

**HOUSE BILL NO. 1023**

Introduced by

Appropriations Committee

1 A BILL for an Act to provide an appropriation for defraying the expenses of the public employees  
2 retirement system; and to provide a continuing appropriation; to limit the use of health insurance  
3 program reserves; to provide for a transfer; to amend and reenact subdivision j of subsection 2  
4 of section 12-60-24, paragraph 4 of subdivision a of subsection 4 of section 15-10-17, sections  
5 21-10-01, 39-03.1-01, 39-03.1-04, 39-03.1-06, 39-03.1-07, 39-03.1-08.1, and 39-03.1-08.2,  
6 subsection 2 of section 39-03.1-09, sections 39-03.1-10.1, 39-03.1-10.2, 39-03.1-11,  
7 39-03.1-11.2, 39-03.1-11.3, 39-03.1-14.1, 39-03.1-14.2, 39-03.1-25, 39-03.1-28, 39-03.1-29,  
8 52-11-01, 54-35-02.3, 54-52-01, 54-52-02.1, 54-52-02.6, 54-52-03, and 54-52-04, subsection 3  
9 of section 54-52-05, and sections 54-52-06, 54-52-06.2, 54-52-06.3, 54-52-06.4, 54-52-10,  
10 54-52-10.1, 54-52-11.1, 54-52-14, 54-52-14.2, 54-52-16, 54-52-17, 54-52-17.2, 54-52-17.3,  
11 54-52-17.4, 54-52-17.6, 54-52-17.11, 54-52-17.13, 54-52-23, 54-52-26, 54-52-28, 54-52-29,  
12 54-52.1-01, 54-52.1-02, 54-52.1-03, 54-52.1-03.1, 54-52.1-03.2, 54-52.1-03.3, 54-52.1-03.4,  
13 54-52.1-04, 54-52.1-04.1, 54-52.1-04.2, 54-52.1-04.3, 54-52.1-04.4, 54-52.1-04.6, 54-52.1-04.7,  
14 54-52.1-04.8, 54-52.1-04.9, 54-52.1-04.10, 54-52.1-04.11, 54-52.1-04.12, 54-52.1-04.13,  
15 54-52.1-04.14, 54-52.1-05, 54-52.1-05.1, 54-52.1-06, 54-52.1-06.1, 54-52.1-08, 54-52.1-08.1,  
16 54-52.1-08.2, 54-52.1-09, 54-52.1-11, 54-52.1-12, 54-52.1-13, 54-52.1-14, 54-52.1-15,  
17 54-52.1-16, 54-52.1-17, 54-52.1-18, 54-52.2-01, 54-52.2-02, 54-52.2-03, 54-52.2-03.2,  
18 54-52.2-03.3, 54-52.3-01, 54-52.3-02, 54-52.3-03, 54-52.3-05, 54-52.3-06, 54-52.6-01,  
19 54-52.6-02, 54-52.6-03, 54-52.6-03.1, 54-52.6-04, 54-52.6-05, 54-52.6-06, 54-52.6-08,  
20 54-52.6-09, 54-52.6-09.1, 54-52.6-11, 54-52.6-12, 54-52.6-13, 54-52.6-14, 54-52.6-15,  
21 54-52.6-18, 54-52.6-19, 54-52.6-20, and 54-52.6-21 of the North Dakota Century Code, relating  
22 to the public employees retirement board, the public employees retirement system, and the  
23 membership of the employee benefits programs committee; and to provide legislative intent.

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

1       **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds  
2 as may be necessary, are appropriated out of any moneys from special funds derived from  
3 income to the public employees retirement system for the purpose of defraying the expenses of  
4 the public employees retirement system, for the biennium beginning July 1, 2017, and ending  
5 June 30, 2019, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
8 <del>Salaries and wages</del>	<del>\$6,315,360</del>	<del>\$0</del>	<del>\$6,315,360</del>
9 <del>Operating expenses</del>	<del>2,753,643</del>	<del>0</del>	<del>2,753,643</del>
10 <del>Contingencies</del>	<del>250,000</del>	<del>0</del>	<del>250,000</del>
11 <del>Total special funds</del>	<del>\$9,319,003</del>	<del>\$0</del>	<del>\$9,319,003</del>
12 <del>Full-time equivalent positions</del>	<del>34.50</del>	<del>0.00</del>	<del>34.50</del>
13 <u>Salaries and wages</u>	<u>\$6,315,360</u>	<u>\$8,263</u>	<u>\$6,323,623</u>
14 <u>Operating expenses</u>	<u>2,753,643</u>	<u>(132,844)</u>	<u>2,620,799</u>
15 <u>Contingencies</u>	<u>250,000</u>	<u>0</u>	<u>250,000</u>
16 <u>Total special funds</u>	<u>\$9,319,003</u>	<u>(\$124,581)</u>	<u>\$9,194,422</u>
17 <u>Full-time equivalent positions</u>	<u>34.50</u>	<u>(1.00)</u>	<u>33.50</u>

18       **SECTION 2. HEALTH INSURANCE INCREASE.** The salaries and wages line item in  
19 Section 1 of this Act includes the sum of \$102,885 from other funds for increases in employee  
20 health insurance premiums from \$1,130 to \$1,249 per month.

21       **SECTION 3. ONE-TIME FUNDING.** The following amounts reflect the one-time funding  
22 items approved by the sixty-fourth legislative assembly as adjusted for the 2015-17 biennium:

<u>One-Time Funding Description</u>	<u>2015-17</u>	<u>2017-19</u>
24 Public employees retirement system - temporary salaries	\$100,000	\$0
25 Desktop support services	<u>77,370</u>	<u>0</u>
26 Total special funds	\$177,370	\$0

27       **SECTION 4. APPROPRIATION LINE ITEM TRANSFERS.** ~~Upon approval of the retirement~~  
28 ~~board, the~~The public employees retirement system office may transfer from their  
29 contingencies line item in section 1 of this Act to all other line items. The agency shall notify the  
30 office of management and budget of each transfer made pursuant to this section.

1     **SECTION 5. HEALTH INSURANCE RESERVE FUND - LIMITATIONS.** Notwithstanding  
2 any other provision of law, the public employees retirement system office may not spend any  
3 moneys in the fund created under section 54-52.1-06 or from any other source for the purpose  
4 of reducing uniform group insurance premium amounts for the biennium beginning July 1, 2017,  
5 and ending June 30, 2019.

6     **SECTION 6. AMENDMENT.** Subdivision j of subsection 2 of section 12-60-24 of the North  
7 Dakota Century Code is amended and reenacted as follows:

- 8           j. The North Dakota public employees retirement ~~board~~ system office for individuals  
9 first employed by the public employees retirement ~~board~~ system office after  
10 July 31, 2005, who have unescorted physical access to the office or any  
11 security-sensitive area of the office as designated by the executive director.

12     **SECTION 7. AMENDMENT.** Paragraph 4 of subdivision a of subsection 4 of section  
13 15-10-17 of the North Dakota Century Code is amended and reenacted as follows:

- 14           (4) Employees of the university system who are members of the public  
15 employees retirement system under chapter 54-52 or 54-52.6 and who  
16 become entitled to participate in the alternate retirement program are  
17 entitled to a special annuity purchase in the alternate retirement program in  
18 accordance with this subdivision. An eligible employee who consents to  
19 have that employee's contribution included is entitled to have that  
20 employee's contribution and employer's contribution, with interest, in the  
21 public employees retirement system fund, used by the ~~retirement board of~~  
22 ~~the~~ public employees retirement system office to purchase for that  
23 employee an annuity in the alternate retirement program in lieu of any other  
24 rights under the public employees retirement fund. However, before the  
25 employer's contribution may be used for an annuity purchase, the  
26 employee's combined years of service with the public employees retirement  
27 system and the alternate retirement program must equal or exceed the  
28 years of service necessary to be eligible for retirement benefits under the  
29 public employees retirement system. An employee who transferred from the  
30 public employees retirement system before March 30, 1987, and who  
31 received a refund of that employee's contribution is entitled to have the

1 employer's contribution, with interest, used to purchase an annuity even if  
2 that employee did not purchase an annuity in the alternate employee  
3 program with the employee's contribution. If an employee makes the  
4 election allowed under this subdivision, that employee relinquishes all rights  
5 the employee or any of the employee's beneficiaries may have had to  
6 benefits provided under chapters 54-52 and 54-52.6.

7 **SECTION 8. AMENDMENT.** Section 21-10-01 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **21-10-01. State investment board - Membership - Term - Compensation - Advisory**  
10 **council.**

- 11 1. The North Dakota state investment board consists of the governor, the state treasurer,  
12 the commissioner of university and school lands, the director of workforce safety and  
13 insurance, the insurance commissioner, three members of the teachers' fund for  
14 retirement board or the board's designees who need not be members of the fund as  
15 selected by that board, two of the elected members of the public employees retirement  
16 system advisory board as selected by that board, and ~~one member of~~ the public  
17 employees retirement system ~~board as selected by that board~~ office executive director  
18 or the director's designee. The director of workforce safety and insurance may appoint  
19 a designee, subject to approval by the workforce safety and insurance board of  
20 directors, to attend the meetings, participate, and vote when the director is unable to  
21 attend. The teachers' fund for retirement board may appoint an alternate designee  
22 with full voting privileges to attend meetings of the state investment board when a  
23 selected member is unable to attend. The public employees retirement system  
24 advisory board may appoint an alternate designee with full voting privileges from the  
25 public employees retirement system advisory board to attend meetings of the state  
26 investment board when a selected member is unable to attend. The members of the  
27 state investment board, except elected and appointed officials and the director of  
28 workforce safety and insurance or the director's designee and the public employees  
29 retirement system executive director, are entitled to receive as compensation one  
30 hundred forty-eight dollars per day and necessary mileage and travel expenses as

1 provided in sections 44-08-04 and 54-06-09 for attending meetings of the state  
2 investment board.

- 3 2. The state investment board may establish an advisory council composed of individuals  
4 who are experienced and knowledgeable in the field of investments. The state  
5 investment board shall determine the responsibilities of the advisory council. Members  
6 of the advisory council are entitled to receive the same compensation as provided the  
7 members of the advisory board of the Bank of North Dakota and necessary mileage  
8 and travel expenses as provided in sections 44-08-04 and 54-06-09.

9 **SECTION 9. AMENDMENT.** Section 39-03.1-01 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **39-03.1-01. Definitions.**

12 In this chapter, unless the context or subject matter otherwise requires:

- 13 1. "Accumulated deductions" means the total of the amounts deducted from the salary of  
14 a contributor and paid into the fund, and standing to the contributor's credit in the fund,  
15 and interest credited on those amounts at a rate established by the ~~board~~office.
- 16 2. ~~"Board" means the North Dakota public employees retirement board.~~
- 17 ~~3.~~ "Contributor" means any person who is a member of the North Dakota highway patrol,  
18 is subject to salary deductions to support the fund, and is employed on or after July 1,  
19 1981.
- 20 ~~4.3.~~ "Fund" means the North Dakota highway patrolmen's retirement fund.
- 21 4. "Office" means the public employees retirement system office.
- 22 5. "Patrol" means the North Dakota highway patrol.
- 23 6. "Salary" means the actual dollar compensation, excluding any bonus, overtime, or  
24 expense allowance, paid to or for a contributor for the contributor's services.
- 25 7. "Surviving spouse" means that person lawfully married to the contributor at the time of  
26 the contributor's death.

27 **SECTION 10. AMENDMENT.** Section 39-03.1-04 of the North Dakota Century Code is  
28 amended and reenacted as follows:

1       **39-03.1-04. Administrative expenses.**

2       The expense of the administration of this chapter, exclusive of the payment of retirement  
3 allowances and other benefits, must be paid by the state of North Dakota, by appropriation out  
4 of the highway patrol fund, made on the basis of budgets submitted by the [boardoffice](#).

5       **SECTION 11. AMENDMENT.** Section 39-03.1-06 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7       **39-03.1-06. Rules and regulations - Actuarial data.**

8       The [boardoffice](#) shall, from time to time, establish such rules and regulations for the  
9 administration of this chapter as may be deemed necessary. It shall cause to be made periodic  
10 actuarial investigations into the mortality and service experience of the contributors to and the  
11 beneficiaries of the fund.

12       **SECTION 12. AMENDMENT.** Section 39-03.1-07 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14       **39-03.1-07. Membership.**

15       Except as otherwise provided, each member of the patrol, including the superintendent and  
16 assistant superintendent, shall contribute to the fund, and is eligible to nominate and vote for  
17 members of the [public employees retirement system advisory](#) board. Personnel of the truck  
18 regulatory division of the state highway department transferred to the highway patrol after July  
19 1, 1983, are not required to contribute to the fund. They are members of the public employees  
20 retirement system and social security system.

21       **SECTION 13. AMENDMENT.** Section 39-03.1-08.1 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23       **39-03.1-08.1. Purchase of legislative service credit.**

24       A contributor may, prior to retirement, purchase service credit for the time during each  
25 legislative session spent serving as a member of the legislative assembly while a member of  
26 the fund. The contributor shall pay for the service credit an amount equal to the required  
27 member contributions and the state contributions for that period of time plus interest as  
28 established by the [boardoffice](#). Service credit for legislative sessions prior to July 1, 1985, must  
29 be purchased before January 1, 1986. Service credit for each later legislative session must be  
30 purchased within one year after the adjournment of that legislative session.

1 | **SECTION 14. AMENDMENT.** Section 39-03.1-08.2 of the North Dakota Century Code is  
2 | amended and reenacted as follows:

3 | **39-03.1-08.2. Purchase of additional service credit.**

- 4 | 1. The fund may accept rollovers from other eligible plans under rules adopted by the  
5 | board for the purchase of additional service credit, but only to the extent the transfer is  
6 | a rollover contribution that meets the requirement of section 408 of the Internal  
7 | Revenue Code [26 U.S.C. 408].
- 8 | 2. The boardoffice may accept trustee-to-trustee transfers as permitted by Internal  
9 | Revenue Code section 403(b)(13) and section 457(e)(17) from an Internal Revenue  
10 | Code section 403(b) annuity or Internal Revenue Code section 457 deferred  
11 | compensation plan for the purchase of permissive service credit, as defined in Internal  
12 | Revenue Code section 415(n)(3)(A), or as repayment of a cashout from a  
13 | governmental plan under Internal Revenue Code section 415(k)(3).
- 14 | 3. A contributor may elect to purchase credit for years of service and prior service for  
15 | which the contributor is not presently receiving credit. A contributor is entitled to  
16 | purchase additional credit under this section for the following service or prior service,  
17 | except this service is not eligible for credit if the years claimed also qualify for  
18 | retirement benefits from another retirement system:
- 19 | a. Except as provided in subsection 3 of section 39-03.1-10.1, up to four years of  
20 | credit for active employment in the armed forces of the United States.
- 21 | b. Employment as a permanent employee by a public employer either within or  
22 | outside the state.
- 23 | c. Employment as a permanent employee by the federal government.
- 24 | 4. A contributor may elect to purchase credit for the following absences for which the  
25 | participating contributor is not receiving service credit:
- 26 | a. Employer-approved leave of absence; and
- 27 | b. Months away from work while participating as a seasonal employee.
- 28 | 5. The contributor may purchase credit under this section by paying to the boardoffice an  
29 | amount equal to the actuarial cost to the fund of providing the credit. The boardoffice  
30 | shall adopt rules governing the purchase of additional credit under this section.

1 | 6. The ~~board~~office 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~~office may adopt  
4 | appropriate rules as may be necessary to implement and administer the accounts and  
5 | annuities under this section.

6 | 7. In addition to service credit identified in this section, a contributor may purchase up to  
7 | five years of service credit.

8 | 8. Pursuant to rules adopted by the ~~board~~office, the ~~board~~office may allow a contributor  
9 | to purchase service credit with either pretax or aftertax moneys, at the ~~board's~~  
10 | discretion of the office. If a contributor elects to purchase service credit using pretax  
11 | moneys, the requirements and restrictions in subsection 2 of section 39-03.1-09 apply  
12 | to the purchase arrangement.

13 | **SECTION 15. AMENDMENT.** Subsection 2 of section 39-03.1-09 of the North Dakota  
14 | Century Code is amended and reenacted as follows:

15 | 2. The state of North Dakota, at its option, may pay the member contributions required by  
16 | subsection 1 for all compensation earned after June 30, 1983, and may pay the  
17 | member contributions required to purchase service credit on a pretax basis pursuant  
18 | to subsection 8 of section 39-03.1-08.2. The amount paid must be paid by the state in  
19 | lieu of contributions by the member. A member may not receive the contributed  
20 | amounts directly once the employer has elected to pay the member contributions. If  
21 | the state decides not to pay the contributions, the amount that would have been paid  
22 | will continue to be deducted from compensation. If contributions are paid by the state,  
23 | they must be treated as employer contributions in determining tax treatment under this  
24 | code and the federal Internal Revenue Code. If contributions are paid by the state,  
25 | they must not be included as gross income of the member in determining tax  
26 | treatment under this code and the Internal Revenue Code until they are distributed or  
27 | made available. The state shall pay these member contributions from the same source  
28 | of funds used in paying compensation to the members. The state shall pay these  
29 | contributions by effecting an equal cash reduction in the gross salary of the employee  
30 | or by an offset against future salary increases or by a combination of a reduction in  
31 | gross salary and offset against future salary increases. If member contributions are



1           paid by the state, they must be treated for the purposes of this chapter in the same  
2           manner and to the same extent as member contributions made prior to the date the  
3           contributions were assumed by the state. The option given employers by this  
4           subsection must be exercised in accordance with rules adopted by the ~~board~~office.

5           **SECTION 16. AMENDMENT.** Section 39-03.1-10.1 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7           **39-03.1-10.1. Refund and repurchase of contributions.**

8           Except as provided in section 39-03.1-10.3, a contributor whose employment has been  
9 terminated for at least thirty days is entitled to a refund of or to repurchase contributions as  
10 follows:

- 11           1.    a.    If the contributor has less than ten years of service at termination of employment,  
12                   the refund is payable either on application of the contributor or is automatically  
13                   payable if within thirty days after termination the contributor has not provided a  
14                   written statement to the ~~board~~office waiving the refund and requesting the  
15                   contributor's account remain in the fund and the contributor has an account  
16                   balance of less than one thousand dollars.
- 17           b.    If the contributor has at least ten years of service at the date of termination, the  
18                   contributor may apply for a refund of accumulated deductions instead of  
19                   retirement benefits. By receiving the refund of accumulated deductions under this  
20                   subdivision, the contributor forfeits all months of service to the date of refund and  
21                   cannot use those months for any future benefit calculations.
- 22           2.    A contributor who was paid a refund under subdivision a of subsection 1 may, upon  
23                   re-employment, elect to repurchase the forfeited past service for the retirement  
24                   program and the retiree health benefits program in accordance with the rules adopted  
25                   by the ~~board~~office.

26           **SECTION 17. AMENDMENT.** Section 39-03.1-10.2 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28           **39-03.1-10.2. Employer service purchases.**

29           An employer may purchase additional service credit on behalf of a contributor under the  
30 following conditions:

- 1 1. The contributor may not be given the option to choose between an employer service  
2 purchase and an equivalent amount paid in cash.
- 3 2. The contributor must meet one of the following conditions at the time the purchase is  
4 made:
  - 5 a. The contributor's age plus service credit must be equal to or greater than  
6 seventy; or
  - 7 b. The contributor's age must be at least fifty and the contributor must have at least  
8 ten years of service credit.
- 9 3. The ~~board~~office must determine the purchase price on an actuarially equivalent basis.
- 10 4. The purchase must be completed before the contributor's retirement.
- 11 5. The employer may purchase a maximum of five years of service credit on behalf of the  
12 contributor.
- 13 6. The employer must pay the purchase price for the service credit purchased under this  
14 section in a lump sum.

15 **SECTION 18. AMENDMENT.** Section 39-03.1-11 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **39-03.1-11. Retirement benefit.**

18 Each contributor whose employment with the highway patrol has been terminated may  
19 apply to the ~~board~~office for retirement benefits according to this section and rules adopted by  
20 the ~~board~~office consistent with this chapter. The following procedures apply:

- 21 1. A contributor is entitled to credit for permanent employment or its equivalent from the  
22 date eligibility is attained until normal or postponed retirement date, as described in  
23 subsection 3.
- 24 2. Retirement benefits are based on the contributor's final average salary. Final average  
25 salary is the average of the highest salary received by the contributor for any thirty-six  
26 months employed during the last one hundred twenty months of employment. For  
27 contributors who terminate employment on or after August 1, 2010, final average  
28 salary is the average of the highest salary received by the contributor for any thirty-six  
29 months employed during the last one hundred eighty months of employment. For  
30 contributors who terminate employment between July 31, 2005, and August 1, 2010,  
31 final average salary is the average of the highest salary received by the member for

1 any thirty-six months employed during the period for which the **boardoffice** has  
2 appropriate and accurate salary records on its electronic database, but that period  
3 may not be more than the last one hundred eighty months of employment. Months not  
4 employed or months in which employment was not as a permanent employee are  
5 excluded in arriving at the thirty-six months to be used for the purpose of computing an  
6 average. If the contributor has worked for less than thirty-six months at the postponed  
7 retirement date, the final average salary is the average salary for all months of  
8 employment.

9 3. Retirement dates are as follows:

- 10 a. Early retirement date is the first day of the month next following the month in  
11 which the contributor attains the age of fifty years and has completed at least ten  
12 years of eligible employment.
- 13 b. Normal retirement date is:
- 14 (1) The first day of the month next following the month in which the contributor  
15 attains the age of fifty-five years and has completed at least ten years of  
16 eligible employment; or
- 17 (2) When the contributor has a combined total of years of service credit and  
18 years of age equal to eighty and has not received a retirement benefit under  
19 this chapter.
- 20 c. Postponed retirement date is the first day of the month next following the month  
21 in which the contributor attains the age of sixty years.
- 22 d. Disability retirement date is the first day of the month after a contributor becomes  
23 permanently and totally disabled, according to medical evidence called for under  
24 the rules of the **boardoffice**, and has completed at least one hundred eighty days  
25 of employment.

26 4. The **boardoffice** shall calculate retirement benefits as follows:

- 27 a. Normal retirement benefits for all contributors reaching the normal retirement  
28 date are payable monthly, and are:
- 29 (1) The first twenty-five years of credited service multiplied by three and sixty  
30 hundredths percent of final average salary.

