
5           disclosed.
  - 6           2. A person legally representing the member, upon proper proof of representation,  
7           and unless the member specifically withholds consent.
  - 8           3. A person authorized by a court order.
  - 9           4. A member's participating employer, limited to information concerning the member's  
10           years of service credit and years of age. The board may share other types of  
11           information as needed by the employer to validate the employer's compliance with  
12           existing state or federal laws. Any information provided to the member's  
13           participating employer under this subsection must remain confidential except as  
14           provided under subsection 6.
  - 15          5. The administrative staff of the retirement and investment office for purposes  
16           relating to membership and benefits determination.
  - 17          6. State or federal agencies for purposes of reporting on a service provider's  
18           provision of services or when the employer must supply information to an agency  
19           to validate the employer's compliance with existing state or federal laws.
  - 20          7. Member interest groups approved by the board on a third-party blind list basis,  
21           limited to information concerning the member's participation, name, and address.
  - 22          8. The member's spouse or former spouse, that individual's legal representative, and  
23           the judge presiding over the member's dissolution proceeding for purposes of  
24           aiding the parties in drafting a qualified domestic relations order under section  
25           39-03.1-14.2. The information disclosed under this subsection must be limited to  
26           information necessary for drafting the order.
  - 27          9. Beneficiaries designated by a participating member or a former participating  
28           member to receive benefits after the member's death, but only after the member's  
29           death. Information relating to beneficiaries may be disclosed to other beneficiaries  
30           of the same member.

1           10. Any person if the board determines disclosure is necessary for treatment,  
2                   operational, or payment purposes, including the completion of necessary  
3                   documents.

4           11. The general public, but only after the board has been unable to locate the member  
5                   for a period in excess of two years, and limited to the member's name and the fact  
6                   that the board has been unable to locate the member.

7           **SECTION 6. AMENDMENT.** Section 39-03.1-30 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9           **39-03.1-30. Conversion of sick leave.** At termination of eligible employment a  
10 member is entitled to credit in the retirement system for each month of unused sick leave, as  
11 certified by the employer, if the member or the member's employer pays an amount equal to  
12 the member's final average salary, times the number of months of sick leave converted, times  
13 the employer and employee contribution, plus ~~one percent~~ the required contribution for the  
14 retiree health benefits program. Hours of sick leave equal to a fraction of a month are deemed  
15 to be a full month for purposes of conversion to service credit. A member may convert all of the  
16 member's certified sick leave or a part of that person's certified sick leave. All conversion  
17 payments must be made within sixty days of termination and before the member receives a  
18 retirement annuity unless the member has submitted an approved payment plan to the board.

19           **SECTION 7. AMENDMENT.** Subsection 11 of section 54-52-01 of the North Dakota  
20 Century Code is amended and reenacted as follows:

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

29           **SECTION 8. AMENDMENT.** Subsection 3 of section 54-52-05 of the North Dakota  
30 Century Code is amended and reenacted as follows:

1           3. Each employer, at its option, may pay all or a portion of the employee contributions  
2           required by subsection 2 and sections 54-52-06.1, 54-52-06.2, and 54-52-06.3 or  
3           the employee contributions required to purchase service credit on a pretax basis  
4           pursuant to subsection ~~6~~ 5 of section 54-52-17.4. Employees may not receive the  
5           contributed amounts directly once the employer has elected to pay the employee  
6           contributions. The amount paid must be paid by the employer in lieu of  
7           contributions by the employee. If the state determines not to pay the contributions,  
8           the amount that would have been paid must continue to be deducted from the  
9           employee's compensation. If contributions are paid by the employer, they must be  
10          treated as employer contributions in determining tax treatment under this code and  
11          the federal Internal Revenue Code. If contributions are paid by the employer, they  
12          may not be included as gross income of the employee in determining tax treatment  
13          under this code and the Internal Revenue Code until they are distributed or made  
14          available. The employer shall pay these employee contributions from the same  
15          source of funds used in paying compensation to the employee or from the levy  
16          authorized by subsection 5 of section 57-15-28.1. The employer shall pay these  
17          contributions by effecting an equal cash reduction in the gross salary of the  
18          employee or by an offset against future salary increases or by a contribution of a  
19          reduction in gross salary and offset against future salary increases. If employee  
20          contributions are paid by the employer, they must be treated for the purposes of  
21          this chapter in the same manner and to the same extent as employee contributions  
22          made prior to the date on which employee contributions were assumed by the  
23          employer. An employer exercising its option under this subsection shall report its  
24          choice to the board in writing.