- 1 (2) All years in excess of twenty-five years of credited service multiplied by one  
2 and three-fourths percent of final average salary.
- 3 (3) All contributors who retired before August 1, 2001, or their beneficiaries, are  
4 entitled to receive benefits equal to three and sixty hundredths percent of  
5 final average salary multiplied by the first twenty-five years of credited  
6 service, plus one and three-fourths percent of final average salary multiplied  
7 by credited service in excess of twenty-five years, with the increased  
8 benefits payable beginning August 1, 2001.
- 9 b. Early retirement benefits are normal retirement benefits accrued to the date of  
10 termination of employment, but actuarially reduced to account for benefit  
11 payments beginning before the normal retirement date.
- 12 c. Postponed retirement benefits, for all contributors reaching the postponed  
13 retirement date, are calculated in the same manner as normal retirement  
14 benefits.
- 15 d. Disability retirement benefits are payable monthly and are:
- 16 (1) Seventy percent of the contributor's final average salary, reduced by any  
17 workforce safety and insurance benefits paid. The minimum monthly  
18 disability retirement benefit under this subsection is one hundred dollars.
- 19 (2) An individual or that person's beneficiary who, on July 31, 2001, is receiving  
20 a disability retirement benefit is entitled to receive an increase in benefits  
21 equal to six percent of the individual's present benefits, with the increase  
22 payable beginning August 1, 2001.
- 23 5. On termination of employment after completing ten years of eligible employment but  
24 before the normal retirement date, a contributor who does not elect to receive early  
25 retirement benefits is eligible to receive deferred vested retirement benefits. The  
26 deferred benefits are payable beginning on the contributor's normal retirement date in  
27 one of the forms provided in this section. Contributors who have delayed or  
28 inadvertently failed to apply for retirement benefits to commence on their normal  
29 retirement date may choose to receive either a lump sum payment equal to the  
30 amount of missed payments, or an actuarial increase to the form of benefit the  
31 member has selected, which increase must reflect the missed payments. The final

1 average salary used for calculating deferred vested retirement benefits must be  
2 increased annually, from the later of the date of termination of employment or July 1,  
3 1991, until the date the contributor begins to receive retirement benefits from the fund,  
4 at a rate as determined by the boardoffice not to exceed a rate that would be  
5 approximately equal to annual salary increases provided state employees pursuant to  
6 action by the legislative assembly.

7 6. If before retiring a contributor dies after completing ten years of eligible employment,  
8 the boardoffice shall pay the contributor's accumulated deductions to the contributor's  
9 designated beneficiary as provided in this subsection. If the contributor has designated  
10 an alternate beneficiary with the surviving spouse's written consent, the boardoffice  
11 shall pay the contributor's account balance to the named beneficiary. If the contributor  
12 has named more than one primary beneficiary, the boardoffice shall pay the  
13 contributor's account balance to the named primary beneficiaries in the percentages  
14 designated by the contributor or, if the contributor has not designated a percentage for  
15 the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has  
16 predeceased the contributor, the boardoffice shall pay the predeceased beneficiary's  
17 share to the remaining primary beneficiaries. If there are no remaining primary  
18 beneficiaries, the boardoffice shall pay the contributor's account balance to the  
19 contingent beneficiaries in the same manner. If there are no remaining designated  
20 beneficiaries, the boardoffice shall pay the contributor's account balance to the  
21 contributor's estate. If the contributor has not designated an alternate beneficiary  
22 under this section or the surviving spouse is the beneficiary, the surviving spouse of  
23 the contributor may select one of the following optional forms of payment:

- 24 a. A lump sum payment of the contributor's accumulated deductions as of the date  
25 of death.  
26 b. Payment of a monthly retirement benefit equal to fifty percent of the deceased  
27 contributor's accrued normal retirement benefits until the spouse dies.

28 7. If a contributor not eligible for the benefits of subsection 6 terminates employment for  
29 any reason before retirement, the contributor or the contributor's designated  
30 beneficiary is entitled to the contributor's accumulated deductions at termination.

1 8. The surviving spouse of a member receiving retirement benefits must be the  
2 member's primary beneficiary unless there is no surviving spouse or the surviving  
3 spouse designates an alternate beneficiary in writing. If a contributor receiving  
4 retirement benefits, or a contributor's surviving spouse receiving retirement benefits,  
5 dies before the total amount of benefits paid to them equals the amount of the  
6 contributor's accumulated deductions at retirement, the difference must be paid to the  
7 named beneficiary of the recipient or, if there is no named beneficiary, to the  
8 recipient's estate.

9 9. The ~~board~~office shall adopt rules providing for the receipt of retirement benefits in the  
10 following optional forms:  
11 a. An actuarially equivalent joint and survivor one hundred percent option.  
12 b. An actuarially equivalent life with ten-year or twenty-year certain options.  
13 c. An actuarially equivalent partial lump sum distribution option with a twelve-month  
14 maximum lump sum distribution.  
15 d. An actuarially equivalent graduated benefit option with either a one percent or  
16 two percent increase to be applied the first day of January of each year.

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

21 **SECTION 19. AMENDMENT.** Section 39-03.1-11.2 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23 **39-03.1-11.2. Internal Revenue Code compliance.**

24 The ~~board~~office shall administer the plan in compliance with the following sections of the  
25 Internal Revenue Code, as amended, as it applies for governmental plans.

- 26 1. Section 415, including the defined benefit dollar limitation under section 415(b)(1)(A)  
27 of the Internal Revenue Code.  
28 a. The defined benefit dollar limitation under section 415(b)(1)(A) of the Internal  
29 Revenue Code, as approved by the legislative assembly, must be adjusted under  
30 section 415(d) of the Internal Revenue Code, effective January first of each year  
31 following a regular legislative session. The adjustment of the defined benefit

1           dollar limitation under section 415(d) applies to participating members who have  
2           had a separation from employment, but that member's benefit payments may not  
3           reflect the adjusted limit prior to January first of the calendar year in which the  
4           adjustment applies.

5           b. If a participating member's benefit is increased by plan amendment after the  
6           commencement of benefit payments, the member's annual benefit may not  
7           exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the  
8           Internal Revenue Code, as adjusted under section 415(d) for the calendar year in  
9           which the increased benefit is payable.

10          c. If a participating member is, or ever has been, a participant in another defined  
11          benefit plan maintained by the employer, the sum of the participant's annual  
12          benefits from all the plans may not exceed the defined benefit dollar limitation  
13          under section 415(b)(1)(A) of the Internal Revenue Code. If the participating  
14          member's employer-provided benefits under all such defined benefit plans would  
15          exceed the defined benefit dollar limitation, the benefit must be reduced to  
16          comply with section 415 of the Internal Revenue Code. This reduction must be  
17          made pro rata between the plans, in proportion to the participating member's  
18          service in each plan.

19          2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code,  
20          including the incidental death benefit requirements under section 401(a)(9)(G), and the  
21          regulations issued under that provision to the extent applicable to governmental plans.  
22          Accordingly, benefits must be distributed or begin to be distributed no later than a  
23          member's required beginning date, and the required minimum distribution rules  
24          override any inconsistent provision of this chapter. A member's required beginning  
25          date is April first of the calendar year following the later of the calendar year in which  
26          the member attains age seventy and one-half or terminates employment.

27          3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue  
28          Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).

29          4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly,  
30          a distributee may elect to have an eligible rollover distribution, as defined in  
31          section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible

1 retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code,  
2 specified by the distributee.

- 3 5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued,  
4 the rights of all affected participating members to accrued retirement benefits under  
5 this chapter as of the date of termination or discontinuance is nonforfeitable, to the  
6 extent then funded.

7 **SECTION 20. AMENDMENT.** Section 39-03.1-11.3 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **39-03.1-11.3. Supplemental retiree benefit payment.**

10 If the **boardoffice** determines that the fund has obtained a total return on investments of  
11 nine and six hundredths percent or higher for the fiscal year ending June 30, 2007, or June 30,  
12 2008, the **boardoffice** shall authorize an additional payment equal to seventy-five percent of the  
13 January retirement allowance following the fiscal yearend to each eligible retiree in pay status  
14 as of that January, including joint and survivor and term certain beneficiaries, under this chapter.  
15 The **boardoffice** may only make one payment under this section.

16 **SECTION 21. AMENDMENT.** Section 39-03.1-14.1 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **39-03.1-14.1. Multiple plan membership - Eligibility for benefits - Amount of benefits.**

- 19 1. For the purpose of determining eligibility for benefits under this chapter, a member's  
20 years of service is the total of the years of service earned under this chapter and the  
21 years of service employment or years of service credit earned in any number of the  
22 following, the total of which may not exceed twelve months of credit per year:
- 23 a. The public employees retirement system.
  - 24 b. The teachers' fund for retirement.
  - 25 c. The teachers' insurance and annuity association of America - college retirement  
26 equities fund (TIAA-CREF), for service credit earned while employed by North  
27 Dakota institutions of higher education.
- 28 2. If a member terminates eligible employment under this chapter, if that member has not  
29 received a refund of the member's accumulated deductions, and if that member  
30 begins eligible employment in a plan described in subdivision a or b of subsection 1,  
31 that member may elect to remain an inactive member of the system without refund of



1 the member's accumulated deductions. The election must be made within ninety days  
2 after beginning the eligible employment. The **boardoffice** shall terminate the inactive  
3 status of a member under this subsection if the member gains eligible employment  
4 under this chapter or if the member terminates eligible employment under a plan  
5 described in subdivision a or b of subsection 1.

6 3. Pursuant to rules adopted by the **boardoffice**, a member who has service credit in the  
7 system and in any of the alternate plans described in subdivision a or b of  
8 subsection 1 is entitled to benefits under this chapter. The employee may elect to have  
9 benefits calculated using the benefit formula in section 39-03.1-11 under either of the  
10 following calculation methods:

- 11 a. By using the final average salary as calculated in section 39-03.1-11. If the  
12 participating member has worked for less than thirty-six months at retirement, the  
13 final average salary is the average salary for the total months of employment.  
14 b. Using the final average salary as calculated in section 39-03.1-11, with service  
15 credit not to exceed one month in any month when combined with the service  
16 credit earned in the alternate retirement system.

17 The **boardoffice** shall calculate benefits for an employee under this subsection by  
18 using only those years of service employment earned under this chapter.

19 **SECTION 22. AMENDMENT.** Section 39-03.1-14.2 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21 **39-03.1-14.2. Benefit payments to alternate payee under qualified domestic relations**  
22 **order.**

- 23 1. The **boardoffice** shall pay retirement benefits in accordance with the applicable  
24 requirements of any qualified domestic relations order. The **boardoffice** shall review a  
25 domestic relations order submitted to it to determine if the domestic relations order is  
26 qualified under this section and under rules established by the **boardoffice** for  
27 determining the qualified status of domestic relations orders and administering  
28 distributions under the qualified orders. Upon determination that a domestic relations  
29 order is qualified, the **boardoffice** shall notify the contributor and the named alternate  
30 payee of its receipt of the qualified domestic relations order.

1        2. A "qualified domestic relations order" for purposes of this section means any  
2 judgment, decree, or order, including approval of a property settlement agreement,  
3 which relates to the provision of child support, spousal support, or marital property  
4 rights to a spouse, former spouse, child, or other dependent of a contributor, is made  
5 pursuant to a North Dakota domestic relations law, and which creates or recognizes  
6 the existence of an alternate payee's right to, or assigns to an alternate payee the right  
7 to, receive all or a part of the benefits payable to the contributor. A qualified domestic  
8 relations order may not require the **boardoffice** to provide any type or form of benefit,  
9 or any option, not otherwise provided under the retirement system, or to provide  
10 increased benefits as determined on the basis of actuarial value. However, a qualified  
11 domestic relations order may require the payment of benefits at the early retirement  
12 date notwithstanding that the contributor has not terminated eligible employment. A  
13 qualified domestic relations order must specify:

- 14        a. The name and the last-known mailing address of the contributor and the name  
15 and mailing address of each alternate payee covered by the order;  
16        b. The amount or percentage of the contributor's benefits to be paid by the plan to  
17 each alternate payee;  
18        c. The number of payments or period to which the order applies; and  
19        d. Each retirement plan to which the order applies.

20        **SECTION 23. AMENDMENT.** Section 39-03.1-25 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22        **39-03.1-25. Fraud - Correction of errors.**

23        No person may knowingly make any false statement, or may falsify or permit to be falsified  
24 any record or records of the retirement system herein established in any attempt to defraud  
25 such system. Should any such change in records fraudulently made or any mistake in records  
26 inadvertently made result in any contributor or other beneficiary receiving more or less than the  
27 person would have been entitled to had the records been correct, then, on the discovery of such  
28 error, the **boardoffice** shall correct such error and shall adjust the payments which shall be  
29 made to the contributor in such manner that the benefit to which the contributor was correctly  
30 entitled shall be paid.

1 | **SECTION 24. AMENDMENT.** Section 39-03.1-28 of the North Dakota Century Code is  
2 | amended and reenacted as follows:

3 | **39-03.1-28. Confidentiality of records.**

4 | All records relating to the retirement benefits of a member or a beneficiary under this  
5 | chapter are confidential and are not public records. The information and records may be  
6 | disclosed, under rules adopted by the **boardoffice** only to:

- 7 | 1. A person to whom the member has given written consent to have the information  
8 | disclosed.
- 9 | 2. A person legally representing the member, upon proper proof of representation, and  
10 | unless the member specifically withholds consent.
- 11 | 3. A person authorized by a court order.
- 12 | 4. A member's participating employer, limited to information concerning the member's  
13 | years of service credit and years of age. The **boardoffice** may share other types of  
14 | information as needed by the employer to validate the employer's compliance with  
15 | existing state or federal laws. Any information provided to the member's participating  
16 | employer under this subsection must remain confidential except as provided under  
17 | subsection 6.
- 18 | 5. The administrative staff of the retirement and investment office for purposes relating to  
19 | membership and benefits determination.
- 20 | 6. State or federal agencies for purposes of reporting on a service provider's provision of  
21 | services or when the employer must supply information to an agency to validate the  
22 | employer's compliance with existing state or federal laws.
- 23 | 7. Member interest groups approved by the **boardoffice** on a third-party blind list basis,  
24 | limited to information concerning the member's participation, name, and address.
- 25 | 8. The member's spouse or former spouse, that individual's legal representative, and the  
26 | judge presiding over the member's dissolution proceeding for purposes of aiding the  
27 | parties in drafting a qualified domestic relations order under section 39-03.1-14.2. The  
28 | information disclosed under this subsection must be limited to information necessary  
29 | for drafting the order.
- 30 | 9. Beneficiaries designated by a participating member or a former participating member  
31 | to receive benefits after the member's death, but only after the member's death.

- 1 Information relating to beneficiaries may be disclosed to other beneficiaries of the  
2 same member.
- 3 10. Any person if the [beardoffice](#) determines disclosure is necessary for treatment,  
4 operational, or payment purposes, including the completion of necessary documents.
- 5 11. The general public, but only after the [beardoffice](#) has been unable to locate the  
6 member for a period in excess of two years, and limited to the member's name and  
7 the fact that the [beardoffice](#) has been unable to locate the member.
- 8 12. A government child support enforcement agency for purposes of establishing paternity  
9 or establishing, modifying, or enforcing a child support obligation of the member.
- 10 13. A person if the information relates to an employer service purchase under section  
11 39-03.1-10.2, but the information must be limited to the member's name and employer,  
12 the retirement program in which the member participates, the amount of service credit  
13 purchased by the employer, and the total amount expended by the employer for that  
14 service credit purchase, and that information may only be obtained from the member's  
15 employer.

16 **SECTION 25. AMENDMENT.** Section 39-03.1-29 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **39-03.1-29. Savings clause - Plan modifications.**

19 If the [beardoffice](#) determines that any section of this chapter does not comply with  
20 applicable federal statutes or rules, the [beardoffice](#) shall adopt appropriate terminology with  
21 respect to that section as will comply with those federal statutes or rules, subject to the approval  
22 of the employee benefits programs committee. Any plan modifications made by the [beardoffice](#)  
23 pursuant to this section are effective until the effective date of any measure enacted by the  
24 legislative assembly providing the necessary amendments to this chapter to ensure compliance  
25 with the federal statutes or rules.

26 **SECTION 26. AMENDMENT.** Section 52-11-01 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28 **52-11-01. Retirement for certain state employees.**

- 29 1. The North Dakota national guard is authorized to establish an employee retirement  
30 program by contract with an insurance company, state or national bank and trust  
31 company, or an investment company, authorized under the law to do business in this

1 state, the state investment board, or the North Dakota public employees retirement  
2 system office. Except for a retirement program established under chapter 54-52, the  
3 North Dakota national guard shall prepare specifications of the terms of the retirement  
4 program which must be submitted to not less than three companies or agencies with a  
5 request for bids upon the retirement program contracts. After the submission of at  
6 least three bids, the adjutant general shall compare the bids, and with the approval of  
7 the governor, shall execute a contract for the retirement program with the company or  
8 agency submitting the lowest and best bid. The public employees retirement system  
9 ~~board is authorized to~~office may administer the retirement plan established in 1961  
10 and frozen to new entrants in 1980 for employees of job service North Dakota. The  
11 public employees retirement system ~~board~~office shall fund the administrative  
12 expenses of administering that retirement plan from the funds in that plan.

13 2. The employing agency shall be authorized to withhold the employee's share of the  
14 contributions required under such retirement program from the salary paid each  
15 employee of such agency. The amount of such withholding must be an adjustable  
16 percentage rate of the employee's salary sufficient to provide financing of the required  
17 employee's contributions to such retirement plan as such plan was originally  
18 contracted and as it has been or will be amended, provided that such percentage rate  
19 may not exceed the percentage rate which may be fixed for withholding from federal  
20 employees for employee contributions to the federal retirement program under civil  
21 service. The employing agency shall be authorized to pay a sum as prescribed in the  
22 program contract toward the cost of such retirement program, which sum may not be  
23 in excess of the amount approved by the appropriate federal agency supervising the  
24 payment or reimbursement of salary and retirement program costs. The amount  
25 withheld from the wages due an employee and the amount to be paid by the  
26 employing agency must be paid to the company holding such retirement program  
27 contract in accordance with the terms of such contract.

28 3. The employing agency's share of the costs of such retirement program must be paid  
29 from any funds made available to it for this purpose by the United States government,  
30 and in the case of employees of such agencies for whom the state does not receive  
31 federal payments for salary costs, such employer's share may be made from any

1 appropriations made available for the purpose of paying such salaries. Payments may  
2 be made for prior service of employees in accordance with the terms of the retirement  
3 program contract and in accordance with the availability of funds. The contract must  
4 specify the terms and conditions under which employee contributions may be  
5 withdrawn from the program and for the crediting of the employer's contributions to  
6 future payments due from the employing agency. Provision may be made in the  
7 contract for optional payment of benefits to survivors of covered employees. Each  
8 agency participating in the retirement program shall be authorized to do all things  
9 necessary for the proper administration of the program, but no benefits payable under  
10 the terms of the retirement program contract shall ever become an obligation of the  
11 state.

12 **SECTION 27. AMENDMENT.** Section 54-35-02.3 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **54-35-02.3. Employee benefits programs committee - Appointment - Selection of**  
15 **chairman.**

16 The legislative management, during each biennium, shall appoint an employee benefits  
17 programs committee in the same manner as the legislative management appoints other interim  
18 committees. The legislative management shall appoint seven members of the house of  
19 representatives and six members of the senate to the committee. The legislative management  
20 shall designate the chairman of the committee. The three elected employee members of the  
21 retirement system advisory board shall serve as nonvoting members of the committee. The  
22 committee shall operate according to the statutes and procedure governing the operation of  
23 other legislative management interim committees. The public employees retirement system  
24 office shall pay the per diem and expenses of the three nonvoting members.

25 **SECTION 28. AMENDMENT.** Section 54-52-01 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27 **54-52-01. (Effective through July 31, 2017) Definition of terms.**

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

- 29 1. "Account balance" means the total contributions made by the employee, vested  
30 employer contributions under section 54-52-11.1, the vested portion of the vesting

1 fund as of June 30, 1977, and interest credited thereon at the rate established by the  
2 ~~board~~office.

- 3 2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any  
4 person designated by a participating member to receive benefits.
- 5 3. "Correctional officer" means a participating member who is employed as a correctional  
6 officer by a political subdivision.
- 7 4. "Eligible employee" means all permanent employees who meet all of the eligibility  
8 requirements set by this chapter and who are eighteen years or more of age, and  
9 includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and  
10 54-52-02.12, and nonteaching employees of the superintendent of public instruction,  
11 including the superintendent of public instruction, who elect to transfer from the  
12 teachers' fund for retirement to the public employees retirement system under section  
13 54-52-02.13, and employees of the state board for career and technical education who  
14 elect to transfer from the teachers' fund for retirement to the public employees  
15 retirement system under section 54-52-02.14. Eligible employee does not include state  
16 employees who elect to become members of the retirement plan established under  
17 chapter 54-52.6.
- 18 5. "Employee" means any person employed by a governmental unit, whose  
19 compensation is paid out of the governmental unit's funds, or funds controlled or  
20 administered by a governmental unit, or paid by the federal government through any of  
21 its executive or administrative officials; licensed employees of a school district means  
22 those employees eligible to participate in the teachers' fund for retirement who, except  
23 under subsection 2 of section 54-52-17.2, are not eligible employees under this  
24 chapter.
- 25 6. "Employer" means a governmental unit.
- 26 7. "Funding agent" or "agents" means an investment firm, trust bank, or other financial  
27 institution ~~which~~-the ~~retirement board~~office may select to hold and invest the  
28 employers' and members' contributions.
- 29 8. "Governmental unit" means the state of North Dakota, except the highway patrol for  
30 members of the retirement plan created under chapter 39-03.1, or a participating  
31 political subdivision thereof.

- 1       9. "National guard security officer or firefighter" means a participating member who is:
- 2           a. A security police employee of the North Dakota national guard; or
- 3           b. A firefighter employee of the North Dakota national guard.
- 4       10. "Office" means the public employees retirement system office.
- 5       11. "Participating member" means all eligible employees who through payment into the
- 6       plan have established a claim against the plan.
- 7       ~~11.~~12. "Peace officer" means a participating member who is a peace officer as defined in
- 8       section 12-63-01 and is employed as a peace officer by the bureau of criminal
- 9       investigation or by a political subdivision and, notwithstanding subsection 12, for
- 10       persons employed after August 1, 2005, is employed thirty-two hours or more per
- 11       week and at least twenty weeks each year of employment. Participating members of
- 12       the law enforcement retirement plan created by this chapter who begin employment
- 13       after August 1, 2005, are ineligible to participate concurrently in any other retirement
- 14       plan administered by the public employees retirement system.
- 15       ~~12.~~13. "Permanent employee" means a governmental unit employee whose services are not
- 16       limited in duration and who is filling an approved and regularly funded position in an
- 17       eligible governmental unit, and is employed twenty hours or more per week and at
- 18       least twenty weeks each year of employment.
- 19       ~~13.~~14. "Prior service" means service or employment prior to July 1, 1966.
- 20       ~~14.~~15. "Prior service credit" means such credit toward a retirement benefit as the ~~retirement-~~
- 21       ~~board~~office may determine under the provisions of this chapter.
- 22       ~~15.~~16. "Public employees retirement system" means the retirement plan and program
- 23       established by this chapter.
- 24       ~~16.~~17. "Retirement" means the acceptance of a retirement allowance under this chapter upon
- 25       either termination of employment or termination of participation in the retirement plan
- 26       and meeting the normal retirement date.
- 27       ~~17.~~18. "Retirement board" or "board" means the ~~governing authority~~retirement system
- 28       advisory board created under section 54-52-03.
- 29       ~~18.~~19. "Seasonal employee" means a participating member who does not work twelve
- 30       months a year.
- 31       ~~19.~~20. "Service" means employment on or after July 1, 1966.



1 ~~20-21.~~ "Service benefit" means the credit toward retirement benefits as determined by the  
2 ~~retirement board~~office under the provisions of this chapter.

3 ~~21-22.~~ "Temporary employee" means a governmental unit employee who is not eligible to  
4 participate as a permanent employee, who is at least eighteen years old and not  
5 actively contributing to another employer-sponsored pension fund, and, if employed by  
6 a school district, occupies a noncertified teacher's position.

7 ~~22-23.~~ "Wages" and "salaries" means the member's earnings in eligible employment under  
8 this chapter reported as salary on the member's federal income tax withholding  
9 statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125,  
10 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as  
11 payments for unused sick leave, personal leave, vacation leave paid in a lump sum,  
12 overtime, housing allowances, transportation expenses, early retirement incentive pay,  
13 severance pay, medical insurance, workforce safety and insurance benefits, disability  
14 insurance premiums or benefits, or salary received by a member in lieu of previously  
15 employer-provided fringe benefits under an agreement between the member and  
16 participating employer. Bonuses may be considered as salary under this section if  
17 reported and annualized pursuant to rules adopted by the ~~board~~office.

18 **(Effective after July 31, 2017) Definition of terms.** As used in this chapter, unless the  
19 context otherwise requires:

- 20 1. "Account balance" means the total contributions made by the employee, vested  
21 employer contributions under section 54-52-11.1, the vested portion of the vesting  
22 fund as of June 30, 1977, and interest credited thereon at the rate established by the  
23 ~~board~~director.
- 24 2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any  
25 person designated by a participating member to receive benefits.
- 26 3. "Correctional officer" means a participating member who is employed as a correctional  
27 officer by a political subdivision.
- 28 4. "Director" means the executive director of the public employees retirement system  
29 office.
- 30 5. "Eligible employee" means all permanent employees who meet all of the eligibility  
31 requirements set by this chapter and who are eighteen years or more of age, and

1 includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and  
2 54-52-02.12, and nonteaching employees of the superintendent of public instruction,  
3 including the superintendent of public instruction, who elect to transfer from the  
4 teachers' fund for retirement to the public employees retirement system under section  
5 54-52-02.13, and employees of the state board for career and technical education who  
6 elect to transfer from the teachers' fund for retirement to the public employees  
7 retirement system under section 54-52-02.14. Eligible employee does not include  
8 nonclassified state employees who elect to become members of the retirement plan  
9 established under chapter 54-52.6 but does include employees of the judicial branch  
10 and employees of the board of higher education and state institutions under the  
11 jurisdiction of the board.

12 ~~5.6.~~ "Employee" means any person employed by a governmental unit, whose  
13 compensation is paid out of the governmental unit's funds, or funds controlled or  
14 administered by a governmental unit, or paid by the federal government through any of  
15 its executive or administrative officials; licensed employees of a school district means  
16 those employees eligible to participate in the teachers' fund for retirement who, except  
17 under subsection 2 of section 54-52-17.2, are not eligible employees under this  
18 chapter.

19 ~~6.7.~~ "Employer" means a governmental unit.

20 ~~7.8.~~ "Funding agent" or "agents" means an investment firm, trust bank, or other financial  
21 institution ~~which the retirement board~~ the director may select to hold and invest the  
22 employers' and members' contributions.

23 ~~8.9.~~ "Governmental unit" means the state of North Dakota, except the highway patrol for  
24 members of the retirement plan created under chapter 39-03.1, or a participating  
25 political subdivision thereof.

26 ~~9.10.~~ "National guard security officer or firefighter" means a participating member who is:  
27 a. A security police employee of the North Dakota national guard; or  
28 b. A firefighter employee of the North Dakota national guard.

29 11. "Office" means the public employees retirement system office.

30 ~~10.12.~~ "Participating member" means all eligible employees who through payment into the  
31 plan have established a claim against the plan.

- 1 ~~41.13.~~ "Peace officer" means a participating member who is a peace officer as defined in  
2 section 12-63-01 and is employed as a peace officer by the bureau of criminal  
3 investigation or by a political subdivision and, notwithstanding subsection 12, for  
4 persons employed after August 1, 2005, is employed thirty-two hours or more per  
5 week and at least twenty weeks each year of employment. Participating members of  
6 the law enforcement retirement plan created by this chapter who begin employment  
7 after August 1, 2005, are ineligible to participate concurrently in any other retirement  
8 plan administered by the public employees retirement system.
- 9 ~~42.14.~~ "Permanent employee" means a governmental unit employee whose services are not  
10 limited in duration and who is filling an approved and regularly funded position in an  
11 eligible governmental unit, and is employed twenty hours or more per week and at  
12 least twenty weeks each year of employment.
- 13 ~~43.15.~~ "Prior service" means service or employment prior to July 1, 1966.
- 14 ~~44.16.~~ "Prior service credit" means such credit toward a retirement benefit as the ~~retirement-~~  
15 ~~board~~director may determine under the provisions of this chapter.
- 16 ~~45.17.~~ "Public employees retirement system" means the retirement plan and program  
17 established by this chapter.
- 18 ~~46.18.~~ "Retirement" means the acceptance of a retirement allowance under this chapter upon  
19 either termination of employment or termination of participation in the retirement plan  
20 and meeting the normal retirement date.
- 21 ~~47.19.~~ "Retirement board" or "board" means the ~~seven persons designated by this chapter as-~~  
22 ~~the governing authority for the retirement system created~~retirement system advisory  
23 board established under section 54-52-03.
- 24 ~~48.20~~ "Seasonal employee" means a participating member who does not work twelve  
25 months a year.
- 26 ~~49.21.~~ "Service" means employment on or after July 1, 1966.
- 27 ~~20.22.~~ "Service benefit" means the credit toward retirement benefits as determined by the  
28 ~~retirement board~~director under the provisions of this chapter.
- 29 ~~21.23.~~ "Temporary employee" means a governmental unit employee who is not eligible to  
30 participate as a permanent employee, who is at least eighteen years old and not

1 actively contributing to another employer-sponsored pension fund, and, if employed by  
2 a school district, occupies a noncertified teacher's position.

3 ~~22-24.~~ "Wages" and "salaries" means the member's earnings in eligible employment under  
4 this chapter reported as salary on the member's federal income tax withholding  
5 statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125,  
6 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as  
7 payments for unused sick leave, personal leave, vacation leave paid in a lump sum,  
8 overtime, housing allowances, transportation expenses, early retirement incentive pay,  
9 severance pay, medical insurance, workforce safety and insurance benefits, disability  
10 insurance premiums or benefits, or salary received by a member in lieu of previously  
11 employer-provided fringe benefits under an agreement between the member and  
12 participating employer. Bonuses may be considered as salary under this section if  
13 reported and annualized pursuant to rules adopted by the ~~board~~office.

14 **SECTION 29. AMENDMENT.** Section 54-52-02.1 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **54-52-02.1. Political subdivisions authorized to join public employees retirement**  
17 **system.**

- 18 1. A political subdivision may, on behalf of its permanent employees, on behalf of its  
19 peace officers and correctional officers separately from its other employees, and  
20 permanent noncertified employees only in the case of school districts, enter into  
21 agreements with the ~~retirement board~~office for the purpose of extending the benefits of  
22 the public employees retirement system, as provided in this chapter, to those  
23 employees. The agreement may, in accordance with this chapter, contain provisions  
24 relating to benefits, contributions, effective date, modification, administration, and  
25 other appropriate provisions as the ~~retirement board~~office and the political subdivision  
26 agree upon, but the agreement must provide that:
  - 27 a. The political subdivision will contribute on behalf of each eligible employee an  
28 amount equal to that provided in section 54-52-06 or 54-52-06.3 for peace  
29 officers and correctional officers participating separately from other political  
30 subdivision employees.

1           b. A portion of the moneys paid by the political subdivision may be used to pay  
2           administrative expenses of the ~~retirement board~~office.

3           2. Notwithstanding any other provision of law, a political subdivision having an existing  
4           police pension plan may merge that plan into the public employees retirement system  
5           under rules adopted by and in a manner determined by the ~~board~~office.

6           3. Notwithstanding any other provision of this chapter, a political subdivision of this state  
7           not currently participating in the public employees retirement system may not become  
8           a participant in the retirement system until an actuarial study is performed under the  
9           direction of the ~~board~~office to calculate the required employer contribution for any past  
10          service liability and the required employer contribution must be an amount determined  
11          sufficient to amortize and fund any past service liability over a period not to exceed  
12          thirty years as determined by the ~~board~~office. Any fees incurred in performing the  
13          actuarial study must be paid for by the political subdivision in a manner determined by  
14          the ~~board~~office.

15          **SECTION 30. AMENDMENT.** Section 54-52-02.6 of the North Dakota Century Code is  
16          amended and reenacted as follows:

17          **54-52-02.6. Repurchase of past service upon re-employment.**

18          An individual who terminates participation in the plan may elect to receive a refund of the  
19          member's account balance under subsection 7 of section 54-52-17 and thus forfeit all rights  
20          under the retirement plan. An individual upon re-employment may elect to repurchase the  
21          forfeited past service for retirement and the retiree health benefits program in accordance with  
22          rules established by the ~~board~~office.

23          **SECTION 31. AMENDMENT.** Section 54-52-03 of the North Dakota Century Code is  
24          amended and reenacted as follows:

25          **54-52-03. ~~Governing authority~~Public employees retirement system office - Retirement**  
26          **system advisory board.**

27          1. ~~A state agency~~The public employees retirement system office is hereby created to  
28          constitute the governing authority of the public employees retirement system ~~to consist~~  
29          ~~of a board of nine individuals known as the retirement board.~~

30          2. A seven-member retirement system advisory board shall advise the director, the  
31          governor, and the legislative management in the administration of the public

1 employees retirement system. No more than one ~~elected~~ member of the board may be  
2 in the employ of a single department, institution, or agency of the state or in the  
3 employ of a political subdivision. An employee of the public employees retirement  
4 system office or the state retirement and investment office may not serve on the  
5 board.

6 ~~4.~~ a. Two members of the legislative assembly must be appointed by the chairman of  
7 the legislative management to serve on the board.

8 ~~a.~~ (1) If the same political party has the greatest number of members in both the  
9 house and senate, one member must be from that majority party and one  
10 member from the political party with the next greatest number of members  
11 in the house and senate.

12 ~~b.~~ (2) If the same political party does not have the greatest number of members in  
13 both the house and senate, one member must be from the majority party in  
14 the house and one member must be from the majority party in the senate.

15 ~~2.~~ b. One member of the board must be appointed by the governor to serve a term of  
16 five years. The appointee must be a North Dakota citizen who is not a state or  
17 political subdivision employee and who by experience is familiar with money  
18 management. ~~The citizen member is chairman of the board.~~

19 ~~3.~~ ~~One member of the board must be appointed by the attorney general from the~~  
20 ~~attorney general's legal staff and shall serve a term of five years.~~

21 ~~4.~~ ~~The state health officer appointed under section 23-01-05 or the state health officer's~~  
22 ~~designee is a member of the board.~~

23 ~~5.~~ c. Three board members must be elected by and from among the active  
24 participating members, members of the retirement plan established under  
25 chapter 54-52.6, members of the retirement plan established under chapter  
26 39-03.1, and members of the job service North Dakota retirement plan.  
27 Employees who have terminated their employment for whatever reason are not  
28 eligible to serve as elected members of the board under this subsection. Board  
29 members must be elected to a five-year term pursuant to an election called by  
30 the board. Notice of board elections must be given to all active participating

1 members. The time spent in performing duties as a board member may not be  
2 charged against any employee's accumulated annual or any other type of leave.

3 ~~6.~~ d. One board member must be elected by and from among those individuals who  
4 are receiving retirement benefits under this chapter. The board shall call the  
5 election and must give prior notice of the election to the individuals eligible to  
6 participate in the election pursuant to this subsection. The board member shall  
7 serve a term of five years.

8 ~~7.~~ e. The members of the board are entitled to receive one hundred forty-eight dollars  
9 per day compensation and necessary mileage and travel expenses as provided  
10 in sections 44-08-04 and 54-06-09. This is in addition to any other pay or  
11 allowance due the chairman or a member, plus an allowance for expenses they  
12 may incur through service on the board.

13 ~~8.~~ f. A board member shall serve a five-year term and until the board member's  
14 successor qualifies. Each board member is entitled to one vote, and ~~five~~four of  
15 the ~~nine~~seven board members constitute a quorum. ~~Five~~Four votes are  
16 necessary for resolution or action by the board at any meeting.

17 **SECTION 32. AMENDMENT.** Section 54-52-04 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19 **54-52-04. ~~Board authority~~Authority - Continuing appropriation.**

- 20 1. The ~~board~~public employees retirement system office shall adopt rules necessary to  
21 implement this chapter, and to manage the system, subject to the limitations of this  
22 chapter. ~~The board has the powers and privileges of a corporation, including the right~~  
23 ~~to sue and be sued in its own name as the board. The venue of all actions in which the~~  
24 ~~board is a party must be Burleigh County, North Dakota.~~
- 25 2. The ~~board~~governor shall appoint an executive director to serve at ~~its~~the governor's  
26 discretion. ~~The executive director shall perform such duties as assigned by the board.~~
- 27 3. The ~~board~~office shall ~~authorize the creation of whatever~~employ staff ~~it deems~~as  
28 necessary for sound and economical administration of the system. ~~The executive~~  
29 ~~director shall hire the staff, subject to the approval of the board.~~
- 30 4. The ~~board~~office shall arrange for actuarial and medical advisers for the system. The  
31 ~~board~~office shall ~~cause~~contract with a qualified, competent actuary to be retained on a

1 consulting basis. The actuary shall make an annual valuation of the liabilities and  
2 reserves of the system and a determination of the contributions required by the system  
3 to discharge its liabilities and pay the administrative costs under this chapter, and to  
4 recommend to the ~~board~~office rates of employer and employee contributions required,  
5 based upon the entry age normal cost method, to maintain the system on an actuarial  
6 reserve basis; once every five years make a general investigation of the actuarial  
7 experience under the system including mortality, retirement, employment turnover, and  
8 other items required by the ~~board~~office, and recommend actuarial tables for use in  
9 valuations and in calculating actuarial equivalent values based on such investigation;  
10 and perform other duties as may be assigned by the ~~board~~office.

11 5. The state shall provide the ~~board~~office with the ~~retirement systems~~-office or offices to  
12 be used for the ~~meetings of the board and for the~~ general purposes of the  
13 ~~administrative personnel~~office.

14 6. The funds necessary for paying prior service and service benefits, consultant fees,  
15 and making withdrawal payments and refunds are hereby appropriated from the  
16 retirement fund for those purposes. The amount necessary to pay the consulting fees  
17 and insurance benefits related to the uniform group insurance program is hereby  
18 appropriated from the insurance premiums received by the ~~board~~office.

19 7. The ~~board~~office shall administer chapters 39-03.1, 54-52.1, and 54-52.2, and may  
20 administer other optional employee benefit programs, including a flexible benefits plan,  
21 an optional employee short-term disability plan, a long-term care plan, or other  
22 optional employee benefit programs as the ~~board~~office deems appropriate. The  
23 ~~board~~office shall also administer the retirement plan established in 1961 and frozen to  
24 new entrants in 1980 for employees of job service North Dakota under chapter 52-11.

25 8. ~~The board shall annually~~Annually, the office shall report the investment performance of  
26 the fund and distribute a copy to each participant.

27 9. The ~~board~~office may distribute the employer contribution and applicable interest for  
28 any employee of any development foundation associated with a public institution of  
29 higher education in this state who may previously have been included in the public  
30 employees retirement system while employed by such foundation. Such employee is



1 entitled to have that employee's contribution and the contribution of the development  
2 foundation, with interest.

3 10. The ~~board~~office may audit any books, papers, accounts, bills, vouchers, and other  
4 documents or property of any and all departments, boards, commissions, political  
5 subdivisions, financial institutions, contractors, health care organizations, and  
6 consultants relating to their participation in services provided to programs  
7 administered by the ~~board~~office.

8 11. The ~~board~~office shall fund the administrative expenses of chapter 54-52.2 from funds  
9 collected under chapters 54-52, 54-52.1, and 54-52.3 and from fines and fees  
10 collected from deferred compensation services providers, including any fees paid for  
11 by participant funds, subject to appropriation by the legislative assembly.

12 12. Except as provided by section 54-52-17.7, the ~~board~~office may adjust service and  
13 make any correction of member, retiree, or beneficiary records and benefits after an  
14 error or inequity has been determined.

15 13. ~~The board~~Subject to appropriation, the office may use any amount credited to the  
16 separate uniform group insurance program fund created by section 54-52.1-06 in  
17 excess of the costs of administration of the uniform group insurance program to  
18 reduce the amount of premium amounts paid monthly by enrolled members of the  
19 uniform group insurance program, to reduce any increase in premium amounts paid  
20 monthly by enrolled members, or to provide increased insurance coverage to the  
21 members, as the ~~board~~office may determine.

22 14. The ~~board~~office may create and implement an Internal Revenue Code section 115  
23 trust health care savings plan for all supreme and district court judges participating in  
24 the public employees retirement system if seventy-five percent of the total active  
25 participating supreme and district court judges vote to approve the program. If  
26 approved, the contribution level specified in the vote applies to all current and future  
27 participating supreme and district court judges and must be paid pursuant to the plan  
28 document developed by the ~~board~~office. The contribution level may only be changed  
29 by a vote of seventy-five percent of the total active participating supreme and district  
30 court judges at that time.

1 15. The office shall establish policies and implement procedures to make and collect  
2 payments in the most cost-effective manner, including the use of electronic transfer of  
3 funds.

4 **SECTION 33. AMENDMENT.** Subsection 3 of section 54-52-05 of the North Dakota  
5 Century Code is amended and reenacted as follows:

- 6 3. Each employer, at its option, may pay all or a portion of the employee contributions  
7 required by subsection 2 and sections 54-52-06.1, 54-52-06.2, 54-52-06.3, and  
8 54-52-06.4 or the employee contributions required to purchase service credit on a  
9 pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not  
10 receive the contributed amounts directly once the employer has elected to pay the  
11 employee contributions. The amount paid must be paid by the employer in lieu of  
12 contributions by the employee. If the state determines not to pay the contributions, the  
13 amount that would have been paid must continue to be deducted from the employee's  
14 compensation. If contributions are paid by the employer, they must be treated as  
15 employer contributions in determining tax treatment under this code and the federal  
16 Internal Revenue Code. If contributions are paid by the employer, they may not be  
17 included as gross income of the employee in determining tax treatment under this  
18 code and the Internal Revenue Code until they are distributed or made available. The  
19 employer shall pay these employee contributions from the same source of funds used  
20 in paying compensation to the employee or from the levy authorized by subsection 5  
21 of section 57-15-28.1. The employer shall pay these contributions by effecting an  
22 equal cash reduction in the gross salary of the employee or by an offset against future  
23 salary increases or by a contribution of a reduction in gross salary and offset against  
24 future salary increases. If employee contributions are paid by the employer, they must  
25 be treated for the purposes of this chapter in the same manner and to the same extent  
26 as employee contributions made prior to the date on which employee contributions  
27 were assumed by the employer. An employer exercising its option under this  
28 subsection shall report its choice to the **boardoffice** in writing.

29 **SECTION 34. AMENDMENT.** Section 54-52-06 of the North Dakota Century Code is  
30 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. 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~~director 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.

**SECTION 35. AMENDMENT.** Section 54-52-06.2 of the North Dakota Century Code is amended and reenacted as follows:

1       **54-52-06.2. Contribution by national guard security officers or firefighters - Employer**  
2 **contribution.**

3       Each national guard security officer or firefighter who is a member of the public employees  
4 retirement system is assessed and shall pay monthly four percent of the employee's monthly  
5 salary. Member contributions increase by one-half of one percent of the member's monthly  
6 salary beginning with the monthly reporting period of January 2014. Effective August 1, 2015,  
7 each national guard security officer or firefighter who is a participating member of the plan under  
8 this section becomes a participating member of the plan under section 54-52-06.4 and the  
9 ~~board~~office shall thereafter manage any account balance associated with those participating  
10 members under section 54-52-06.4. After July 31, 2015, a new eligible employee may not  
11 become a participating member of the plan under this section. The assessment must be  
12 deducted and retained out of the employee's salary in equal monthly installments. The national  
13 guard security officer's or firefighter's employer shall contribute an amount determined by the  
14 ~~board~~office to be actuarially required to support the level of benefits specified in section  
15 54-52-17. The employer's contribution must be paid from funds appropriated for salary or from  
16 any other funds available for such purposes. If the security officer's or firefighter's assessment is  
17 paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in  
18 addition, an amount equal to the required national guard security officer's or firefighter's  
19 assessment.

20       **SECTION 36. AMENDMENT.** Section 54-52-06.3 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22       **54-52-06.3. Contribution by peace officers and correctional officers employed by**  
23 **political subdivisions - Employer contribution.**

24       Each peace officer or correctional officer employed by a political subdivision that enters ~~into~~  
25 an agreement with the ~~retirement board~~office on behalf of its peace officers and correctional  
26 officers separately from its other employees and who is a member of the public employees  
27 retirement system is assessed and shall pay monthly four percent of the employee's monthly  
28 salary. Peace officer or correctional officer contributions increase by one-half of one percent of  
29 the member's monthly salary beginning with the monthly reporting period of January 2012, and  
30 with an additional increase of one-half of one percent, beginning with the monthly reporting  
31 period of January 2013, and with an additional increase of one-half of one percent, beginning

1 with the monthly reporting period of January 2014. The assessment must be deducted and  
2 retained out of the employee's salary in equal monthly installments. The peace officer's or  
3 correctional officer's employer shall contribute an amount determined by the ~~board~~office to be  
4 actuarially required to support the level of benefits specified in section 54-52-17. If the peace  
5 officer's or correctional officer's assessment is paid by the employer under subsection 3 of  
6 section 54-52-05, the employer shall contribute, in addition, an amount equal to the required  
7 peace officer's or correctional officer's assessment.

8 **SECTION 37. AMENDMENT.** Section 54-52-06.4 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **54-52-06.4. Contribution by peace officers employed by the bureau of criminal**  
11 **investigation or security officers employed by the national guard - Employer**  
12 **contribution.**

13 Each peace officer employed by the bureau of criminal investigation who is a member of the  
14 public employees retirement system is assessed and shall pay monthly four percent of the  
15 employee's monthly salary. Peace officer contributions increase by one percent of the member's  
16 monthly salary beginning with the monthly reporting period of January 2012, and with an  
17 additional increase of one percent, beginning with the reporting period of January 2013.

18 Effective August 1, 2015, each national guard security officer who is a member of the public  
19 employee's retirement system is assessed and monthly shall pay six percent of the employee's  
20 monthly salary. National guard security officer contributions decrease by one-half of one percent  
21 of the member's monthly salary beginning with the monthly reporting period of January 2016.

22 The assessment must be deducted and retained out of the employee's salary in equal monthly  
23 installments. The peace officer's or security officer's employer shall contribute an amount  
24 determined by the ~~board~~office to be actuarially required to support the level of benefits specified  
25 in section 54-52-17. The employer's contribution must be paid from funds appropriated for  
26 salary or from any other funds available for such purposes. If the peace officer's or security  
27 officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the  
28 employer shall contribute, in addition, an amount equal to the required peace officer's or  
29 security officer's assessment.