25           **SECTION 9. AMENDMENT.** Section 54-52-06 of the North Dakota Century Code is  
26          amended and reenacted as follows:

27           **54-52-06. Employer's contribution to retirement plan.** Each governmental unit shall  
28          contribute an amount equal to four and twelve-hundredths percent of the monthly salary or  
29          wage of a participating member. For those members who elect to exercise their rights under  
30          ~~subsection 5 of section 54-52-17.4~~ section 12 of this Act, the employing governmental unit, or  
31          in the case of a member not presently under covered employment the most recent employing

1 governmental unit, shall pay the associated employer contribution. If the employee's  
2 contribution is paid by the governmental unit under subsection 3 of section 54-52-05, the  
3 employer unit shall contribute, in addition, an amount equal to the required employee's  
4 contribution. Each governmental unit shall pay the contribution monthly, or in the case of an  
5 election made pursuant to ~~subsection 5 of section 54-52-17.4~~ section 12 of this Act a lump  
6 sum, into the retirement fund from its funds appropriated for payroll and salary or any other  
7 funds available for these purposes. Any governmental unit failing to pay the contributions  
8 monthly, or in the case of an election made pursuant to ~~subsection 5 of section 54-52-17.4~~  
9 section 12 of this Act a lump sum, is subject to a civil penalty of fifty dollars and, as interest,  
10 one percent of the amount due for each month of delay or fraction thereof after the payment  
11 became due. In lieu of assessing a civil penalty or one percent per month, or both, interest at  
12 the actuarial rate of return may be assessed for each month the contributions are delinquent. If  
13 contributions are paid within ninety days of the date they became due, penalty and interest to  
14 be paid on delinquent contributions may be waived. An employer is required to submit  
15 contributions for any past eligible employee who was employed after July 1, 1977, for which  
16 contributions were not made if the employee would have been eligible to become vested had  
17 the employee participated and if the employee elects to join the public employees retirement  
18 system. Employer contributions may not be assessed for eligible service that an employee has  
19 waived pursuant to subsection 1 of section 54-52-05. The board shall report to each session of  
20 the legislative assembly the contributions necessary, as determined by the actuarial study, to  
21 maintain the fund's actuarial soundness.

22 **SECTION 10. AMENDMENT.** Subsections 9 and 10 of section 54-52-17 of the North  
23 Dakota Century Code are amended and reenacted as follows:

- 24 9. The board shall adopt rules providing for the receipt of retirement benefits in the  
25 following optional forms:
- 26 a. Single life.
  - 27 b. An actuarially equivalent joint and survivor option, with fifty percent or one  
28 hundred percent options.
  - 29 c. An actuarially equivalent level social security option, which is available only to  
30 members who retire prior to attaining the age at which they may begin to  
31 receive unreduced social security benefits.

1 d. Life Actuarially equivalent life with five-year or ten-year or twenty-year certain  
2 options.

3 e. An actuarially equivalent partial lump sum distribution option with a  
4 twelve-month maximum lump sum distribution.

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

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

17 **SECTION 11. AMENDMENT.** Section 54-52-17.4 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19 **54-52-17.4. Purchase of additional credit.**

20 1. A member may elect to purchase credit for years of service and prior service for  
21 which the member is not presently receiving credit. A member is entitled to  
22 purchase additional credit under this section for the following service or prior  
23 service, except this service is not eligible for credit if the years claimed also qualify  
24 for retirement benefits from another retirement system:

25 a. Active prior employment in the armed forces of the United States, except as  
26 provided in ~~subsection 5~~ section 12 of this Act, for up to four years of credit.

27 b. Employment as a permanent employee by a public employer either within or  
28 outside the state of North Dakota.

29 c. Employment as a permanent employee by a political subdivision participating  
30 in the public employees retirement system which did not pay the cost of past  
31 service benefits under section 54-52-02.1.