30 **SECTION 38. AMENDMENT.** Section 54-52-10 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1       **54-52-10. Allocation of funds.**

2       The ~~board~~office shall maintain such funds and accounts as may be necessary to administer  
3 the provisions of this chapter. Any and all expenses incurred by or for the operation of the  
4 retirement plan must be paid from the funds contributed pursuant to sections 54-52-06 and  
5 54-52-06.1.

6       **SECTION 39. AMENDMENT.** Section 54-52-10.1 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8       **54-52-10.1. Payment of benefits and other costs.**

9       The ~~board~~office shall use funds under ~~its~~the control of the office both before and after  
10 July 1, 1977, to administer this chapter and pay benefits authorized by this chapter.

11       **SECTION 40. AMENDMENT.** Section 54-52-11.1 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13       **54-52-11.1. Vesting of employer contributions.**

14       Except for supreme and district court judges, who are not eligible for benefits under this  
15 section, a member's account balance includes vested employer contributions equal to the  
16 member's contributions to the deferred compensation plan for public employees under chapter  
17 54-52.2, or member contributions to other participating employer supplemental Internal  
18 Revenue Code section 457 or 403(b) retirement programs as approved by the ~~board~~office, with  
19 the minimum member contribution being twenty-five dollars. However, the vested employer  
20 contribution may not exceed:

- 21       1. For months one through twelve of service credit, twenty-five dollars or one percent of  
22       the member's monthly salary, whichever is greater.
- 23       2. For months thirteen through twenty-four of service credit, twenty-five dollars or two  
24       percent of the member's monthly salary, whichever is greater.
- 25       3. For months twenty-five through thirty-six of service credit, twenty-five dollars or three  
26       percent of the member's monthly salary, whichever is greater.
- 27       4. For service exceeding thirty-six months, twenty-five dollars or four percent of the  
28       member's monthly salary, whichever is greater.
- 29       5. The vested employer contribution may not exceed four percent of the member's  
30       monthly salary.

31       Vested employer contributions must be credited monthly to the member's account balance.

1       **SECTION 41. AMENDMENT.** Section 54-52-14 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **54-52-14. Acceptance of money and property ~~by the board~~.**

4       The ~~board~~office may take by gift, grant, devise, or bequest, any money or real or personal  
5 property or any other thing of value for the benefit of the employees retirement fund, and when  
6 received, said property becomes a part of such fund.

7       **SECTION 42. AMENDMENT.** Section 54-52-14.2 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9       **54-52-14.2. Interest and earnings attributable to administered funds.**

10       All interest and earnings on funds administered by the ~~retirement board~~office established  
11 under chapters 39-03.1, 54-52, 54-52.1, 54-52.2, and 54-52.3 must be credited to the  
12 respective fund.

13       **SECTION 43. AMENDMENT.** Section 54-52-16 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15       **54-52-16. Insurance contracts - Trust agreements.**

16       For the purpose of establishing the funding agent or agents, the ~~board~~office may enter ~~into~~  
17 an insurance contract, agreement, or purchase an insurance policy or policies covering all or  
18 any part of the retirement plan adopted, provided the assuring company is a North Dakota  
19 corporation or authorized to do business in the state of North Dakota, or may enter ~~into~~a  
20 contract with any qualified trust company or companies, or combinations of insurance contracts  
21 and trust contracts.

22       **SECTION 44. AMENDMENT.** Section 54-52-17 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24       **54-52-17. Formulation of plan.**

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

- 30       1. Participating members shall receive credit for full-time employment or its equivalent  
31       from the date they attain eligibility until their normal retirement date, postponed

1 retirement date, or early retirement date, as defined in this section. Part-time  
2 employment will be recognized as full-time employment on a prorated basis as the  
3 ~~board~~office may prescribe.

- 4 2. Retirement benefits are calculated from the participating member's final average  
5 salary, which is the average of the highest salary received by the member for any  
6 thirty-six months employed during the last one hundred twenty months of employment.  
7 For members who terminate employment on or after August 1, 2010, final average  
8 salary is the average of the highest salary received by the member for any thirty-six  
9 months employed during the last one hundred eighty months of employment. For  
10 members who terminate employment between July 31, 2005, and August 1, 2010, final  
11 average salary is the average of the highest salary received by the member for any  
12 thirty-six months employed during the period for which the ~~board~~office has appropriate  
13 and accurate salary records on its electronic database, but that period may not be  
14 more than the last one hundred eighty months of employment. Months not employed  
15 are excluded in arriving at the thirty-six months to be used for the purpose of  
16 computing an average. If the participating member has worked for less than thirty-six  
17 months at the normal retirement date, the final average salary is the average salary for  
18 the total months of employment.

- 19 3. Retirement dates are defined as follows:

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



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

1 g. Early retirement date, except for a national guard security officer or firefighter or a  
2 peace officer or correctional officer employed by the bureau of criminal  
3 investigation or by a political subdivision, is the first day of the month next  
4 following the month in which the member attains the age of fifty-five years and  
5 has completed three years of eligible employment. For a national guard security  
6 officer or firefighter, early retirement date is the first day of the month next  
7 following the month in which the national guard security officer or firefighter  
8 attains the age of fifty years and has completed at least three years of eligible  
9 employment. For a peace officer or correctional officer employed by the bureau of  
10 criminal investigation or by a political subdivision, early retirement date is the first  
11 day of the month next following the month in which the peace officer or  
12 correctional officer attains the age of fifty years and has completed at least three  
13 years of eligible employment.

14 h. Disability retirement date is the first day of the month after a member becomes  
15 permanently and totally disabled, according to medical evidence called for under  
16 the rules of the [boardoffice](#), and has completed at least one hundred eighty days  
17 of eligible employment. For supreme and district court judges, permanent and  
18 total disability is based solely on a judge's inability to perform judicial duties  
19 arising out of physical or mental impairment, as determined pursuant to rules  
20 adopted by the [boardoffice](#) or as provided by subdivision a of subsection 3 of  
21 section 27-23-03. A member is eligible to receive disability retirement benefits  
22 only if the member:

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

26 A member is eligible to continue to receive disability benefits as long as the  
27 permanent and total disability continues and the member submits the necessary  
28 documentation and undergoes medical testing required by the [boardoffice](#), or for  
29 as long as the member participates in a rehabilitation program required by the  
30 [boardoffice](#), or both. If the [boardoffice](#) determines that a member no longer meets  
31 the eligibility definition, the [boardoffice](#) may discontinue the disability retirement

1 benefit. The boardoffice may pay the cost of any medical testing or rehabilitation  
2 services itthe office deems necessary and these payments are appropriated from  
3 the retirement fund for those purposes.

4 4. The boardoffice shall calculate retirement benefits as follows:

5 a. Normal retirement benefits for all retirees, except supreme and district court  
6 judges, reaching normal retirement date equal an annual amount, payable  
7 monthly, comprised of a service benefit and a prior service benefit, as defined in  
8 this chapter, which is determined as follows:

9 (1) Service benefit equals two percent of final average salary multiplied by the  
10 number of years of service employment.

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

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

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

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

26 c. Postponed retirement benefits are calculated as for single life benefits for those  
27 members who retired on or after July 1, 1977.

28 d. Early retirement benefits are calculated as for single life benefits accrued to the  
29 date of termination of employment, but must be actuarially reduced to account for  
30 benefit payments beginning prior to the normal retirement date, which is the  
31 earlier of age sixty-five or the age at which current service plus age equals

1 eighty-five. Except for a national guard security officer or firefighter, a peace  
2 officer or correctional officer employed by the bureau of criminal investigation or  
3 by a political subdivision, or a supreme court or district court judge, early  
4 retirement benefits for members first enrolled after December 31, 2015, are  
5 calculated for single life benefits accrued to the date of termination of  
6 employment, but must be reduced by fixed rate of eight percent per year to  
7 account for benefit payments beginning before the normal retirement date. A  
8 retiree, other than a supreme or district court judge, is eligible for early retirement  
9 benefits only after having completed three years of eligible employment. A  
10 supreme or district court judge retiree is eligible for early retirement benefits only  
11 after having completed five years of eligible employment.

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

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

28 6. If before retiring a member dies after completing three years of eligible employment,  
29 except for supreme and district court judges, who must have completed five years of  
30 eligible employment, the ~~board~~office shall pay the member's account balance to the  
31 member's designated beneficiary as provided in this subsection. If the member has

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

- 17 a. If the member was a supreme or district court judge, the surviving spouse may  
18 select one of the following optional forms of payment:
- 19 (1) A lump sum payment of the member's retirement account as of the date of  
20 death.
- 21 (2) Payments as calculated for the deceased member as if the member was of  
22 normal retirement age at the date of death, payable until the spouse dies.
- 23 b. The surviving spouse of all other members may select one of the following  
24 options:
- 25 (1) A lump sum payment of the member's retirement account as of the date of  
26 death.
- 27 (2) Payment of a monthly retirement benefit equal to fifty percent of the  
28 deceased member's accrued single life retirement benefits until the spouse  
29 dies.
- 30 (3) If the member dies on or after the member's normal retirement date, the  
31 payment of a monthly retirement benefit equal to an amount that would have

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

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

21           8. The surviving spouse of a member receiving retirement benefits must be the  
22           member's primary beneficiary unless there is no surviving spouse or the surviving  
23           spouse designates an alternate beneficiary in writing. If a member receiving retirement  
24           benefits or the member's surviving spouse receiving retirement benefits dies before  
25           the total amount of benefits paid to either or both equals the amount of the member's  
26           account balance at retirement, the difference must be paid to the named beneficiary of  
27           the recipient or, if there is no named beneficiary, to the recipient's estate.

28           9. The **boardoffice** shall adopt rules providing for the receipt of retirement benefits in the  
29           following optional forms:

30           a. Single life.

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

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

- 16       10. The fund may accept rollovers from other eligible plans under rules adopted by the
- 17       boardoffice for the purchase of additional service credit, but only to the extent the
- 18       transfer is a rollover contribution that meets the requirement of section 408 of the
- 19       Internal Revenue Code.
- 20       11. The boardoffice may accept trustee-to-trustee transfers as permitted by Internal
- 21       Revenue Code section 403(b)(13) and section 457(e)(17) from an Internal Revenue
- 22       Code section 403(b) annuity or Internal Revenue Code section 457 deferred
- 23       compensation plan for the purchase of permissive service credit, as defined in Internal
- 24       Revenue Code section 415(n)(3)(A) or as repayment of a cashout from a
- 25       governmental plan under Internal Revenue Code section 415(k)(3).
- 26       12. The boardoffice may establish individual retirement accounts and individual retirement
- 27       annuities as permitted under section 408(q) of the Internal Revenue Code to allow
- 28       employees to make voluntary employee contributions. The boardoffice may adopt
- 29       rules to implement and administer the accounts and annuities under this section.

30       **SECTION 45. AMENDMENT.** Section 54-52-17.2 of the North Dakota Century Code is  
31 amended and reenacted as follows:

**54-52-17.2. Multiple plan membership - Eligibility for benefits - Amount of benefits.**

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

(1) The teachers' fund for retirement.

(2) The highway patrolmen's retirement system.

(3) The teachers' insurance and annuity association of America - college retirement equities fund (TIAA-CREF), for service credit earned while employed by North Dakota institutions of higher education.

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

b. Pursuant to rules adopted by the [boardoffice](#), an employee who has service credit in the system and in any of the plans described in paragraphs 1 and 2 of subdivision a is entitled to benefits under this chapter. The benefits of a temporary employee employed after July 31, 2015, must be calculated using the benefit formula in section 54-52-17. A permanent employee or a temporary employee employed before August 1, 2015, may elect to have benefits calculated using the benefit formula in section 54-52-17 under either of the following methods:

(1) The final average salary as calculated in section 54-52-17. If the participating member has worked for less than thirty-six months at retirement, the final average salary is the average salary for the total months of employment.

(2) The final average salary as calculated in section 54-52-17 for employment with any of the three eligible employers under this subdivision, with service credit not to exceed one month in any month when combined with the service credit earned in the alternate retirement system.

The [boardoffice](#) shall calculate benefits for an employee under this subsection by using only those years of service credit earned under this chapter.

2. a. If an employee who is eligible to participate in the public employees retirement system is also employed in any position when membership in an alternate



1 retirement system is required, then, for purposes of current participation, the  
2 employee is a member of each applicable retirement system. The employer shall  
3 pay over to each retirement system the member assessment and employer  
4 contributions at the rates currently existing for that retirement system.

- 5 b. If an employee described in subdivision a was employed prior to August 1, 2003,  
6 and has dual membership rights, the employee may elect to begin participation in  
7 the alternate plan pursuant to the plan provisions on August 1, 2003, or may  
8 continue participation according to the plan provisions in effect on July 31, 2003.  
9 An employee's election under this subdivision is ineffective unless delivered to  
10 the public employees retirement system administrative offices by five p.m. on  
11 October 31, 2003. If an election is not received by the public employees  
12 retirement system, the participation and benefit calculation requirements in effect  
13 on July 31, 2003, apply to that employee.

14 **SECTION 46. AMENDMENT.** Section 54-52-17.3 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **54-52-17.3. Purchase of legislative service credit.**

17 A member may purchase service credit for the time during each legislative session spent  
18 serving as a member of the legislative assembly while holding eligible employment under this  
19 chapter. The member shall pay for this service credit an amount equal to the required member  
20 assessments and employer contributions plus interest as established by the [board office](#).  
21 Service credit for legislative sessions prior to July 1, 1985, must be purchased before  
22 January 1, 1986. Service credit for each later legislative session must be purchased within one  
23 year after the adjournment of that legislative session.

24 **SECTION 47. AMENDMENT.** Section 54-52-17.4 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26 **54-52-17.4. Purchase of additional credit.**

- 27 1. A participating member may elect to purchase credit for years of service and prior  
28 service for which the participating member is not presently receiving credit. A  
29 participating member is entitled to purchase additional credit under this section for the  
30 following service or prior service, except this service is not eligible for credit if the  
31 years claimed also qualify for retirement benefits from another retirement system:

- 1           a. Active prior employment in the armed forces of the United States, except as  
2           provided in section 54-52-17.14, for up to four years of credit.
- 3           b. Employment as a permanent employee by a public employer either within or  
4           outside the state of North Dakota.
- 5           c. Employment as a permanent employee by a political subdivision participating in  
6           the public employees retirement system which did not pay the cost of past  
7           service benefits under section 54-52-02.1.
- 8           d. Service the participating member did not elect to repurchase upon re-  
9           employment under section 54-52-02.6.
- 10          e. Service of an eligible employee, who exercised the privilege to withdraw from the  
11          predecessor plan to the public employees retirement system under subsection 10  
12          of section 54-52-17 as created by section 13 of chapter 499 of the 1977 Session  
13          Laws.
- 14          f. Employment as a permanent employee by the federal government.
- 15      2. A participating member may elect to purchase credit for the following absences for  
16      which the participating member is not receiving service credit:
  - 17          a. Employer-approved leave of absence; or
  - 18          b. Months away from work while participating as a seasonal employee.
- 19      3. Supreme and district court judges under the public employees retirement system may  
20      elect to purchase credit for the following years of service:
  - 21          a. Except as provided in section 54-52-17.14, for up to four years of credit for active  
22          employment in the armed forces of the United States.
  - 23          b. As a county judge in a county or counties that did not participate in the public  
24          employees retirement system under this chapter.
  - 25          c. Participation in the public employees retirement system as a county judge may  
26          be converted to credit in the judges' retirement system.
- 27      4. The participating member may purchase credit under this section, or the participating  
28      member's employer may purchase for the participating member, by paying to the  
29      boardoffice an amount equal to the actuarial cost to the fund of providing the credit. If  
30      the participating member purchases credit pursuant to subdivision d of subsection 1,  
31      the participating member must pay to the boardoffice an amount equal to the greater

1 of the actuarial cost to the fund of providing the credit, or the amount the participating  
2 member received upon taking a refund of the participating member's account balance,  
3 plus interest at the actuarial rate of return from the time the participating member was  
4 issued the refund. If the participating member is not repurchasing all of the credit  
5 originally refunded, the participating member must pay a pro rata amount of the  
6 refunded amount determined by dividing the refunded amount by the number of  
7 months of credit refunded, multiplying that amount times the number of months of  
8 credit the participating member seeks to repurchase, and adding interest at the  
9 actuarial rate of return. The participating member or the participating member's  
10 employer shall also pay to the retiree health benefits fund established under section  
11 54-52.1-03.2 an amount equal to the actuarial cost to that fund for the additional credit.  
12 This contribution must be recorded as a member contribution pursuant to section  
13 54-52.1-03.2. The ~~board~~office shall adopt rules governing the purchase of additional  
14 credit under this section.

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

20 6. In addition to service credit identified in this section, a vested participating member  
21 may purchase up to five years of service credit unrelated to any other eligible service.

22 **SECTION 48. AMENDMENT.** Section 54-52-17.6 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24 **54-52-17.6. Benefit payments to alternate payee under qualified domestic relations**  
25 **order.**

26 1. The ~~board~~office shall pay retirement benefits in accordance with the applicable  
27 requirements of any qualified domestic relations order. The ~~board~~office shall review a  
28 domestic relations order submitted to it to determine if the domestic relations order is  
29 qualified under this section and under rules established by the ~~board~~office for  
30 determining the qualified status of domestic relations orders and administering  
31 distributions under the qualified orders. Upon determination that a domestic relations

1 order is qualified, the **boardoffice** shall notify the participating member and the named  
2 alternate payee of its receipt of the qualified domestic relations order.

3 2. A "qualified domestic relations order" for purposes of this section means any  
4 judgment, decree, or order, including approval of a property settlement agreement,  
5 which relates to the provision of child support, spousal support, or marital property  
6 rights to a spouse, former spouse, child, or other dependent of a participating member,  
7 is made pursuant to a North Dakota domestic relations law, and which creates or  
8 recognizes the existence of an alternate payee's right to, or assigns to an alternate  
9 payee the right to, receive all or a part of the benefits payable to the participating  
10 member. A qualified domestic relations order may not require the **boardoffice** to  
11 provide any type or form of benefit, or any option, not otherwise provided under the  
12 public employees retirement system, or to provide increased benefits as determined  
13 on the basis of actuarial value. However, a qualified domestic relations order may  
14 require the payment of benefits at the early retirement date notwithstanding that the  
15 participating member has not terminated eligible employment. A qualified domestic  
16 relations order must specify:

- 17 a. The name and the last-known mailing address of the participating member and  
18 the name and mailing address of each alternate payee covered by the order;  
19 b. The amount or percentage of the participating member's benefits to be paid by  
20 the plan to each alternate payee;  
21 c. The number of payments or period to which the order applies; and  
22 d. Each retirement plan to which the order applies.

23 **SECTION 49. AMENDMENT.** Section 54-52-17.11 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25 **54-52-17.11. Judges postretirement adjustments.**

26 A supreme or district court judge or that person's beneficiary who, on December 31, 2007,  
27 is receiving retirement benefits under subdivision b of subsection 4 of section 54-52-17, is  
28 entitled to receive an increase in benefits equal to two percent of the individual's present  
29 benefits with the increase payable beginning January 1, 2008. A supreme or district court judge  
30 or that person's beneficiary who, on December 31, 2008, is receiving retirement benefits under  
31 subdivision b of subsection 4 of section 54-52-17, is entitled to receive an increase in benefits

1 equal to two percent of the individual's present benefits with the increase payable beginning  
2 January 1, 2009. The increases allowed by this section may only be given if the ~~public-~~  
3 ~~employees retirement board~~office determines there is actuarial margin sufficient to pay the  
4 increases.

5 **SECTION 50. AMENDMENT.** Section 54-52-17.13 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **54-52-17.13. Supplemental retiree benefit payment.**

8 If the ~~board~~office determines that the fund has obtained a total return on investments of  
9 nine and six hundredths percent or higher for the fiscal year ending June 30, 2007, or June 30,  
10 2008, the ~~board~~office shall authorize an additional payment equal to seventy-five percent of the  
11 January retirement allowance following the fiscal yearend to each eligible retiree in pay status  
12 as of that January, excluding judicial retirees and beneficiaries, but including joint and survivor  
13 and term certain beneficiaries, under this chapter. The ~~board~~office may only make one payment  
14 to each retiree under this section.

15 **SECTION 51. AMENDMENT.** Section 54-52-23 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **54-52-23. Savings clause - Plan modifications.**

18 If the ~~board~~office determines that any section of this chapter does not comply with  
19 applicable federal statutes or rules, the ~~board~~office shall adopt appropriate terminology with  
20 respect to that section as will comply with those federal statutes or rules, subject to the approval  
21 of the employee benefits programs committee. Any plan modifications made by the ~~board~~office  
22 pursuant to this section are effective until the effective date of any measure enacted by the  
23 legislative assembly providing the necessary amendments to this chapter to ensure compliance  
24 with the federal statutes or rules.

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

27 **54-52-26. Confidentiality of records.**

28 All records relating to the retirement benefits of a member or a beneficiary under this  
29 chapter, chapter 54-52.2, and chapter 54-52.6 are confidential and are not public records.  
30 Information and records may be disclosed, under rules adopted by the ~~board~~office, only to:

- 1       1. A person to whom the member has given written consent to have the information  
2       disclosed.
- 3       2. A person legally representing the member, upon proper proof of representation, and  
4       unless the member specifically withholds consent.
- 5       3. A person authorized by a court order.
- 6       4. A member's participating employer, limited to information concerning the member's  
7       years of service credit and years of age. The **boardoffice** may share other types of  
8       information as needed by the employer to validate the employer's compliance with  
9       existing state or federal laws. Any information provided to the member's participating  
10      employer under this subsection must remain confidential except as provided under  
11      subsection 6.
- 12     5. The administrative staff of the retirement and investment office for purposes relating to  
13      membership and benefits determination.
- 14     6. State or federal agencies for purposes of reporting on a service provider's provision of  
15      services or when the employer must supply information to an agency to validate the  
16      employer's compliance with existing state or federal laws.
- 17     7. Member interest groups approved by the **boardoffice** on a third-party blind list basis,  
18      limited to information concerning the member's participation, name, and address.
- 19     8. The member's spouse or former spouse, that individual's legal representative, and the  
20      judge presiding over the member's dissolution proceeding for purposes of aiding the  
21      parties in drafting a qualified domestic relations order under section 54-52-17.6. The  
22      information disclosed under this subsection must be limited to information necessary  
23      for drafting the order.
- 24     9. Beneficiaries designated by a participating member or a former participating member  
25      to receive benefits after the member's death, but only after the member's death.  
26      Information relating to beneficiaries may be disclosed to other beneficiaries of the  
27      same member.
- 28     10. The general public, but only after the **boardoffice** has been unable to locate the  
29      member for a period in excess of two years, and limited to the member's name and  
30      the fact that the **boardoffice** has been unable to locate the member.

11. Any person if the **boardoffice** determines disclosure is necessary for treatment, operational, or payment purposes, including the completion of necessary documents.
12. A government child support enforcement agency for purposes of establishing paternity or establishing, modifying, or enforcing a child support obligation of the member.
13. A person if the information relates to an employer service purchase, but the information must be limited to the member's name and employer, the retirement program in which the member participates, the amount of service credit purchased by the employer, and the total amount expended by the employer for that service credit purchase, and that information may only be obtained from the member's employer.