- 1           d.    Service the participating member did not elect to repurchase upon
- 2                reemployment under section 54-52-02.6.
- 3           e.    Service of an eligible employee, who exercised the privilege to withdraw from
- 4                the predecessor plan to the public employees retirement system under
- 5                subsection 10 of section 54-52-17 as created by section 13 of chapter 499 of
- 6                the 1977 Session Laws.
- 7           f.    Employment as a permanent employee by the federal government.
- 8        2.    A participating member may elect to purchase credit for the following absences for
- 9                which the participating member is not receiving service credit:
- 10           a.   Employer-approved leave of absence; or
- 11           b.   Months away from work while participating as a seasonal employee.
- 12        3.    Supreme and district court judges under the public employees retirement system
- 13                may elect to purchase credit for the following years of service:
- 14           a.    Except as provided in ~~subsection 5~~ section 12 of this Act, for up to four years
- 15                of credit for active employment in the armed forces of the United States.
- 16           b.    As a county judge in a county or counties that did not participate in the public
- 17                employees retirement system under this chapter.
- 18           c.    Participation in the public employees retirement system as a county judge
- 19                may be converted to credit in the judges' retirement system.
- 20        4.    The member may purchase credit under this section, or the member's employer
- 21                may purchase for the member, by paying to the board an amount equal to the
- 22                actuarial cost to the fund of providing the credit. If the member purchases credit
- 23                pursuant to subdivision d of subsection 1, the member must pay to the board an
- 24                amount equal to the greater of the actuarial cost to the fund of providing the credit,
- 25                or the amount the member received upon taking a refund of the member's account
- 26                balance, plus interest at the actuarial rate of return from the time the member was
- 27                issued the refund. If the member is not repurchasing all of the credit originally
- 28                refunded, the member must pay a pro rata amount of the refunded amount
- 29                determined by dividing the refunded amount by the number of months of credit
- 30                refunded, multiplying that amount times the number of months of credit the
- 31                member seeks to repurchase, and adding interest at the actuarial rate of return.

1           The member or the member's employer shall also pay to the retiree health benefits  
2           fund established under section 54-52.1-03.2 an amount equal to the actuarial cost  
3           to that fund for the additional credit. This contribution must be recorded as a  
4           member contribution pursuant to section 54-52.1-03.2. The board shall adopt  
5           rules governing the purchase of additional credit under this section.

6           ~~5- A participating member, or a member not presently under covered employment,  
7           may request credit for qualified military service pursuant to the Uniformed Services  
8           Employment and Reemployment Rights Act of 1994 [Pub. L. 103-353; 108 Stat.  
9           3150; 38 U.S.C. 4301-4307]. The member shall submit a qualified application  
10          with proof of eligible military service to the board in order to receive credit for  
11          military service. For credit on and after July 1, 1966, the member must pay four  
12          percent times the salary the member would have received but for the period of  
13          service or, if that amount is not reasonably certain, the member's average rate of  
14          compensation during the twelve-month period immediately preceding the  
15          member's period of service or, if shorter, the period of employment immediately  
16          preceding that period, times the number of months of credit being purchased. If  
17          the member makes the above payment, the governmental unit, or, in the case of a  
18          member not under covered employment, the last employing governmental unit,  
19          shall pay four and twelve hundredths percent times the salary the member would  
20          have received but for the period of service or, if that amount is not reasonably  
21          certain, the member's average rate of compensation during the twelve-month  
22          period immediately preceding the member's period of service or, if shorter, the  
23          period of employment immediately preceding that period, times the number of  
24          months of credit being purchased. In addition, the governmental unit, or in the case  
25          of a member not under covered employment the last employing governmental unit,  
26          shall pay to the retiree health benefits fund established under section 54-52.1-03.2  
27          the percentage required by section 54-52.1-03.2 times the salary the member  
28          would have received but for the period of service or, if that amount is not  
29          reasonably certain, the member's average rate of compensation during the  
30          twelve-month period immediately preceding the member's period of service or, if  
31          shorter, the period of employment immediately preceding that period, times the~~

1           ~~member's months of credit being purchased. For credit before July 1, 1966, no~~  
2           ~~contribution is required.~~

3       6- 5. Pursuant to rules adopted by the board, the board may allow a member to  
4           purchase service credit with either pretax or aftertax moneys, at the board's  
5           discretion. If the member elects to purchase service credit using pretax moneys,  
6           the requirements and restrictions in subsection 3 of section 54-52-05 apply to the  
7           purchase arrangement.