**SECTION 53. AMENDMENT.** Section 54-52-28 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-28. Internal Revenue Code compliance.**

The **boardoffice** shall administer the plan in compliance with the following sections of the Internal Revenue Code, as amended, as it applies for governmental plans.

1. Section 415, including the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code.
  - a. The defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as approved by the legislative assembly, must be adjusted under section 415(d) of the Internal Revenue Code, effective January first of each year following a regular legislative session. The adjustment of the defined benefit dollar limitation under section 415(d) applies to participating members who have had a separation from employment, but that member's benefit payments may not reflect the adjusted limit prior to January first of the calendar year in which the adjustment applies.
  - b. If a participating member's benefit is increased by plan amendment after the commencement of benefit payments, the member's annual benefit may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as adjusted under section 415(d) for the calendar year in which the increased benefit is payable.
  - c. If a participating member is, or ever has been, a participant in another defined benefit plan maintained by the employer, the sum of the participant's annual

1 benefits from all the plans may not exceed the defined benefit dollar limitation  
2 under section 415(b)(1)(A) of the Internal Revenue Code. If the participating  
3 member's employer-provided benefits under all such defined benefit plans would  
4 exceed the defined benefit dollar limitation, the benefit must be reduced to  
5 comply with section 415 of the Internal Revenue Code. The reduction must be  
6 made pro rata between the plans, in proportion to the participating member's  
7 service in each plan.

8 2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code,  
9 including the incidental death benefit requirements under section 401(a)(9)(G), and the  
10 regulations issued under that provision to the extent applicable to governmental plans.  
11 Accordingly, benefits must be distributed or begin to be distributed no later than a  
12 member's required beginning date, and the required minimum distribution rules  
13 override any inconsistent provision of this chapter. A member's required beginning  
14 date is April first of the calendar year following the later of the calendar year in which  
15 the member attains age seventy and one-half or terminates employment.

16 3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue  
17 Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).

18 4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly,  
19 a distributee may elect to have an eligible rollover distribution, as defined in  
20 section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible  
21 retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code,  
22 specified by the distributee.

23 5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued,  
24 the rights of all affected participating members to accrued retirement benefits under  
25 this chapter as of the date of termination or discontinuance is nonforfeitable, to the  
26 extent then funded.

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

29 **54-52-29. Employer service purchases.**

30 A participating employer may purchase additional service credit on behalf of a member  
31 under the following conditions:



- 1       1. The member may not be given the option to choose between an employer service
- 2           purchase and an equivalent amount paid in cash.
- 3       2. The member must meet one of the following conditions at the time the purchase is
- 4           made:
- 5           a. The member's age plus service credit must be equal to or greater than
- 6                seventy-five; or
- 7           b. The member's age must be at least fifty-five and the member must have at least
- 8                three years of service credit.
- 9       3. The ~~board~~office must determine the purchase price on an actuarially equivalent basis,
- 10           taking into account the contributions necessary for both the retirement program and
- 11           the retiree health benefits fund.
- 12       4. The purchase must be completed before the member's retirement.
- 13       5. The employer may purchase a maximum of five years of service credit on behalf of the
- 14           member.
- 15       6. The employer must pay the purchase price for the service credit purchased under this
- 16           section in a lump sum.

17       **SECTION 55. AMENDMENT.** Section 54-52.1-01 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19       **54-52.1-01. Definitions.**

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

21       1. ~~"Board" means the public employees retirement board.~~

22       ~~2.~~ "Carrier" means:

- 23           a. For the hospital benefits coverage, an insurance company authorized to do
- 24                business in the state, or a nonprofit hospital service association, or a prepaid
- 25                group practice hospital care plan authorized to do business in the state, or the
- 26                state if a self-insurance plan is used for providing hospital benefits coverage.
- 27           b. For the medical benefits coverage, an insurance company authorized to do
- 28                business in the state, or a nonprofit medical service association, or a prepaid
- 29                group practice medical care plan authorized to do business in the state, or the
- 30                state if a self-insurance plan is used for providing medical benefits coverage.

1 c. For the life insurance benefits coverage, an insurance company authorized to do  
2 business in the state.

3 ~~3.2.~~ "Department, board, or agency" means the departments, boards, agencies, or  
4 associations of this state, and includes the state's charitable, penal, and higher  
5 educational institutions; the Bank of North Dakota; the state mill and elevator  
6 association; and counties, cities, district health units, and school districts.

7 3. "Director" means the executive director of the public employees retirement system  
8 office.

9 4. "Eligible employee" means every permanent employee who is employed by a  
10 governmental unit, as that term is defined in section 54-52-01. "Eligible employee"  
11 includes members of the legislative assembly, judges of the supreme court, paid  
12 members of state or political subdivision boards, commissions, or associations,  
13 full-time employees of political subdivisions, elective state officers as defined by  
14 subsection 2 of section 54-06-01, and disabled permanent employees who are  
15 receiving compensation from the North Dakota workforce safety and insurance fund.  
16 As used in this subsection, "permanent employee" means one whose services are not  
17 limited in duration, who is filling an approved and regularly funded position in a  
18 governmental unit, and who is employed at least seventeen and one-half hours per  
19 week and at least five months each year or for those first employed after August 1,  
20 2003, is employed at least twenty hours per week and at least twenty weeks each year  
21 of employment. For purposes of sections 54-52.1-04.1, 54-52.1-04.7, 54-52.1-04.8,  
22 and 54-52.1-11, "eligible employee" includes retired and terminated employees who  
23 remain eligible to participate in the uniform group insurance program pursuant to  
24 applicable state or federal law.

25 5. "Health maintenance organization" means an organization certified to establish and  
26 operate a health maintenance organization in compliance with chapter 26.1-18.1.

27 6. "Hospital benefits coverage" means a plan which either provides coverage for, or  
28 pays, or reimburses expenses for hospital services incurred in accordance with the  
29 uniform contract.

30 7. "Life insurance benefits coverage" means a plan which provides both term life  
31 insurance and accidental death and dismemberment insurance in amounts determined

1 by the ~~board~~office, with a minimum of one thousand dollars provided for the term life  
2 insurance portion of the coverage.

3 8. "Medical benefits coverage" means a plan which either provides coverage for, or pays,  
4 or reimburses expenses for medical services in accordance with the uniform contract.

5 9. "Member contribution" means the payment by the member into the retiree health  
6 benefits fund pursuant to sections 54-52-02.9 and 54-52-17.4.

7 10. "Member's account balance" means the member's contributions plus interest at the  
8 rate set by the ~~board~~office.

9 11. "Office" means the public employees retirement system office.

10 12. "Temporary employee" means a governmental unit employee who is not filling an  
11 approved and regularly funded position in an eligible governmental unit and whose  
12 services may or may not be limited in duration.

13 **SECTION 56. AMENDMENT.** Section 54-52.1-02 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **54-52.1-02. Uniform group insurance program created - Formation into subgroups.**

16 In order to promote the economy and efficiency of employment in the state's service, reduce  
17 personnel turnover, and offer an incentive to high-grade individuals to enter and remain in the  
18 service of state employment, there is created a uniform group insurance program. The uniform  
19 group must be composed of eligible and retired employees and be formed to provide hospital  
20 benefits coverage, medical benefits coverage, and life insurance benefits coverage in the  
21 manner set forth in this chapter. The uniform group may be divided into the following subgroups  
22 at the discretion of the ~~board~~office:

23 1. Medical and hospital benefits coverage group consisting of active eligible employees  
24 and retired employees not eligible for medicare, except for employees who first retire  
25 after the effective date of this section and are not eligible for medicare on their  
26 retirement. In determining premiums for coverage under this subsection for retired  
27 employees not eligible for medicare, the rate for a non-medicare retiree single plan is  
28 one hundred fifty percent of the active member single plan rate, the rate for a  
29 non-medicare retiree family plan of two people is twice the non-medicare retiree single  
30 plan rate, and the rate for a non-medicare retiree family plan of three or more persons  
31 is two and one-half times the non-medicare retiree single plan rate.

1           2. In addition to the coverage provided in subsection 1, another coverage option may be  
2           provided for retired employees not eligible for medicare, except for employees who  
3           first retire after the effective date of this section and are not eligible for medicare on  
4           their retirement, provided the option does not increase the implicit subsidy as  
5           determined by the governmental accounting standards board's other postemployment  
6           benefit reporting procedure. In offering this additional option, the **boardoffice** may have  
7           an open enrollment but thereafter enrollment for this option must be as specified in  
8           section 54-52.1-03.

9           3. Retired medicare-eligible employee group medical and hospital benefits coverage.

10          4. Active eligible employee life insurance benefits coverage.

11          5. Retired employee life insurance benefits coverage.

12          6. Terminated employee continuation group medical and hospital benefits coverage.

13          7. Terminated employee conversion group medical and hospital benefits coverage.

14          8. Dental benefits coverage.

15          9. Vision benefits coverage.

16          10. Long-term care benefits coverage.

17          11. Employee assistance benefits coverage.

18          12. Prescription drug coverage.

19          **SECTION 57. AMENDMENT.** Section 54-52.1-03 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21           **54-52.1-03. Employee participation in plan - Employee to furnish information -**  
22 **Benefits to continue upon retirement or termination.**

23           1. Any eligible employee may be enrolled in the uniform group insurance program  
24           created by this chapter by requesting enrollment with the employing department. If an  
25           eligible employee does not enroll in the uniform group insurance program at the time  
26           of beginning employment, in order to enroll at a later time the eligible employee must  
27           meet minimum requirements established by the **boardoffice**. An employing department  
28           may not require an active eligible employee to request coverage under the uniform  
29           group insurance program as a prerequisite to receive the minimum employer-paid life  
30           insurance benefits coverage or employee assistance program benefits coverage.

- 1       2.    Within five days after the expiration of the payroll period during which enrollment was  
2       requested, the employing department shall enroll the employee with the boardoffice.  
3       The employee's insurance coverage becomes effective on the date of enrollment.
- 4       3.    A retiree who has accepted a periodic distribution from the defined contribution  
5       retirement plan pursuant to section 54-52.6-13 who the boardoffice determines is  
6       eligible for participation in the uniform group insurance program or has accepted a  
7       retirement allowance from the public employees retirement system, the highway  
8       patrolmen's retirement system, the teachers' insurance and annuity association of  
9       America - college retirement equities fund for service credit earned while employed by  
10      North Dakota institutions of higher education, the retirement system established by job  
11      service North Dakota under section 52-11-01, the judges' retirement system  
12      established under chapter 27-17, or the teachers' fund for retirement may elect to  
13      participate in the uniform group under this chapter without meeting minimum  
14      requirements at age sixty-five, when the member's spouse reaches age sixty-five,  
15      upon the receipt of a benefit, or when the spouse terminates employment. If a retiree  
16      or surviving spouse does not elect to participate at the times specified in this  
17      subsection, the retiree or surviving spouse must meet the minimum requirements  
18      established by the boardoffice. Subject to sections 54-52.1-03.2 and 54-52.1-03.3,  
19      each retiree or surviving spouse shall pay directly to the boardoffice the premiums in  
20      effect for the coverage then being provided. A retiree or surviving spouse who has met  
21      the initial eligibility requirements of this subsection to begin participation in the uniform  
22      group insurance program remains eligible as long as the retiree maintains the retiree's  
23      participation in the program by paying the required premium pursuant to rules adopted  
24      by the boardoffice.
- 25      4.    Upon the termination of employment when the employee is not eligible to participate  
26      under subsection 3 or 5 or applicable federal law, that employee cannot continue as a  
27      member of the uniform group.
- 28      5.    A member or former member of the legislative assembly or that person's surviving  
29      spouse may elect to continue membership in the uniform group within the applicable  
30      time limitations after either termination of eligible employment as a member of the  
31      legislative assembly or termination of other eligible employment or, for a surviving

1 spouse, upon the death of the member or former member of the legislative assembly.

2 The member or former member of the legislative assembly or that person's surviving  
3 spouse shall pay the premiums in effect for the coverage provided directly to the  
4 **boardoffice**.

5 6. Each eligible employee requesting enrollment shall furnish the appropriate person in  
6 the employing department, board, or agency with such information and in such form as  
7 prescribed by the **boardoffice** to enable the enrollment of the employee, or employee  
8 and dependents, in the uniform group insurance program created by this chapter.

9 7. If the participating employee is a faculty member in a state charitable, penal, or  
10 educational institution who receives a salary or wages on less than a twelve-month  
11 basis and has signed a contract to teach for the next ensuing school year, the agency  
12 shall make arrangements to include that employee in the insurance program on a  
13 twelve-month basis and make the contribution authorized by this section for each  
14 month of the twelve-month period.

15 **SECTION 58. AMENDMENT.** Section 54-52.1-03.1 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **54-52.1-03.1. Certain political subdivisions authorized to join uniform group**  
18 **insurance program - Employer contribution.**

19 If eligible under federal law, a political subdivision may extend the benefits of the uniform  
20 group insurance program under this chapter to its permanent employees, subject to minimum  
21 requirements established by the **boardoffice** and a minimum period of participation of sixty  
22 months. If the political subdivision withdraws from participation in the uniform group insurance  
23 program, before completing sixty months of participation, unless federal or state laws or rules  
24 are modified or interpreted in a way that makes participation by the political subdivision in the  
25 uniform group insurance program no longer allowable or appropriate, the political subdivision  
26 shall make payment to the **boardoffice** in an amount equal to any expenses incurred in the  
27 uniform group insurance program that exceed income received on behalf of the political  
28 subdivision's employees as determined under rules adopted by the **boardoffice**. The Garrison  
29 Diversion Conservancy District, and district health units required to participate in the public  
30 employees retirement system under section 54-52-02, shall participate in the uniform group  
31 insurance program under the same terms and conditions as state agencies. A retiree who has

1 accepted a retirement allowance from a participating political subdivision's retirement plan may  
2 elect to participate in the uniform group under this chapter without meeting minimum  
3 requirements at age sixty-five, when the employee's spouse reaches age sixty-five, upon the  
4 receipt of a benefit, when the political subdivision joins the uniform group insurance plan if the  
5 retiree was a member of the former plan, or when the spouse terminates employment. If a  
6 retiree or surviving spouse does not elect to participate at the times specified in this section, the  
7 retiree or surviving spouse must meet the minimum requirements established by the  
8 **boardoffice**. Each retiree or surviving spouse shall pay directly to the **boardoffice** the premiums  
9 in effect for the coverage then being provided. The **boardoffice** may require documentation that  
10 the retiree has accepted a retirement allowance from an eligible retirement plan other than the  
11 public employees retirement system.

12 **SECTION 59. AMENDMENT.** Section 54-52.1-03.2 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **54-52.1-03.2. Retiree health benefits fund - Appropriation.**

- 15 1. The **boardoffice** shall establish a retiree health benefits fund account with the Bank of  
16 North Dakota for the purpose of prefunding and providing hospital benefits coverage  
17 and medical benefits coverage and prescription drug coverage under any health  
18 insurance program and dental, vision, and long-term care benefits coverage under the  
19 uniform group insurance program for retired eligible employees or surviving spouses  
20 of retired eligible employees and their dependents as provided in this chapter. The  
21 state shall contribute monthly to the retiree health benefits fund an amount equal to  
22 one and fourteen hundredths percent of the monthly salaries and wages of all  
23 participating members of the highway patrolmen's retirement system under chapter  
24 39-03.1, and one and fourteen hundredths percent of the monthly salaries of all  
25 supreme or district court judges who are participating members of the public  
26 employees retirement system under chapter 54-52. Each governmental unit that  
27 contributes to the public employees retirement system fund under section 54-52-06 or  
28 the retirement plan under chapter 54-52.6 shall contribute monthly to the retiree health  
29 benefits fund an amount equal to one and fourteen hundredths percent of the monthly  
30 salaries or wages of all participating members of the public employees retirement  
31 system under chapter 54-52 or chapter 54-52.6, except for nonteaching employees of

1 the superintendent of public instruction who elect to participate in the public  
2 employees retirement system pursuant to section 54-52-02.13 and employees of the  
3 state board for career and technical education who elect to participate in the public  
4 employees retirement system pursuant to section 54-52-02.14. For nonteaching  
5 employees of the superintendent of public instruction who elect to participate in the  
6 public employees retirement system pursuant to section 54-52-02.13, the  
7 superintendent of public instruction shall contribute monthly to the retiree health  
8 benefits fund an amount equal to three and twenty-four hundredths percent of the  
9 monthly salaries or wages of those nonteaching employee members, beginning on the  
10 first of the month following the transfer under section 54-52-02.13 and continuing  
11 thereafter for a period of eight years, after which time the superintendent of public  
12 instruction shall contribute one and fourteen hundredths percent of the monthly salary  
13 or wages of those nonteaching employee members. For employees of the state board  
14 for career and technical education who elect to participate in the public employees  
15 retirement system pursuant to section 54-52-02.14, the state board for career and  
16 technical education shall contribute monthly to the retiree health benefits fund an  
17 amount equal to two and ninety-nine hundredths percent of the monthly salary or  
18 wages of those employee members, beginning on the first of the month following the  
19 transfer under section 54-52-02.14 and continuing thereafter for a period of eight  
20 years, after which time the state board for career and technical education shall  
21 contribute one and fourteen hundredths percent of the monthly salary or wages of  
22 those employee members. The employer of a national guard security officer or  
23 firefighter shall contribute monthly to the retiree health benefits fund an amount equal  
24 to one and fourteen hundredths percent of the monthly salaries or wages of all  
25 national guard security officers or firefighters participating in the public employees  
26 retirement system under chapter 54-52. Job service North Dakota shall reimburse  
27 monthly the retiree health benefits fund for credit received under section 54-52.1-03.3  
28 by members of the retirement program established by job service North Dakota under  
29 section 52-11-01. The [beardoffice](#), as trustee of the fund and in exclusive control of its  
30 administration, shall:



- 1 a. Provide for the investment and disbursement of moneys of the retiree health  
2 benefits fund and administrative expenditures in the same manner as moneys of  
3 the public employees retirement system are invested, disbursed, or expended.
- 4 b. Adopt rules necessary for the proper administration of the retiree health benefits  
5 fund, including enrollment procedures.
- 6 2. All moneys deposited in the fund established under subsection 1, not otherwise  
7 appropriated, are hereby appropriated to the ~~board~~office for the purpose of making  
8 investments for the fund and to make contributions toward hospital and medical  
9 benefits coverage and prescription drug coverage under any health insurance program  
10 and dental, vision, and long-term care benefits coverage under the uniform group  
11 insurance program for eligible retired employees or surviving spouses of eligible  
12 retired employees and their dependents as elected.
- 13 3. If a member terminates employment because of death, permanent and total disability,  
14 or any voluntary or involuntary reason prior to retirement, the member or the member's  
15 designated beneficiary is entitled to the member's account balance at termination. If a  
16 member's account balance is withdrawn, the member relinquishes all rights to benefits  
17 under the retiree health benefits fund.

18 **SECTION 60. AMENDMENT.** Section 54-52.1-03.3 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **54-52.1-03.3. Eligibility for retiree health benefits - Fixed contribution and reduction**  
21 **factors.**

- 22 1. The following persons are entitled to receive credit for hospital and medical benefits  
23 coverage and prescription drug coverage under any health insurance program and  
24 dental, vision, and long-term care benefits coverage under the uniform group  
25 insurance program under subsection 2:
  - 26 a. A member or surviving spouse of the highway patrolmen's retirement system is  
27 eligible for the credit beginning on the date retirement benefits are effective  
28 unless the premium is billed to the employer.
  - 29 b. A member or surviving spouse of the public employees retirement system is  
30 eligible for the credit beginning on the date retirement benefits are effective  
31 unless the premium is billed to the employer.

1 c. A member or surviving spouse of the retirement program established by job  
2 service North Dakota under section 52-11-01 receiving retirement benefits is  
3 eligible for the credit beginning on the date retirement benefits are effective  
4 unless the premium is billed to the employer.

5 d. A retired judge or surviving spouse receiving retirement benefits under the  
6 retirement program established under chapter 27-17 is eligible for the credit  
7 beginning on the date retirement benefits are effective unless the premium is  
8 billed to the employer.

9 e. A former participating member of the defined contribution retirement plan  
10 receiving retirement benefits, or the surviving spouse of a former participating  
11 member of that retirement plan who was eligible to receive or was receiving  
12 benefits, under section 54-52.6-13, is eligible as determined by the [boardoffice](#)  
13 pursuant to its rules.

14 2. The [boardoffice](#) shall calculate the allowable monthly credit toward hospital and  
15 medical benefits coverage and prescription drug coverage under any health insurance  
16 program and dental, vision, and long-term care benefits coverage under the uniform  
17 group insurance program for a person eligible under subsection 1 in an amount equal  
18 to five dollars multiplied by the member's or deceased member's number of years of  
19 credited service under the highway patrolmen's retirement system, the public  
20 employees retirement system, the retirement program established by job service North  
21 Dakota under section 52-11-01, or the judges' retirement program established under  
22 chapter 27-17. For a member of the public employees retirement system receiving an  
23 early retirement benefit or the surviving spouse of that member, or a former  
24 participating member of the defined contribution retirement plan who is receiving a  
25 periodic distribution and would not meet the normal retirement provisions of the public  
26 employees retirement system, the allowable monthly credit must be reduced by three  
27 percent if the member terminates employment within one year prior to attaining the  
28 age of sixty-five and an additional reduction factor of six percent shall apply for each  
29 year the member terminates employment prior to attaining the age of sixty-four. For a  
30 member of the highway patrolmen's retirement system receiving an early retirement  
31 benefit or the surviving spouse of that member, the allowable monthly credit must be

1 reduced by three percent if the member terminates employment within one year prior  
2 to attaining the age of fifty-five and an additional reduction factor of six percent shall  
3 apply for each year the member terminates employment prior to attaining the age of  
4 fifty-four. For a member of the retirement program established by job service North  
5 Dakota under section 52-11-01 receiving an early retirement benefit or a discontinued  
6 service annuity under the plan provisions of that retirement program or the surviving  
7 spouse of that member, the allowable monthly credit must be reduced by three percent  
8 if the member terminates employment within one year prior to attaining the age of  
9 sixty-five and an additional reduction factor of six percent applies for each year the  
10 member terminates employment prior to attaining the age of sixty-four.

11 3. The **boardoffice** shall apply the credit allowable under subsection 2 as elected by the  
12 eligible participant to the payment of monthly premiums required of each person  
13 eligible under subsection 1 for hospital benefits coverage and medical benefits  
14 coverage and prescription drug coverage under any health insurance program and  
15 dental, vision, and long-term care benefits coverage under the uniform group  
16 insurance program. The **boardoffice** shall allow spouses who each have credit under  
17 subsection 2 to combine their credits and shall apply the combined credit to the  
18 required monthly premiums as elected pursuant to this subsection. However, if the  
19 allowable credit under any circumstance exceeds the monthly premium in effect for  
20 selected coverage, that amount of the credit which exceeds the premium is forfeited  
21 and may not be used for any other purpose.

22 4. The **boardoffice** may, as an alternative to the calculation of the allowable monthly  
23 credit under subsection 2, provide actuarially reduced benefit options for the member  
24 and the member's surviving spouse, including a one hundred percent joint and  
25 survivor option or a fifty percent joint and survivor option.

26 **SECTION 61. AMENDMENT.** Section 54-52.1-03.4 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28 **54-52.1-03.4. Temporary employees and employees on unpaid leave of absence.**

29 A temporary employee employed before August 1, 2007, may elect to participate in the  
30 uniform group insurance program by completing the necessary enrollment forms and qualifying  
31 under the medical underwriting requirements of the program if such election is made before

1 January 1, 2015, and if the temporary employee is participating in the uniform group insurance  
2 program on January 1, 2015. In order for a temporary employee employed after July 31, 2007,  
3 to qualify to participate in the uniform group insurance program, the employee must be  
4 employed at least twenty hours per week; must be employed at least twenty weeks each year of  
5 employment; must make the election to participate before January 1, 2015; and must be  
6 participating in the uniform group insurance program as of January 1, 2015. To be eligible to  
7 participate in the uniform group insurance program, a temporary employee first employed after  
8 December 31, 2014, or any temporary employee not participating in the uniform group  
9 insurance program as of January 1, 2015, must meet the definition of a full-time employee  
10 under section 4980H(c)(4) of the Internal Revenue Code [26 U.S.C. 4980H(c)(4)]. Monthly, the  
11 temporary employee or the temporary employee's employer shall pay to the **boardoffice** the  
12 premiums in effect for the coverage being provided. In the case of a temporary employee who is  
13 an applicable taxpayer as defined in section 36B(c)(1)(A) of the Internal Revenue Code [26  
14 U.S.C. 36B(c)(1)(A)], the temporary employee's required contribution for medical and hospital  
15 benefits self-only coverage may not exceed the maximum employee required contribution  
16 specified under section 36B(c)(2)(C) of the Internal Revenue Code [26 U.S.C. 36B(c)(2)(C)],  
17 and the employer shall pay any difference between the maximum employee required  
18 contribution for medical and hospital benefits self-only coverage and the cost of the premiums in  
19 effect for this coverage. An employer may pay health or life insurance premiums for a  
20 permanent employee on an unpaid leave of absence. A political subdivision, department, board,  
21 or agency may make a contribution for coverage under this section.

22 **SECTION 62. AMENDMENT.** Section 54-52.1-04 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24 **54-52.1-04. **BoardOffice** to contract for insurance.**

25 The **boardoffice** shall receive bids for the providing of hospital benefits coverage, medical  
26 benefits coverage, life insurance benefits coverage for a specified term, and employee  
27 assistance program services; may receive bids separately for prescription drug coverage; and  
28 shall accept one or more bids of and contract with the carriers that in the judgment of the  
29 **boardoffice** best serves the interests of the state and its eligible employees. Solicitations must  
30 be made not later than ninety days before the expiration of an existing uniform group insurance  
31 contract. Bids must be solicited by advertisement in a manner selected by the **boardoffice** that

1 will provide reasonable notice to prospective bidders. In preparing bid proposals and evaluating  
2 bids, the **boardoffice** may utilize the services of consultants on a contract basis in order that the  
3 bids received may be uniformly compared and properly evaluated. In determining which bid, if  
4 any, will best serve the interests of eligible employees and the state, the **boardoffice** shall give  
5 adequate consideration to the following factors:

- 6 1. The economy to be effected.
- 7 2. The ease of administration.
- 8 3. The adequacy of the coverages.
- 9 4. The financial position of the carrier, with special emphasis as to its solvency.
- 10 5. The reputation of the carrier and any other information that is available tending to  
11 show past experience with the carrier in matters of claim settlement, underwriting, and  
12 services.

13 The **boardoffice** may reject any or all bids and, in the event it does so, shall again solicit bids as  
14 provided in this section. The **boardoffice** may establish a plan of self-insurance for providing  
15 health insurance benefits coverage only under an administrative services only (ASO) contract or  
16 a third-party administrator (TPA) contract.

17 **SECTION 63. AMENDMENT.** Section 54-52.1-04.1 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19 **54-52.1-04.1. Health maintenance organization contract - Membership option.**

20 Notwithstanding the provisions of section 54-52.1-04, the **boardoffice** may contract with one  
21 or more health maintenance organizations to provide eligible employees the option of  
22 membership in a health maintenance organization. If it makes such a contract, the **boardoffice**  
23 may not require that the health maintenance organization be federally qualified if the health  
24 maintenance organization has a certificate of authority issued by the North Dakota insurance  
25 commissioner. The contract or contracts must be included in the uniform group insurance  
26 program.

27 **SECTION 64. AMENDMENT.** Section 54-52.1-04.2 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29 **54-52.1-04.2. Self-insurance plan for hospital and medical benefits coverage.**

- 30 1. The **boardoffice** may establish a self-insurance plan for providing:
  - 31 a. Health insurance benefits coverage;

- 1           b. Health insurance benefits coverage excluding all or part of prescription drug  
2           coverage; or  
3           c. All or part of prescription drug coverage.
- 4           2. Any self-insurance plan under this section must be provided under an administrative  
5           services only (ASO) contract or a third-party administrator (TPA) contract under the  
6           uniform group insurance program, and may be established only if it is determined by  
7           the boardoffice that an administrative services only or third-party administrator plan is  
8           less costly than the lowest bid submitted by a carrier for underwriting the plan with  
9           equivalent contract benefits. Upon establishing a self-insurance plan, the boardoffice  
10          shall solicit bids for an administrative services only or third-party administrator contract  
11          only every other biennium, and the boardoffice is authorized to renegotiate an existing  
12          administrative services only or third-party administrator contract during the interim. In  
13          addition, individual stop-loss coverage insured by a carrier authorized to do business  
14          in this state must be made part of any self-insured plan. All bids under this section are  
15          due no later than January first, and must be awarded no later than March first,  
16          preceding the end of each biennium. All bids under this section must be opened at a  
17          public meeting ~~of the board~~.

18          **SECTION 65. AMENDMENT.** Section 54-52.1-04.3 of the North Dakota Century Code is  
19          amended and reenacted as follows:

20          **54-52.1-04.3. Contingency reserve fund - Continuing appropriation.**

21          The boardoffice shall establish under a self-insurance plan a contingency reserve fund to  
22          provide for adverse fluctuations in future charges, claims, costs, or expenses of the uniform  
23          group insurance program. The boardoffice shall determine the amount necessary to provide a  
24          balance in the contingency reserve fund between one and one-half months and three months of  
25          claims paid based on the average monthly claims paid during the twelve-month period  
26          immediately preceding March first of each year. The boardoffice also shall determine the  
27          amount necessary to provide an additional balance in the contingency reserve fund between  
28          one month and one and one-half months for claims incurred but not yet reported. The  
29          boardoffice may arrange for the services of an actuarial consultant to assist the boardoffice in  
30          making these determinations. Upon the initial changeover from a contract for insurance  
31          pursuant to section 54-52.1-04 to a self-insurance plan pursuant to section 54-52.1-04.2, the

1 | **boardoffice** must have a plan in place which is reasonably calculated to meet the funding  
2 | requirements of this chapter within sixty months. All moneys in the contingency reserve fund,  
3 | not otherwise appropriated, are appropriated for the payment of claims and other costs of the  
4 | uniform group insurance program during periods of adverse claims or cost fluctuations.

5 |       **SECTION 66. AMENDMENT.** Section 54-52.1-04.4 of the North Dakota Century Code is  
6 | amended and reenacted as follows:

7 |       **54-52.1-04.4. Insurance to cover mammogram examinations.**

8 |       The **boardoffice** shall provide medical benefits coverage under a contract for insurance  
9 | pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2  
10 | for:

- 11 |       1. One baseline mammogram examination for each woman who is at least thirty-five but  
12 |       less than forty years of age.
- 13 |       2. One mammogram examination every year, or more frequently if ordered by a  
14 |       physician, for each woman who is at least forty years of age.

15 |       **SECTION 67. AMENDMENT.** Section 54-52.1-04.6 of the North Dakota Century Code is  
16 | amended and reenacted as follows:

17 |       **54-52.1-04.6. Coverage for treatment of certain disorders.**

18 |       The **boardoffice** shall provide coverage under either a contract for insurance pursuant to  
19 | section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 for coverage  
20 | for surgical and nonsurgical treatment of temporomandibular joint disorder and  
21 | craniomandibular disorder. Coverage must be the same as that for treatment to any other joint  
22 | in the body, and applies if the treatment is administered or prescribed by a physician or a  
23 | dentist. Benefits for the coverage may be limited to a lifetime maximum of ten thousand dollars  
24 | per person for surgery, and two thousand five hundred dollars for nonsurgical treatment.

25 |       **SECTION 68. AMENDMENT.** Section 54-52.1-04.7 of the North Dakota Century Code is  
26 | amended and reenacted as follows:

27 |       **54-52.1-04.7. Uniform group insurance program - Vision and dental plans.**

28 |       The **boardoffice** may establish a dental plan, a vision plan, or both, for eligible employees.  
29 | The **boardoffice** shall receive bids for the plan or plans pursuant to section 54-52.1-04. The  
30 | **boardoffice** may reject any or all bids and provide a plan of self-insurance. Premiums for this  
31 | coverage must be paid by the eligible employee. Any refund, rebate, dividend, experience rating

1 allowance, discount, or other reduction of premium must be credited as provided by section  
2 54-52.1-06.

3 **SECTION 69. AMENDMENT.** Section 54-52.1-04.8 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **54-52.1-04.8. Uniform group insurance program - Long-term care plan.**

6 The boardoffice may establish a long-term care plan for eligible employees. The boardoffice  
7 shall receive bids for the plan under section 54-52.1-04. The boardoffice may reject any or all  
8 bids and provide a plan of self-insurance. Premiums for this plan must be paid by the eligible  
9 employee. Any refund, rebate, dividend, experience rating allowance, discount, or other  
10 reduction of premium must be credited as provided by section 54-52.1-06.

11 **SECTION 70. AMENDMENT.** Section 54-52.1-04.9 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 **54-52.1-04.9. Uniform group insurance program - Employee assistance program.**

14 The boardoffice shall establish an employee assistance program available to persons in the  
15 medical and hospital benefits coverage group. The premium for this coverage must be paid as  
16 provided by section 54-52.1-06. The boardoffice shall receive bids for this program under  
17 section 54-52.1-04. Each department, board, or agency shall obtain employee assistance  
18 program services through the boardoffice for eligible employees and may not enter into any  
19 agreement to obtain employee assistance program services with a third-party provider except  
20 that a department, board, or agency may use its own employee assistance program services to  
21 the extent such services are provided by personnel of that department, board, or agency. As  
22 used in this section, "employee assistance program" means an employer-sponsored service for  
23 employees under which a professional employee assistance program staff assists employees  
24 and their families in finding help for emotional, drug, alcohol, family, health, and other personal  
25 or job-related problems that may be affecting their work performance.

26 **SECTION 71. AMENDMENT.** Section 54-52.1-04.10 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28 **54-52.1-04.10. Insurance to cover dental anesthesia and hospitalization.**

29 The boardoffice shall provide medical benefits coverage under a contract for insurance  
30 pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2



1 for dental anesthesia and hospitalization in the same manner as provided under section  
2 26.1-36-09.9.

3 **SECTION 72. AMENDMENT.** Section 54-52.1-04.11 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **54-52.1-04.11. Insurance to cover foods and food products for inherited metabolic**  
6 **diseases.**

7 The **boardoffice** shall provide medical benefits coverage under a contract for insurance  
8 pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2  
9 for foods and food products for inherited metabolic diseases in the same manner as provided  
10 for under section 26.1-36-09.7.

11 **SECTION 73. AMENDMENT.** Section 54-52.1-04.12 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 **54-52.1-04.12. Insurance to cover medical services related to intoxication.**

14 The **boardoffice** shall provide medical benefits coverage under a contract for insurance  
15 pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52-04.2 for  
16 medical services related to intoxication in the same manner as provided for under subsection 15  
17 of section 26.1-36-05 and section 26.1-36-09.13.

18 **SECTION 74. AMENDMENT.** Section 54-52.1-04.13 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **54-52.1-04.13. (Effective through July 31, 2017) Insurance coverage of telehealth**  
21 **services.**

22 1. As used in this section:

- 23 a. "Distant site" means a site at which a health care provider or health care facility is  
24 located while providing medical services by means of telehealth.
- 25 b. "Health care facility" means any office or institution at which health services are  
26 provided. The term includes hospitals; clinics; ambulatory surgery centers;  
27 outpatient care facilities; nursing homes; nursing, basic, long-term, or assisted  
28 living facilities; laboratories; and offices of any health care provider.
- 29 c. "Health care provider" includes an individual licensed under chapter 43-05,  
30 43-06, 43-12.1 as a registered nurse or as an advanced practice registered

- 1 nurse, 43-13, 43-15, 43-17, 43-26.1, 43-28, 43-32, 43-37, 43-40, 43-41, 43-42,  
2 43-44, 43-45, 43-47, 43-58, or 43-60.
- 3 d. "Originating site" means a site at which a patient is located at the time health  
4 services are provided to the patient by means of telehealth.
- 5 e. "Policy" means health benefits coverage under a contract for insurance pursuant  
6 to section 54-52.1-04 or under a self-insurance plan pursuant to section  
7 54-52.1-04.2.
- 8 f. "Store-and-forward technology" means electronic information, imaging, and  
9 communication that is transferred, recorded, or otherwise stored in order to be  
10 reviewed at a distant site at a later date by a health care provider or health care  
11 facility without the patient present in real time. The term includes telehome  
12 monitoring and interactive audio, video, and data communication.
- 13 g. "Telehealth":
- 14 (1) Means the use of interactive audio, video, or other telecommunications  
15 technology that is used by a health care provider or health care facility at a  
16 distant site to deliver health services at an originating site; and that is  
17 delivered over a secure connection that complies with the requirements of  
18 state and federal laws.
- 19 (2) Includes the use of electronic media for consultation relating to the health  
20 care diagnosis or treatment of a patient in real time or through the use of  
21 store-and-forward technology.
- 22 (3) Does not include the use of audio-only telephone, electronic mail, or  
23 facsimile transmissions.
- 24 2. For all policies that become effective after June 30, 2015, and which do not extend  
25 past June 30, 2017, the ~~board~~office shall provide health benefits coverage under a  
26 policy that provides coverage for health services delivered by means of telehealth  
27 which is the same as the coverage for health services delivered by in-person means.
- 28 3. Payment or reimbursement of expenses for covered health services delivered by  
29 means of telehealth under this section may be established through negotiations  
30 conducted by the ~~board~~office or the ~~board's~~office's contractor with the health services  
31 providers in the same manner as the ~~board~~office establishes payment or

- 1 reimbursement of expenses for covered health services that are delivered by  
2 in-person means.
- 3 4. Coverage under this section may be subject to deductible, coinsurance, and  
4 copayment provisions.
- 5 5. This section does not require:
- 6 a. A policy to provide coverage for health services that are not medically necessary,  
7 subject to the terms and conditions of the policy;
- 8 b. A policy to provide coverage for health services delivered by means of telehealth  
9 if the policy would not provide coverage for the health services if delivered by  
10 in-person means;
- 11 c. A policy to reimburse a health care provider or health care facility for expenses  
12 for health services delivered by means of telehealth if the policy would not  
13 reimburse that health care provider or health care facility if the health services  
14 had been delivered by in-person means; or
- 15 d. A health care provider to be physically present with a patient at the originating  
16 site unless the health care provider who is delivering health services by means of  
17 telehealth determines the presence of a health care provider is necessary.

18 **SECTION 75. AMENDMENT.** Section 54-52.1-04.14 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **54-52.1-04.14. Coverage of cancer treatment medications.**

21 The **boardoffice** shall provide medical benefits coverage under a contract for insurance  
22 pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2  
23 which provides coverage of cancer treatment medications in the same manner as provided  
24 under section 26.1-36-09.14.

25 **SECTION 76. AMENDMENT.** Section 54-52.1-05 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27 **54-52.1-05. Provisions of contract - Term of contract.**

- 28 1. Each uniform group insurance contract entered by the **boardoffice** must be consistent  
29 with the provisions of this chapter, must be signed for the state of North Dakota by the  
30 **chairman of the boarddirector**, and must include the following:

- 1 a. As many optional coverages as deemed feasible and advantageous by the  
2 ~~board~~office.
- 3 b. A detailed statement of benefits offered, including maximum limitations and  
4 exclusions, and such other provisions as the ~~board~~office may deem necessary or  
5 desirable.
- 6 2. The initial term or the renewal term of a fully insured uniform group insurance contract  
7 for hospital benefits coverage, medical benefits coverage, or prescription drug  
8 coverage may not exceed two years.
- 9 a. The ~~board~~office may renew a contract subject to this subsection without soliciting  
10 a bid under section 54-52.1-04 if the ~~board~~office determines the carrier's  
11 performance under the existing contract meets the ~~board's~~ expectations of the  
12 office and the proposed premium renewal amount does not exceed the ~~board's-~~  
13 expectations of the office.
- 14 b. In making a determination under this subsection, the ~~board~~office shall:
- 15 (1) Use the services of a consultant to concurrently and independently prepare  
16 a renewal estimate the ~~board~~office shall consider in determining the  
17 reasonableness of the proposed premium renewal amount.
- 18 (2) Review the carrier's performance measures, including payment accuracy,  
19 claim processing time, member service center metrics, wellness or other  
20 special program participation levels, and any other measures the  
21 ~~board~~office determines relevant to making the determination and shall  
22 consider these measures in determining the ~~board's~~ satisfaction of the office  
23 with the carrier's performance.
- 24 (3) Consider any additional information the ~~board~~office determines relevant to  
25 making the determination.
- 26 c. If the ~~board~~office determines the carrier's performance under the existing contract  
27 does not meet the ~~board's~~ expectations of the office or the proposed premium  
28 renewal amount exceeds the ~~board's~~ expectations of the board and the  
29 ~~board~~office determines to solicit a bid under section 54-52.1-04, the ~~board~~office  
30 shall specify its reasons for the determination to solicit a bid.

1 | **SECTION 77. AMENDMENT.** Section 54-52.1-05.1 of the North Dakota Century Code is  
2 | amended and reenacted as follows:

3 | **54-52.1-05.1. Health insurance benefits coverage - Insured and provider data**  
4 | **disclosure.**

5 | Except as necessary for treatment, payment, or health care operations, a carrier providing  
6 | health insurance benefits coverage under this chapter may not disclose identifiable or  
7 | unidentifiable insured or provider data or information to a related or unrelated health care  
8 | delivery entity. The [boardoffice](#) may establish exceptions to the disclosure limitations under this  
9 | section for the limited purpose of addressing public interest and benefit activities or for the  
10 | limited purpose of addressing research, public health, or health care operations. An exception  
11 | established by the [boardoffice](#) under this section may not be more permissive than allowed  
12 | under state and federal privacy laws.

13 | **SECTION 78. AMENDMENT.** Section 54-52.1-06 of the North Dakota Century Code is  
14 | amended and reenacted as follows:

15 | **54-52.1-06. State contribution.**

16 | Each department, board, or agency shall pay to the [boardoffice](#) each month from its funds  
17 | appropriated for payroll and salary amounts a state contribution in the amount as determined by  
18 | the primary carrier of the group contract for the full single rate monthly premium for each of its  
19 | eligible employees enrolled in the uniform group insurance program and the full rate monthly  
20 | premium, in an amount equal to that contributed under the alternate family contract, including  
21 | major medical coverage, for hospital and medical benefits coverage for spouses and dependent  
22 | children of its eligible employees enrolled in the uniform group insurance program pursuant to  
23 | section 54-52.1-07. The [boardoffice](#) shall then pay the necessary and proper premium amount  
24 | for the uniform group insurance program to the proper carrier or carriers on a monthly basis.  
25 | Any refund, rebate, dividend, experience rating allowance, discount, or other reduction of  
26 | premium amount must be credited at least annually to a separate fund of the uniform group  
27 | insurance program to be used by the [boardoffice](#) to reimburse the administrative expense and  
28 | benefit fund of the public employees retirement program for the costs of administration of the  
29 | uniform group insurance program. In the event an enrolled eligible employee is not entitled to  
30 | receive salary, wages, or other compensation for a particular calendar month, that employee  
31 | may make direct payment of the required premium to the [boardoffice](#) to continue the

1 employee's coverage, and the employing department, board, or agency shall provide for the  
2 giving of a timely notice to the employee of that person's right to make such payment at the time  
3 the right arises.

4 **SECTION 79. AMENDMENT.** Section 54-52.1-06.1 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **54-52.1-06.1. Uniform group insurance program benefits - Continuing appropriation.**

7 The funds necessary to pay the consulting fees and health insurance benefits related to the  
8 uniform group insurance program are hereby appropriated from insurance premiums received  
9 by the ~~board~~office.

10 **SECTION 80. AMENDMENT.** Section 54-52.1-08 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **54-52.1-08. Administration - ~~Board to promulgate rules~~Rules and regulations.**

13 ~~It is the responsibility of the board to~~The office shall account for and disburse premium  
14 payments, maintain records, prepare reports, and to perform such other functions as may be  
15 necessary to carry out the provisions of this chapter. The ~~board~~office may ~~promulgate-~~  
16 ~~such~~adopt rules and regulations as may be necessary to carry out the provisions of this chapter.

17 **SECTION 81. AMENDMENT.** Section 54-52.1-08.1 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19 **54-52.1-08.1. Administrative - Nondiscrimination testing for health and life insurance**  
20 **programs.**

21 The ~~board shall be~~office is responsible for the nondiscrimination testing required under  
22 section 89 of the Internal Revenue Code. The ~~board~~office may engage the services of a  
23 consultant to assist the ~~board~~office in its administration of this section. The various state  
24 departments, boards, agencies, and commissions shall provide the ~~board~~office with requested  
25 information so the ~~board~~office may carry out its duties under this section.

26 **SECTION 82. AMENDMENT.** Section 54-52.1-08.2 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28 **54-52.1-08.2. Uniform group insurance program - Compliance with federal**  
29 **requirements - Group purchasing arrangements.**

30 If the ~~board~~office determines that any section or the phraseology of any section of this  
31 chapter does not comply with applicable federal statutes or rules, the ~~board~~office shall adopt

1 appropriate terminology with respect to that section to comply with the federal statutes or rules,  
2 subject to the approval of the legislative management's employee benefits programs committee.  
3 The **boardoffice** may assume responsibility for group purchasing arrangements as provided by  
4 federal law. Any plan modifications made by the **boardoffice** under this section are effective until  
5 the effective date of any measure enacted by the legislative assembly providing the necessary  
6 amendments to this chapter to ensure compliance with the federal statutes or rules.

7 **SECTION 83. AMENDMENT.** Section 54-52.1-09 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **54-52.1-09. Reports.**

10 Each department, board, or agency shall keep such records, make such certifications, and  
11 furnish the **boardoffice** or carriers with such information and reports as may be necessary to  
12 enable the **boardoffice** or carriers to carry out their functions under the provisions of this  
13 chapter. Carriers that have entered into a contract with the **boardoffice** are required to furnish  
14 such reasonable reports as the **boardoffice** determines to be necessary, and to permit the  
15 **boardoffice** to examine those records that relate to the uniform group insurance program.