8       7- 6. In addition to service credit identified in this section, a vested member may  
9           purchase up to five years of service credit unrelated to any other eligible service.

10       **SECTION 12.** A new section to chapter 54-52 of the North Dakota Century Code is  
11       created and enacted as follows:

12           **Military service under the Uniformed Services Employment and Reemployment**

13       **Rights Act - Member retirement credit.** A member reemployed under the Uniformed

14       Services Employment and Reemployment Rights Act of 1994, as amended [Pub. L. 103-353;

15       108 Stat. 3150; 38 U.S.C. 4301-4333], is entitled to receive retirement credit for the period of

16       qualified military service. The required contribution for the credit, including payment for retiree

17       health benefits, must be made in the same manner and by the same party as would have been

18       made had the employee been continuously employed. If the salary the member would have

19       received during the period of service is not reasonably certain, the member's average rate of

20       compensation during the twelve-month period immediately preceding the member's period of

21       service or, if shorter, the period of employment immediately preceding that period, times the

22       number of months of credit being purchased must be used. Employees must be allowed up to

23       three times the period of military service or five years, whichever is less, to make any required

24       payments. This provision applies to all qualifying periods of military service since October 1,

25       1994. Any payments made by the member to receive qualifying credit inconsistent with this

26       provision must be refunded. Employees shall make application to the employer for credit and

27       provide a DD Form 214 to verify service.

28       **SECTION 13. AMENDMENT.** Section 54-52-28 of the North Dakota Century Code is  
29       amended and reenacted as follows:

1           **54-52-28. Internal Revenue Code compliance.** The board shall administer the plan  
2 in compliance with section 415, section 401(a)(9), section 401(a)(17), and section 401(a)(31) of  
3 the Internal Revenue Code in effect on August 1, 2005, as it applies for governmental plans.

4           **SECTION 14.** A new section to chapter 54-52.1 of the North Dakota Century Code is  
5 created and enacted as follows:

6           **Acceptance and expenditure of third-party payments - Continuing appropriation.**

7 The board may receive moneys from third parties, including the federal government, pursuant  
8 to one or more federal programs. Any money received from a third party by the board is  
9 appropriated to the board on a continuing basis for the board's use in paying benefits,  
10 premiums, or administrative expenses under the uniform group insurance program.

11           **SECTION 15. AMENDMENT.** Subsection 3 of section 54-52.6-01 of the North Dakota  
12 Century Code is amended and reenacted as follows:

13           3. "Eligible employee" means a permanent state employee, except an employee of  
14 the judicial branch or an employee of the board of higher education and state  
15 institutions under the jurisdiction of the board, who is eighteen years or more of  
16 age and who is in a position not classified by North Dakota human resource  
17 management services. If a participating member loses permanent employee  
18 status and becomes a temporary employee, the member may still participate in the  
19 defined contribution retirement plan.

20           **SECTION 16.** A new subsection to section 54-52.6-02 of the North Dakota Century  
21 Code is created and enacted as follows:

22           A participating member who becomes a temporary employee may still participate  
23 in the defined contribution retirement plan upon filing an election with the board  
24 within one hundred eighty days of transferring to temporary employee status. The  
25 participating member may not become a member of the defined benefit plan as a  
26 temporary employee. The temporary employee electing to participate in the  
27 defined contribution retirement plan shall pay monthly to the fund an amount equal  
28 to eight and twelve-hundredths percent times the temporary employee's present  
29 monthly salary. The temporary employee shall also pay the required monthly  
30 contribution to the retiree health benefit fund established under section  
31 54-52.1-03.2. This contribution must be recorded as a member contribution

1           pursuant to section 54-52.1-03.2. An employer may not pay the temporary  
2           employee's contributions. A temporary employee may continue to participate as a  
3           temporary employee until termination of employment or reclassification of the  
4           temporary employee as a permanent employee.