16 **SECTION 84. AMENDMENT.** Section 54-52.1-11 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **54-52.1-11. Confidentiality of employee records.**

19 Information pertaining to an eligible employee's group medical records for claims, employee  
20 premium payments made, salary reduction amounts taken, history of any available insurance  
21 coverage purchased, and amounts and types of insurance applied for under the supplemental  
22 life insurance coverage under this chapter is confidential and is not a public record. The  
23 information and records may be disclosed, under rules adopted by the **boardoffice**, only to:

- 24 1. A person to whom the eligible employee has given written authorization to have the  
25 information disclosed.
- 26 2. A person legally representing the eligible employee, upon proper proof of  
27 representation, and unless the eligible employee specifically withholds authorization.
- 28 3. A person authorized by a court order.
- 29 4. A person or entity to which the **boardoffice** is required to disclose information pursuant  
30 to federal or state statutes or regulations.

1       5. Any person or entity if the purpose of the disclosure is for treatment, payment, or  
2       health care operations.

3       **SECTION 85. AMENDMENT.** Section 54-52.1-12 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5       **54-52.1-12. Ownership and confidentiality of the uniform group health insurance**  
6 **medical records of employees, retirees, and dependents.**

7       The medical records and related data of the employees, retirees, and dependents, obtained  
8 as the result of enrollment in the uniform group insurance program, are the property of the  
9 public employees retirement system. The records and data are confidential and are not public  
10 records. However, the ~~board~~office may allow administrators of administrative services only  
11 contracts or third-party administrators contracts access to the records and data where it is  
12 required in the performance of the administrator's duties pursuant to the contract. No  
13 administrator may be held liable for furnishing to the ~~board~~office information with respect to any  
14 patient, or any physician, hospital, or other health care provider.

15       **SECTION 86. AMENDMENT.** Section 54-52.1-13 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17       **54-52.1-13. Uniform prescription drug cards.**

18       The ~~board~~office shall provide for issuance of uniform prescription drug cards under a  
19 contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to  
20 section 54-52.1-04.2 in the same manner as provided under section 26.1-36-43.

21       **SECTION 87. AMENDMENT.** Section 54-52.1-14 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23       **54-52.1-14. Wellness program.**

24       The ~~board~~office shall develop an employer-based wellness program. The program must  
25 encourage employers to adopt ~~a board-developed~~an office-developed wellness program by  
26 either charging extra health insurance premium to nonparticipating employers or reducing  
27 premium for participating employers.

28       **SECTION 88. AMENDMENT.** Section 54-52.1-15 of the North Dakota Century Code is  
29 amended and reenacted as follows:



1       **54-52.1-15. Acceptance and expenditure of third-party payments - Continuing**  
2 **appropriation.**

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

8       **SECTION 89. AMENDMENT.** Section 54-52.1-16 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10       **54-52.1-16. Uniform group insurance program - Collaborative drug therapy program -**  
11 **Continuing appropriation.**

- 12       1. The boardoffice may establish a collaborative drug therapy program available to  
13 individuals in the medical and hospital benefits coverage group. The purpose of the  
14 collaborative drug therapy program is to improve the health of individuals in identified  
15 health populations and to manage health care expenditures.
- 16       2. Under the program, the boardoffice may involve physicians, pharmacists, and other  
17 health professionals to coordinate health care for individuals in identified health  
18 populations in order to improve health outcomes and reduce spending on care for the  
19 identified health problem. Under the program, pharmacists and other health  
20 professionals may be reimbursed for providing face-to-face collaborative drug therapy  
21 services to covered individuals in the identified health population. To encourage  
22 enrollment in the plan, the boardoffice may provide incentives to covered individuals in  
23 the identified health population which may include waived or reduced copayment for  
24 related treatment drugs and supplies.
- 25       3. The boardoffice may request the assistance of the North Dakota pharmacists  
26 association or a specified delegate to implement a formalized disease management  
27 program with the approval of the prescriptive practices committee established in  
28 section 43-15-31.4, which must serve to standardize chronic disease care and  
29 improve patient outcomes. This program must facilitate enrollment procedures,  
30 provide standards of care, enable consistent documentation of clinical and economic  
31 outcomes, and structure an outcomes reporting system.

1 4. The [boardoffice](#) may seek and accept private contributions, gifts, and grants-in-aid  
2 from the federal government, private industry, and other sources for a collaborative  
3 drug therapy program for identified health populations. Any funds that may become  
4 available through contributions, gifts, grants-in-aid, or other sources to the [boardoffice](#)  
5 for a collaborative drug therapy program are appropriated to the [boardoffice](#) on a  
6 continuing basis.

7 **SECTION 90. AMENDMENT.** Section 54-52.1-17 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **54-52.1-17. Uniform group insurance program - Collaborative drug therapy program -**  
10 **Funding.**

- 11 1. The [boardoffice](#) shall establish a collaborative drug therapy program that is to be  
12 available to individuals in the medical and hospital benefits coverage group. The  
13 purpose of the collaborative drug therapy program is to improve the health of  
14 individuals with diabetes and to manage health care expenditures.
- 15 2. The [boardoffice](#) shall involve physicians, pharmacists, and certified diabetes educators  
16 to coordinate health care for covered individuals with diabetes in order to improve  
17 health outcomes and reduce spending on diabetes care. Under the program,  
18 pharmacists and certified diabetes educators may be reimbursed for providing  
19 face-to-face collaborative drug therapy services to covered individuals with diabetes.  
20 To encourage enrollment in the plan, the [boardoffice](#) shall provide incentives to  
21 covered individuals who have diabetes which may include waived or reduced  
22 copayment for diabetes treatment drugs and supplies.
- 23 3. The North Dakota pharmacists association or a specified delegate shall implement a  
24 formalized diabetes management program with the approval of the prescriptive  
25 practices committee established in section 43-15-31.4, which must serve to  
26 standardize diabetes care and improve patient outcomes. This program must facilitate  
27 enrollment procedures, provide standards of diabetes care, enable consistent  
28 documentation of clinical and economic outcomes, and structure an outcomes  
29 reporting system.
- 30 4. The [boardoffice](#) shall fund the program from any available funds in the uniform group  
31 insurance program and if necessary the fund may add up to a two dollar per month

1 charge on the policy premium for medical and hospital benefits coverage. A state  
2 agency shall pay any additional premium from the agency's existing appropriation.

3 **SECTION 91. AMENDMENT.** Section 54-52.1-18 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **54-52.1-18. High-deductible health plan alternative with health savings account**  
6 **option.**

- 7 1. The ~~board~~office shall develop and implement a high-deductible health plan as an  
8 alternative to the plan under section 54-52.1-02. The high-deductible health plan  
9 alternative with a health savings account must be made available to state employees  
10 by January 1, 2012. After June 30, 2015, at the ~~board's~~discretion of the office, the  
11 high-deductible health plan alternative may be offered to political subdivisions for  
12 coverage of political subdivision employees. If a political subdivision elects this  
13 high-deductible option the political subdivision may not offer the plan under section  
14 54-52.1-02.
- 15 2. Health savings account fees for participating state employees must be paid by the  
16 employer.
- 17 a. Except as provided in subdivision b, subject to the limits of section 223(b) of the  
18 Internal Revenue Code [26 U.S.C. 233(b)], the difference between the cost of the  
19 single and family premium for eligible state employees under section 54-52.1-06  
20 and the premium for those employees electing to participate under the  
21 high-deductible health plan under this section must be deposited in a health  
22 savings account for the benefit of each participating employee.
- 23 b. If the public employees retirement system is unable to establish a health savings  
24 account due to the employee's ineligibility under federal or state law or due to  
25 failure of the employee to provide necessary information in order to establish the  
26 account, the system is not responsible for depositing the health savings account  
27 contribution. The member will remain a participant in the high-deductible health  
28 plan regardless of whether a health savings account is established.
- 29 3. Each new state employee must be provided the opportunity to elect the  
30 high-deductible health plan alternative. At least once each biennium, the ~~board~~office

1 shall provide an open enrollment period allowing existing state employees or a political  
2 subdivision to change their coverage.

3 **SECTION 92. AMENDMENT.** Section 54-52.2-01 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **54-52.2-01. Deferred compensation program for public employees - Contract.**

6 The state or any county, city, or other political subdivision may, by contract, agree with any  
7 employee to defer, in whole or in part, any portion of that employee's compensation and may  
8 subsequently, with the consent of the employee, fund a deferred compensation program for the  
9 employee. The deferred compensation program may consist of a contract, purchase, or  
10 investment in a fixed or variable life insurance or annuity contract from any life underwriter duly  
11 licensed by this state who represents an insurance company licensed to contract business in  
12 this state, a savings account at a federally insured financial institution or the Bank of North  
13 Dakota, an account with or managed by a dealer registered under chapter 10-04, or any  
14 combination of contracts or accounts authorized by this section, as specified by the employee.  
15 The ~~public employees retirement board~~office shall specify methods of payment of deferred  
16 compensation funds to be selected by individual employees. ~~That board~~The office shall  
17 determine the number of employees participating in a deferred compensation program  
18 necessary to qualify for automatic payroll deduction.

19 **SECTION 93. AMENDMENT.** Section 54-52.2-02 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21 **54-52.2-02. Deferred employee's compensation - Agreements.**

22 The public employees retirement ~~board~~system office, acting on behalf of each state agency,  
23 department, board, commission, or institution, may enter ~~into~~contractual agreements with  
24 employees of a state agency, department, board, commission, or institution on behalf of the  
25 state to defer any portion of that employee's compensation allowed under section 457 of the  
26 Internal Revenue Code [26 U.S.C. 457].

27 **SECTION 94. AMENDMENT.** Section 54-52.2-03 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29 **54-52.2-03. Deferred compensation program - Administration - Contract for services.**

30 The administration of the deferred compensation program for each state agency,  
31 department, board, commission, or institution is under the direction of the public employees

1 retirement [boardsystem office](#). Each county, city, or other political subdivision shall designate an  
2 officer to administer the deferred compensation program or appoint the public employees  
3 retirement [boardsystem office](#) to administer the program on its behalf. Payroll reductions must  
4 be made in each instance by the appropriate payroll officer. The public employees retirement  
5 [boardsystem office](#) shall administer the deferred compensation program based on one or more  
6 plans in compliance with the appropriate provisions of the Internal Revenue Code and  
7 regulations adopted under those provisions. Not later than January 1, 1999, all plan assets and  
8 income must be held in trust, custodial accounts, or contracts as described in section 401(f) of  
9 the Internal Revenue Code [26 U.S.C. 401(f)] for the exclusive benefit of participants and their  
10 beneficiaries as required by section 457 of the Internal Revenue Code [26 U.S.C. 457]. Once  
11 the trust, custodial account, or contract is established as required by this section, the  
12 [boardoffice](#) shall act as fiduciary of the plan to the extent required by section 457 of the Internal  
13 Revenue Code [26 U.S.C. 457] and the [boardoffice](#) is authorized to do all things necessary for  
14 the proper administration of the plan to ensure that the plan maintains its qualified status.

15 **SECTION 95. AMENDMENT.** Section 54-52.2-03.2 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **54-52.2-03.2. Deferred compensation program - ~~Board authority~~Authority - Provider**  
18 **information.**

- 19 1. The [boardpublic employees retirement system office](#) shall adopt rules necessary to  
20 implement this chapter and to manage the deferred compensation plan subject to the  
21 limitations of this chapter.
- 22 2. The [boardoffice](#) shall do all things necessary to preserve the tax-exempt status of the  
23 plan.
- 24 3. All providers must be authorized to do business in this state and all agents of  
25 providers must be licensed by the appropriate licensing authority or authorities in this  
26 state.
- 27 4. To continue to participate in the program, each provider must report annually, in a form  
28 and manner specified by the [boardoffice](#), information related to their products,  
29 administrative and management fees, contract and maintenance charges, withdrawal  
30 penalties, market rating, and such other information the [boardoffice](#) may require.

1       5. The ~~board~~office may suspend participation of any provider that does not meet the  
2 requirements of this chapter or the rules adopted by the ~~board~~office.

3       6. The ~~board has the authority to~~public employees retirement system office executive  
4 ~~director may~~ establish a deferred compensation advisory committee, which ~~shall~~must  
5 include active providers who have signed a provider administrative agreement with the  
6 state of North Dakota deferred compensation plan.

7       **SECTION 96. AMENDMENT.** Section 54-52.2-03.3 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9       **54-52.2-03.3. Benefit payments to alternate payee under qualified domestic relations**  
10 **order.**

11       1. The ~~board~~public employees retirement system office or a vendor contracted for by the  
12 ~~board~~office shall apportion a participating member's account in the deferred  
13 compensation plan under this chapter in accordance with the applicable requirements  
14 of any qualified domestic relations order. The ~~board~~office shall review a domestic  
15 relations order submitted to the ~~board~~office to determine if the domestic relations order  
16 is qualified under this section and pursuant to the plan document established by the  
17 ~~board~~office for determining the qualified status of domestic relations orders and  
18 administering distributions under the qualified orders.

19       2. A "qualified domestic relations order" for purposes of this section means any  
20 judgment, decree, or order, including approval of a property settlement agreement,  
21 which relates to the provision of child support, spousal support, or marital property  
22 rights to a spouse, former spouse, child, or other dependent of a participating member,  
23 is made pursuant to a North Dakota domestic relations law, and which creates or  
24 recognizes the existence of an alternate payee's right to, or assigns to an alternate  
25 payee the right to, receive all or a part of the benefits payable to the participating  
26 member. A qualified domestic relations order may not require the ~~board~~office to  
27 provide any type or form of benefit, or any option, not otherwise provided under this  
28 chapter, or to provide increased benefits. A qualified domestic relations order must  
29 specify:

30       a. The name and the last-known mailing address of the participating member and  
31 the name and mailing address of each alternate payee covered by the order;

- 1           b. The amount or percentage of the participating member's benefits to be paid by  
2           the plan to each alternate payee;
- 3           c. That the alternate payee must take a lump sum payment of the benefits allocated  
4           to the alternate payee within one hundred twenty days of the later of the  
5           ~~board's~~office's acceptance of the qualified domestic relations order or the entry of  
6           the order by the court; and
- 7           d. Each plan to which the order applies.

8           **SECTION 97. AMENDMENT.** Section 54-52.3-01 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10           **54-52.3-01. Pretax benefits program for public employees.**

11           The public employees retirement system ~~board~~office may establish a pretax benefits  
12 program for all state employees and employees of district health units, including members of  
13 the legislative assembly, under which an employee may reduce the employee's salary and elect  
14 benefits to the extent of the reduction. A participating district health unit shall comply with the  
15 program conditions and pay all fees established by the ~~board~~office.

16           **SECTION 98. AMENDMENT.** Section 54-52.3-02 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18           **54-52.3-02. Authority ~~of board~~.**

19           The ~~board~~public employees retirement system office shall determine benefits to be offered  
20 under the pretax benefits program, accept proposals from qualified providers, retain  
21 consultants, and do all things necessary to administer the pretax benefits program and preserve  
22 its tax-exempt status.

23           **SECTION 99. AMENDMENT.** Section 54-52.3-03 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25           **54-52.3-03. Employer savings used to defray expenses of administering program -**  
26 **Continuing appropriation.**

27           The office of management and budget shall transfer funds from the savings accruing to the  
28 agencies' salaries and wages line item, as a result of the diminution of the state's employer  
29 contribution for the Federal Insurance Contribution Act tax, to a payroll clearing account. The  
30 office of management and budget shall transfer funds from the payroll clearing account to the  
31 ~~board~~public employees retirement system office as necessary to defray the reasonable

1 expenses of administering the pretax benefits program established under this chapter, including  
2 expenses associated with the program's medical spending account. Any revenue collected by  
3 the boardoffice from participating district health units must be used, and is hereby appropriated,  
4 to defray the expenses of administering the program. The amount necessary to pay consultants  
5 retained by the boardoffice, vendors retained by the boardoffice to provide claims administration  
6 services, any insurance costs associated with the medical spending account, and medical  
7 reimbursements for the medical spending account if funds are insufficient to pay claims are  
8 hereby appropriated from the savings and revenue generated by the program. All other  
9 expenses of administering the program must be paid in accordance with the agency's  
10 appropriation authority as established by the legislative assembly. The director of the office of  
11 management and budget may decrease or suspend the transfer of the savings accruing to the  
12 agencies' salaries and wages line item to the payroll clearing account upon determination that  
13 the funds deposited under this section are sufficient to offset anticipated obligations.

14 Notwithstanding other provisions in this section, the public employees retirement system  
15 boardoffice, or any successor state agency, may not establish, enroll, or administer any pretax  
16 benefits program for a political subdivision or any other public or private business or entity,  
17 except for any program established specifically for employees of the state and employees of  
18 district health units.

19 **SECTION 100. AMENDMENT.** Section 54-52.3-05 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21 **54-52.3-05. Confidentiality of program records.**

22 Any records and information pertaining to a public employee's medical and dependent care  
23 reimbursement under the pretax benefits program are confidential and are not public records  
24 subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota. The  
25 records and information may be disclosed, under rules adopted by the boardpublic employees  
26 retirement system office, only to:

- 27 1. A person to whom the employee has given written authorization to have the  
28 information disclosed.
- 29 2. A person legally representing the employee, upon proper proof of representation.
- 30 3. A person authorized by a court order.



1 4. A person or entity to which the ~~board~~office is required to disclose information pursuant  
2 to federal or state statutes or regulations.

3 5. Any person or entity if the purpose of the disclosure is for health care treatment,  
4 payment, or operations.

5 **SECTION 101. AMENDMENT.** Section 54-52.3-06 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **54-52.3-06. Deposit of program moneys - Appropriation.**

8 All moneys collected pursuant to elections made by public employees under the pretax  
9 benefits program for the medical spending account and the dependent care account must be  
10 deposited in an account with the Bank of North Dakota. All moneys deposited in the account,  
11 not otherwise appropriated, are hereby appropriated for the purpose of making payments to  
12 employees participating in the program. The ~~board~~public employees retirement system office  
13 shall transfer any surplus in the pretax benefits account at the end of the plan year to the payroll  
14 clearing account.

15 **SECTION 102. AMENDMENT.** Section 54-52.6-01 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **54-52.6-01. (Effective through July 31, 2017) Definition of terms.**

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

19 1. ~~"Board" means the public employees retirement system board.~~

20 ~~2.~~ "Deferred member" means a person who elected to receive deferred vested retirement  
21 benefits under chapter 54-52.

22 ~~3.2.~~ "Eligible employee" means a permanent state employee who elects to participate in  
23 the retirement plan under this chapter.

24 ~~4.3.~~ "Employee" means any person employed by the state, whose compensation is paid  
25 out of state funds, or funds controlled or administered by the state or paid by the  
26 federal government through any of its executive or administrative officials.

27 ~~5.4.~~ "Employer" means the state of North Dakota.

28 5. "Office" means the public employees retirement system office.

29 6. "Participating member" means an eligible employee who elects to participate in the  
30 defined contribution retirement plan established under this chapter.

1 7. "Permanent employee" means a state employee whose services are not limited in  
2 duration and who is filling an approved and regularly funded position and is employed  
3 twenty hours or more per week and at least five months each year.

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

15 **(Effective after July 31, 2017) Definition of terms.** As used in this chapter, unless the  
16 context otherwise requires:

17 1. ~~"Board" means the public employees retirement system board.~~

18 ~~2.~~ "Deferred member" means a person who elected to receive deferred vested retirement  
19 benefits under chapter 54-52.

20 ~~3.2.~~ "Eligible employee" means a permanent state employee, except an employee of the  
21 judicial branch or an employee of the board of higher education and state institutions  
22 under the jurisdiction of the board, who is eighteen years or more of age and who is in  
23 a position not classified by North Dakota human resource management services. If a  
24 participating member loses permanent employee status and becomes a temporary  
25 employee, the member may still participate in the defined contribution retirement plan.

26 ~~4.3.~~ "Employee" means any person employed by the state, whose compensation is paid  
27 out of state funds, or funds controlled or administered by the state or paid by the  
28 federal government through any of its executive or administrative officials.

29 ~~5.4.~~ "Employer" means the state of North Dakota.

30 5. "Office" means the public employees retirement system office.

- 1       6. "Participating member" means an eligible employee who elects to participate in the  
2       defined contribution retirement plan established under this chapter.
- 3       7. "Permanent employee" means a state employee whose services are not limited in  
4       duration and who is filling an approved and regularly funded position and is employed  
5       twenty hours or more per week and at least five months each year.
- 6       8. "Wages" and "salaries" means earnings in eligible employment under this chapter  
7       reported as salary on a federal income tax withholding statement plus any salary  
8       reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or  
9       457. "Salary" does not include fringe benefits such as payments for unused sick leave,  
10      personal leave, vacation leave paid in a lump sum, overtime, housing allowances,  
11      transportation expenses, early retirement, incentive pay, severance pay, medical  
12      insurance, workforce safety and insurance benefits, disability insurance premiums or  
13      benefits, or salary received by a member in lieu of previously employer-provided fringe  
14      benefits under an agreement between an employee and a participating employer.  
15      Bonuses may be considered as salary under this section if reported and annualized  
16      pursuant to rules adopted by the [boardoffice](#).

17      **SECTION 103. AMENDMENT.** Section 54-52.6-02 of the North Dakota Century Code is  
18      amended and reenacted as follows:

19      **54-52.6-02. (Effective through July 31, 2017) Election.**

- 20      1. The [boardoffice](#) shall provide an opportunity for eligible employees who are new  
21      members of the public employees retirement system under chapter 54-52 to transfer  
22      to the defined contribution plan under this chapter pursuant to the rules and policies  
23      adopted by the [boardoffice](#). An election made by a member of the public employees  
24      retirement system under chapter 54-52 to transfer to the defined contribution  
25      retirement plan under this chapter is irrevocable. For an individual who elects to  
26      transfer membership from the public employees retirement system under chapter  
27      54-52 to the defined contribution retirement plan under this chapter, the [boardoffice](#)  
28      shall transfer a lump sum amount from the public employees retirement system fund to  
29      the participating member's account in the defined contribution retirement plan under  
30      this chapter. However, if the individual terminates employment prior to receiving the  
31      lump sum transfer under this section, the election made is ineffective and the

1 individual remains a member of the public employees retirement system under chapter  
2 54-52 and retains all the rights and privileges under that chapter. This section does not  
3 affect an individual's right to health benefits or retiree health benefits under chapter  
4 54-52.1.

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

10 3. A participating member who becomes a temporary employee may still participate in  
11 the defined contribution retirement plan upon filing an election with the ~~board~~office  
12 within one hundred eighty days of transferring to temporary employee status. The  
13 participating member may not become a member of the defined benefit plan as a  
14 temporary employee. The temporary employee electing to participate in the defined  
15 contribution retirement plan shall pay monthly to the fund an amount equal to eight  
16 and twelve-hundredths percent times the temporary employee's present monthly  
17 salary. The amount required to be paid by a temporary employee increases by two  
18 percent times the temporary employee's present monthly salary beginning with the  
19 monthly reporting period of January 2012, and with an additional increase of two  
20 percent, beginning with the monthly reporting period of January 2013, and with an  
21 additional increase of two percent, beginning with the monthly reporting period of  
22 January 2014. The temporary employee shall also pay the required monthly  
23 contribution to the retiree health benefit fund established under section 54-52.1-03.2.  
24 This contribution must be recorded as a member contribution pursuant to section  
25 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A  
26 temporary employee may continue to participate as a temporary employee until  
27 termination of employment or reclassification of the temporary employee as a  
28 permanent employee.