5           **SECTION 17.** A new section to chapter 54-52.6 of the North Dakota Century Code is  
6 created and enacted as follows:

7           **Military service under the Uniformed Services Employment and Reemployment**

8 **Rights Act - Member retirement credit.** A member reemployed under the Uniformed  
9 Services Employment and Reemployment Rights Act of 1994, as amended [Pub. L. 103-353;  
10 108 Stat. 3150; 38 U.S.C. 4301-4333], is entitled to receive retirement credit for the period of  
11 qualified military service. The required contribution for the credit, including payment for retiree  
12 health benefits, must be made in the same manner and by the same party as would have been  
13 made had the employee been continuously employed. If the salary the member would have  
14 received during the period of service is not reasonably certain, the member's average rate of  
15 compensation during the twelve-month period immediately preceding the member's period of  
16 service or, if shorter, the period of employment immediately preceding that period, times the  
17 number of months of credit being purchased must be used. Employees must be allowed up to  
18 three times the period of military service or five years, whichever is less, to make any required  
19 payments. This provision applies to all qualifying periods of military service since October 1,  
20 1994. Any payments made by the member to receive qualifying credit inconsistent with this  
21 provision must be refunded. Employees shall make application to the employer for credit and  
22 provide a DD Form 214 to verify service.

23           **SECTION 18. AMENDMENT.** Section 54-52.6-13 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25           **54-52.6-13. Distributions.**

- 26           1. A participating member is eligible to receive distribution of that person's  
27           accumulated balance in the plan upon becoming a former participating member.
- 28           2. Upon the death of a participating member or former participating member, the  
29           accumulated balance of that deceased participant is considered to belong to the  
30           refund beneficiary, if any, of that deceased participant. If a valid nomination of  
31           refund beneficiary is not on file with the board, the board, in a lump sum

- 1 distribution, shall distribute the accumulated balance to a legal representative, if  
2 any, of the deceased participant or, if there is no legal representative, to the  
3 deceased participant's estate.
- 4 3. A former participating member ~~or refund beneficiary~~ may elect one or a  
5 combination of several of the following methods of distribution of the accumulated  
6 balance:
- 7 a. A lump sum distribution to the recipient.
- 8 b. A lump sum direct rollover to another qualified plan, to the extent allowed by  
9 federal law.
- 10 c. Periodic distributions, as authorized by the board.
- 11 d. No current distribution, in which case the accumulated balance must remain  
12 in the plan until the former participating member or refund beneficiary elects a  
13 method or methods of distribution under this section, to the extent allowed by  
14 federal law.

15 A surviving spouse beneficiary may elect one or a combination of several of the  
16 methods of distribution provided in subdivisions a, b, or c. A beneficiary who is not  
17 the surviving spouse may only choose a lump sum distribution of the accumulated  
18 balance.

- 19 4. If the former participating member's vested account balance is less than five  
20 thousand dollars, the board shall automatically refund the member's vested  
21 account balance upon termination of employment. The member may waive the  
22 refund if the member submits a written statement to the board, within one hundred  
23 twenty days after termination, requesting that the member's vested account  
24 balance remain in the plan.

25 **SECTION 19. REPEAL.** Section 54-52-19.2 of the North Dakota Century Code is  
26 repealed.

27 **SECTION 20. REPEAL.** Section 54-52.6-09.3 of the North Dakota Century Code is  
28 repealed.

29 **SECTION 21. APPROPRIATION.** The funds provided in this section, or so much of  
30 the funds as may be necessary, are appropriated out of any moneys in the general fund in the  
31 state treasury, not otherwise appropriated, and from other funds derived from federal funds and

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1 other income, to the following departments for the purpose of defraying the cost of paying  
2 military service retirement credit for the biennium beginning July 1, 2005, and ending June 30,  
3 2007, as follows:

	GENERAL	OTHER
AGENCY	FUND	FUNDS
Office of management and budget	\$0	\$3,343
Judicial branch	3,144	0
Retirement and investment office	0	1,803
State department of health	5,920	10,738
Department of human services	7,614	0
Job service North Dakota	0	3,780
Highway patrol	3,824	0
Department of corrections and rehabilitation	29,778	3,053
Adjutant general	7,027	18,249
Game and fish department	0	1,932
Parks and recreation department	2,201	207
State water commission	0	2,512
Department of transportation	<u>0</u>	<u>50,854</u>
Total	\$59,508	\$96,471

21 **SECTION 22. EFFECTIVE DATE.** Sections 3 through 7, 10, 13 through 16, 18, and 19  
22 become effective on August 1, 2005.