29 4. A former participating member who has accepted a retirement distribution pursuant to  
30 section 54-52.6-13 and who subsequently becomes employed by an entity different  
31 from the employer with which the member was employed at the time the member

1           retired but which does participate in any state-sponsored retirement plan may, before  
2           re-enrolling in the defined contribution retirement plan, elect to permanently waive  
3           future participation in the defined contribution retirement plan, whatever plan in which  
4           the new employing entity participates, and the retiree health program and maintain  
5           that member's retirement status. Neither the member nor the employer are required to  
6           make any future retirement contributions on behalf of that employee.

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

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

1 employee's option to participate in the defined contribution retirement plan, the  
2 **boardoffice** may provide the employee a reasonable time within which to make that  
3 election, which may extend beyond the original six-month decision window.

- 4 2. If an individual who is a deferred member of the public employees retirement system  
5 on September 30, 2001, is re-employed and by virtue of that employment is again  
6 eligible for membership in the public employees retirement system under chapter  
7 54-52, the individual may elect in writing to remain a member of the public employees  
8 retirement system or if eligible to participate in the defined contribution retirement plan  
9 established under this chapter to terminate membership in the public employees  
10 retirement system and become a participating member in the defined contribution  
11 retirement plan established under this chapter. An election made by a deferred  
12 member under this section is irrevocable. The **boardoffice** shall accept written  
13 elections under this section from a deferred member during the period beginning on  
14 the date of the individual's re-employment and ending upon the expiration of six  
15 months after the date of that re-employment. If the **boardoffice**, in its sole discretion,  
16 determines that the employee was not adequately notified of the employee's option to  
17 participate in the defined contribution retirement plan, the **boardoffice** may provide the  
18 employee a reasonable time within which to make that election, which may extend  
19 beyond the original six-month decision window. A deferred member who makes and  
20 files a written election to remain a member of the public employees retirement system  
21 retains all rights and is subject to all conditions as a member of that retirement system.  
22 A deferred member who does not make a written election or who does not file the  
23 election during the period specified in this section continues to be a member of the  
24 public employees retirement system. A deferred member who makes and files a  
25 written election to terminate membership in the public employees retirement system  
26 ceases to be a member of the public employees retirement system effective on the  
27 last day of the payroll period that includes the date of the election; becomes a  
28 participating member in the defined contribution retirement plan under this chapter  
29 effective the first day of the payroll immediately following the date of the election; and  
30 waives all of that person's rights to a pension, an annuity, a retirement allowance,  
31 insurance benefit, or any other benefit under the public employees retirement system

1 effective the last day of the payroll that includes the date of the election. This section  
2 does not affect any right to health benefits or retiree health benefits to which the  
3 deferred member may otherwise be entitled.

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

9 Notwithstanding the irrevocability provisions of this chapter, if a member who elects to  
10 participate in the retirement plan established under this chapter becomes a supreme  
11 or district court judge, becomes a member of the highway patrol, becomes employed  
12 in a position subject to teachers' fund for retirement membership, or becomes an  
13 employee of the board of higher education or state institution under the jurisdiction of  
14 the board who is eligible to participate in an alternative retirement program established  
15 under subsection 6 of section 15-10-17, the member's status as a member of the  
16 defined contribution retirement plan is suspended, and the member becomes a new  
17 member of the retirement plan for which that member's new position is eligible. The  
18 member's account balance remains in the defined contribution retirement plan, but no  
19 new contributions may be made to that account. The member's service credit and  
20 salary history that were forfeited as a result of the member's transfer to the defined  
21 contribution retirement plan remain forfeited, and service credit accumulation in the  
22 new retirement plan begins from the first day of employment in the new position. If the  
23 member later returns to employment that is eligible for the defined contribution plan,  
24 the member's suspension must be terminated, the member again becomes a member  
25 of the defined contribution retirement plan, and the member's account resumes  
26 accepting contributions. At the member's option, and pursuant to rules adopted by the  
27 [boardoffice](#), the member may transfer any available balance as determined by the  
28 provisions of the alternate retirement plan into the member's account under this  
29 chapter.

- 30 4. After consultation with its actuary, the [boardoffice](#) shall determine the method by which  
31 a participating member or deferred member may make a written election under this

1 section. If the participating member or deferred member is married at the time of the  
2 election, the election is not effective unless the election is signed by the individual's  
3 spouse. However, the boardoffice may waive this requirement if the spouse's  
4 signature cannot be obtained because of extenuating circumstances.

5 5. If the boardoffice receives notification from the internal revenue service that this  
6 section or any portion of this section will cause the public employees retirement  
7 system or the retirement plan established under this chapter to be disqualified for tax  
8 purposes under the Internal Revenue Code, then the portion that will cause the  
9 disqualification does not apply.

10 6. A participating member who becomes a temporary employee may still participate in  
11 the defined contribution retirement plan upon filing an election with the boardoffice  
12 within one hundred eighty days of transferring to temporary employee status. The  
13 participating member may not become a member of the defined benefit plan as a  
14 temporary employee. The temporary employee electing to participate in the defined  
15 contribution retirement plan shall pay monthly to the fund an amount equal to eight  
16 and twelve-hundredths percent times the temporary employee's present monthly  
17 salary. The amount required to be paid by a temporary employee increases by two  
18 percent times the temporary employee's present monthly salary beginning with the  
19 monthly reporting period of January 2012, and with an additional increase of two  
20 percent, beginning with the monthly reporting period of January 2013, and with an  
21 additional increase of two percent, beginning with the monthly reporting period of  
22 January 2014. The temporary employee shall also pay the required monthly  
23 contribution to the retiree health benefit fund established under section 54-52.1-03.2.  
24 This contribution must be recorded as a member contribution pursuant to section  
25 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A  
26 temporary employee may continue to participate as a temporary employee until  
27 termination of employment or reclassification of the temporary employee as a  
28 permanent employee.

29 7. A former participating member who has accepted a retirement distribution pursuant to  
30 section 54-52.6-13 and who subsequently becomes employed by an entity different  
31 from the employer with which the member was employed at the time the member



1           retired but which does participate in any state-sponsored retirement plan may, before  
2           re-enrolling in the defined contribution retirement plan, elect to permanently waive  
3           future participation in the defined contribution retirement plan, whatever plan in which  
4           the new employing entity participates, and the retiree health program and maintain  
5           that member's retirement status. Neither the member nor the employer are required to  
6           make any future retirement contributions on behalf of that employee.

7           **SECTION 104. AMENDMENT.** Section 54-52.6-03 of the North Dakota Century Code is  
8           amended and reenacted as follows:

9           **54-52.6-03. (Suspended from October 1, 2013, through July 31, 2017) Transfer of**  
10          **accumulated fund balances.**

11          For an individual who elects to terminate membership in the public employees retirement  
12          system under chapter 54-52, the **boardoffice** shall transfer a lump sum amount from the  
13          retirement fund to the participating member's account in the defined contribution retirement plan  
14          under this chapter. However, if the individual terminates employment prior to receiving the lump  
15          sum transfer under this section, the election made under section 54-52.6-02 is ineffective and  
16          the individual remains a member of the public employees retirement system under chapter  
17          54-52 and retains all the rights and benefits provided under that chapter. The **boardoffice** shall  
18          calculate the amount to be transferred for persons employed before October 1, 2001, using the  
19          two following formulas, and shall transfer the greater of the two amounts obtained:

- 20          1.    The actuarial present value of the individual's accumulated benefit obligation under the  
21               public employees retirement system based on the assumption that the individual will  
22               retire under the earliest applicable normal retirement age, plus interest from January 1,  
23               2001, to the date of transfer, at the rate of one-half of one percent less than the  
24               actuarial interest assumption at the time of the election; or
- 25          2.    The actual employer contribution made, less vested employer contributions made  
26               pursuant to section 54-52-11.1, plus compound interest at the rate of one-half of one  
27               percent less than the actuarial interest assumption at the time of the election plus the  
28               employee account balance.

29          The **boardoffice** shall calculate the amount to be transferred for persons employed after  
30          September 30, 2001, using only the formula contained in subsection 2.

1 | **SECTION 105. AMENDMENT.** Section 54-52.6-03.1 of the North Dakota Century Code is  
2 | amended and reenacted as follows:

3 | **54-52.6-03.1. Changes to election.**

- 4 | 1. In this section the term "participating member" is limited in application to a participating  
5 | member who elected to participate in the defined contribution retirement plan  
6 | established under this chapter as an active employee of a participating employer, is an  
7 | actively participating member of the defined contribution plan as of July 1, 2015, and is  
8 | an active employee with a participating employer on the date an election is made  
9 | under this section. The term does not include a participant who is not actively  
10 | employed with a participating employer on the date of transfer of the funds under this  
11 | section, has taken a distribution from the defined contribution plan, is retired, is no  
12 | longer actively employed with a participating employer, or who is a member who has a  
13 | qualified domestic relations order or other court order on the member's account.
- 14 | 2. Notwithstanding any other provision of law, the **boardoffice** shall provide an  
15 | opportunity for each participating member to elect in writing to terminate membership  
16 | in the defined contribution retirement plan under this chapter and to elect to become a  
17 | participating member in the public employees retirement system under chapter 54-52.
- 18 | 3. The **boardoffice** shall establish a three-calendar-month election period beginning not  
19 | later than February 1, 2016. A participating member who does not make a written  
20 | election or who does not file the election with the North Dakota public employees  
21 | retirement system office during the period specified in this section continues to be a  
22 | member of the defined contribution plan. A participating member who makes and files  
23 | a written election with the North Dakota public employees retirement system office  
24 | under this section ceases to be a member of the defined contribution plan upon receipt  
25 | by the public employees retirement system of the accumulated fund balance of the  
26 | member's defined contribution plan under this chapter and waives all rights to that  
27 | employee's accumulated fund balance under the defined contribution plan. If the  
28 | executive director of the North Dakota public employees retirement system determines  
29 | a participating member was not adequately notified of the option to make an election  
30 | under this section, the executive director may provide that participating member a  
31 | reasonable time, not to exceed three months, within which to make that election.

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

28      **SECTION 106. AMENDMENT.** Section 54-52.6-04 of the North Dakota Century Code is  
29      amended and reenacted as follows:

1       **54-52.6-04. Administration.**

2       The boardoffice shall administer the defined contribution retirement plan established under  
3 this chapter and the boardoffice or vendors contracted for by the boardoffice shall invest the  
4 assets of the plan. The boardoffice is the fiduciary and the trustee of the plan. The boardoffice  
5 has the exclusive authority and responsibility to employ or contract with personnel and for  
6 services that the boardoffice determines necessary for the proper administration of and  
7 investment of assets of the plan, including managerial, professional, legal, clerical, technical,  
8 and administrative personnel or services.

9       **SECTION 107. AMENDMENT.** Section 54-52.6-05 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11       **54-52.6-05. Direction of investments.**

12       Each participating member shall direct the investment of the individual's accumulated  
13 employer and employee contributions and earnings to one or more investment choices within  
14 available categories of investment provided by the boardoffice.

15       **SECTION 108. AMENDMENT.** Section 54-52.6-06 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17       **54-52.6-06. Administrative expenses - Continuing appropriation.**

18       The administrative expenses of the plan must be paid by the participating members in a  
19 manner determined by the boardoffice. The boardoffice or vendors contracted for by the  
20 boardoffice may charge reasonable administrative expenses and deduct those expenses from a  
21 participating member's account in the defined contribution retirement plan established under  
22 this chapter. The boardoffice shall place any money deducted in an administrative expenses  
23 account with the state treasurer. The boardoffice may also use funds from the payroll clearing  
24 account established pursuant to section 54-52.3-03 to pay for consulting expenses. All moneys  
25 in the payroll clearing account, not otherwise appropriated, or so much of the moneys as may  
26 be necessary, are appropriated to the boardoffice on a continuing basis for the purpose of  
27 retaining a consultant as required for the administration of this chapter.

28       **SECTION 109. AMENDMENT.** Section 54-52.6-08 of the North Dakota Century Code is  
29 amended and reenacted as follows:

1       **54-52.6-08. Credit of transfers.**

2       The **board**office shall promptly credit the plan account of a participating member who makes  
3 an election under this chapter to terminate membership in the public employees retirement  
4 system under chapter 54-52 with any amount transferred from the public employees retirement  
5 system.

6       **SECTION 110. AMENDMENT.** Section 54-52.6-09 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8       **54-52.6-09. Contributions - Penalty.**

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

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

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

20      **SECTION 111. AMENDMENT.** Section 54-52.6-09.1 of the North Dakota Century Code is  
21      amended and reenacted as follows:

22      **54-52.6-09.1. Acceptance of rollovers.**

23      The plan may allow a participating member to transfer or rollover funds from other qualified  
24      plans into the member's account under rules adopted by the boardoffice.

25      **SECTION 112. AMENDMENT.** Section 54-52.6-11 of the North Dakota Century Code is  
26      amended and reenacted as follows:

27      **54-52.6-11. Refund beneficiaries.**

28      A participating or former participating member may nominate one or more individuals as a  
29      refund beneficiary by filing written notice of nomination with the boardoffice. If the participating  
30      member or former participating member is married at the time of the nomination and the  
31      participant's spouse is not the refund beneficiary for one hundred percent of the account, the

1 nomination is not effective unless the nomination is signed by the participant's spouse.

2 However, the **boardoffice** may waive this requirement if the spouse's signature cannot be  
3 obtained because of extenuating circumstances.

4 **SECTION 113. AMENDMENT.** Section 54-52.6-12 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **54-52.6-12. Qualified domestic relations orders.**

- 7 1. The **boardoffice** or a vendor contracted for by the **boardoffice** shall apportion a  
8 participating member's account in the defined contribution retirement plan under this  
9 chapter in accordance with the applicable requirements of any qualified domestic  
10 relations order. The **boardoffice** shall review a domestic relations order submitted to it  
11 to determine if the domestic relations order is qualified under this section and under  
12 rules adopted by the **boardoffice** for determining the qualified status of domestic  
13 relations orders, administering distributions, and apportioning accounts under the  
14 qualified orders. Upon determination of the domestic relations order as qualified, the  
15 **boardoffice** shall notify the participating member, the named alternate payee, and the  
16 vendor, if applicable, of its receipt of the qualified domestic relations order.
- 17 2. A "qualified domestic relations order" for purposes of this section means any  
18 judgment, decree, or order, including approval of a property settlement agreement,  
19 which relates to the provision of child support, spousal support, or marital property  
20 rights to a spouse, former spouse, child, or other dependent of a participating member,  
21 is made pursuant to a North Dakota domestic relations law, which creates or  
22 recognizes the existence of an alternate payee's right to, or assigns to an alternate  
23 payee the right to, receive all or a part of a participating member's account in the  
24 defined contribution retirement plan under this chapter. A qualified domestic relations  
25 order may not require the **boardoffice** to provide any type or form of benefit, or any  
26 option, not otherwise allowed under this chapter. However, a qualified domestic  
27 relations order may require distribution from an account in the defined contribution  
28 retirement plan under this chapter notwithstanding that the participating member has  
29 not terminated eligible employment. A qualified domestic relations order must specify:
- 30 a. The name and last-known mailing address of the participating member and the  
31 name and the mailing address of each alternate payee covered by the order;

- b. The amount or percentage of the participating member's account to be paid to each alternate payee;
- c. The number of payments or period to which the order applies; and
- d. Each retirement plan to which the order applies.

**SECTION 114. AMENDMENT.** Section 54-52.6-13 of the North Dakota Century Code is amended and reenacted as follows:

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

1. A participating member is eligible to receive distribution of that person's accumulated balance in the plan upon becoming a former participating member.
2. Upon the death of a participating member or former participating member, the boardoffice shall pay the accumulated account balance of that deceased participant to the deceased participant's refund beneficiary, if any, as provided in this subsection. If the deceased participant designated an alternate refund beneficiary with the surviving spouse's written consent, the boardoffice shall distribute the accumulated balance to the named beneficiary. If the deceased participant named more than one primary beneficiary with the surviving spouse's written consent, the boardoffice shall pay the accumulated account balance to the named primary beneficiaries in the percentages designated by the deceased participant or, if the deceased participant had not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the deceased participant, the boardoffice shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If any beneficiary survives the deceased participant, yet dies before distribution of the beneficiary's share, the beneficiary must be treated as if the beneficiary predeceased the deceased participant. If there is no remaining primary beneficiary, the boardoffice shall pay the accumulated account balance of that deceased participant to the contingent beneficiaries in the same manner. If there is no remaining designated beneficiary, the boardoffice shall pay the accumulated account balance of that deceased participant to the deceased participant's estate. If the deceased participant had not designated an alternate refund beneficiary or the surviving spouse is the refund beneficiary, the surviving spouse of the deceased participant may select a form of payment as provided in subdivision d of subsection 3.



- 1           3. A former participating member may elect one or a combination of several of the  
2 following methods of distribution of the accumulated balance:  
3           a. A lump sum distribution to the recipient.  
4           b. A lump sum direct rollover to another qualified plan, to the extent allowed by  
5 federal law.  
6           c. Periodic distributions, as authorized by the [boardoffice](#).  
7           d. No current distribution, in which case the accumulated balance must remain in  
8 the plan until the former participating member or refund beneficiary elects a  
9 method or methods of distribution under this section, to the extent allowed by  
10 federal law.

11 A surviving spouse beneficiary may elect one or a combination of several of the  
12 methods of distribution provided in subdivisions a, b, or c if the surviving spouse is the  
13 sole refund beneficiary. If the surviving spouse is not the sole refund beneficiary, the  
14 refund beneficiary may only choose a lump sum distribution of the accumulated  
15 balance.

- 16           4. If the former participating member's vested account balance is less than one thousand  
17 dollars, the [boardoffice](#) shall automatically refund the member's vested account  
18 balance upon termination of employment. The member may waive the refund if the  
19 member submits a written statement to the [boardoffice](#), within one hundred twenty  
20 days after termination, requesting that the member's vested account balance remain in  
21 the plan.

22           **SECTION 115. AMENDMENT.** Section 54-52.6-14 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24           **54-52.6-14. Disability benefits.**

25           The [boardoffice](#) shall allow distribution of the participating member's vested account  
26 balance if the [boardoffice](#) determines that the participating member has become totally and  
27 permanently disabled. If approved, the disabled member has the same distribution options as  
28 provided in subdivisions a and c of subsection 3 of section 54-52.6-13. However, if the member  
29 chooses the periodic distribution option, the member may only receive distributions for as long  
30 as the disability continues and the member submits the necessary documentation and  
31 undergoes medical testing required by the [boardoffice](#), or for as long as the member

1 participates in a rehabilitation program required by the boardoffice, or both. If the boardoffice  
2 determines that a member no longer meets the eligibility definition, the boardoffice shall  
3 discontinue the disability retirement benefit.

4 **SECTION 116. AMENDMENT.** Section 54-52.6-15 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **54-52.6-15. ~~Board to provide information~~Information provided.**

7 The boardoffice shall provide information to employees who are eligible to elect to become  
8 participating members under this chapter. The information must include at a minimum the  
9 employee's current account balance, the assumption of investment risk under a defined  
10 contribution retirement plan, administrative and investment costs, coordination of benefits  
11 information, and a comparison of projected retirement benefits under the public employees  
12 retirement system under chapter 54-52 and the retirement plan established under this chapter.  
13 Notwithstanding any other provision of law, the boardoffice is not liable for any election or  
14 investment decision made by an employee based upon information provided to an employee  
15 under this chapter.

16 **SECTION 117. AMENDMENT.** Section 54-52.6-18 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **54-52.6-18. Savings clause.**

19 If the boardoffice determines that any section of this chapter does not comply with  
20 applicable federal statutes or rules, the boardoffice shall adopt appropriate terminology with  
21 respect to that section as will comply with those federal statutes or rules. Any plan modifications  
22 made by the boardoffice pursuant to this section are effective until the effective date of any  
23 measure enacted by the legislative assembly providing the necessary amendments to this  
24 chapter to ensure compliance with the federal statutes or rules.

25 **SECTION 118. AMENDMENT.** Section 54-52.6-19 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27 **54-52.6-19. Overpayments.**

28 The boardoffice has the right of setoff to recover overpayments made under this chapter  
29 and to satisfy any claims arising from embezzlement or fraud committed by a participating  
30 member, deferred member, refund beneficiary, or other person who has a claim to a distribution  
31 or any other benefit from a plan governed by this chapter.

1       **SECTION 119. AMENDMENT.** Section 54-52.6-20 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **54-52.6-20. Correction of records.**

4       The ~~board~~office shall correct errors in the records and actions in plans under this chapter  
5 and shall seek to recover overpayments and shall seek to collect underpayments.

6       **SECTION 120. AMENDMENT.** Section 54-52.6-21 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8       **54-52.6-21. Internal Revenue Code compliance.**

9       The ~~board~~office shall administer the plan in compliance with the following sections of the  
10 Internal Revenue Code, as amended, as they apply to governmental plans:

- 11       1. Section 415, including the defined contribution limitations under section 415(c)(1)(A)  
12       and (B) of the Internal Revenue Code and the Treasury Regulations thereunder, which  
13       are incorporated herein by reference.
  - 14       a. In accordance with the defined contribution limitations under section 415(c) of the  
15       Internal Revenue Code, annual additions (as defined in section 415(c)(2) of the  
16       Internal Revenue Code) under this plan may not exceed the limitations set forth  
17       in section 415(c)(1)(A) and (B), as adjusted under section 415(d) of the Internal  
18       Revenue Code, effective January first of each year following a regular legislative  
19       session.
  - 20       b. If a participating member's aggregate annual additions exceed the defined  
21       contribution limitations under section 415(c) of the Internal Revenue Code, the  
22       member's annual additions must be reduced to the extent necessary to comply  
23       with section 415(c) of the Internal Revenue Code and the Treasury Regulations  
24       thereunder.
- 25       2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code  
26       and the regulations issued under that provision to the extent applicable to  
27       governmental plans. Accordingly, benefits must be distributed or begin to be  
28       distributed no later than a member's required beginning date, and the required  
29       minimum distribution rules override any inconsistent provision of this chapter. A  
30       member's required beginning date is April first of the calendar year following the later

- 1 of the calendar year in which the member attains age seventy and one-half or  
2 terminates employment.
- 3 3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue  
4 Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
- 5 4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly,  
6 a distributee may elect to have an eligible rollover distribution, as defined in section  
7 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible  
8 retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code,  
9 specified by the distributee.
- 10 5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued,  
11 the rights of all affected participating members to accrued retirement benefits under  
12 this chapter as of the date of termination or discontinuance is nonforfeitable, to the  
13 extent then funded.

14 **SECTION 121. LEGISLATIVE INTENT - ELECTRONIC DISTRIBUTION OF MATERIALS.**

15 It is the intent of the sixty-fifth legislative assembly that the public employees retirement system  
16 office create operating efficiencies when feasible by discontinuing the distribution of paper  
17 materials, including newsletters and benefit statements. It is further the intent of the sixty-fifth  
18 legislative assembly that the public employees retirement system office develop procedures to  
19 electronically distribute materials or provide access to materials through member self-service  
20 website applications.