

**2017 HOUSE APPROPRIATIONS**

**HB 1023**

# 2017 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Government Operations Division  
Medora Room, State Capitol

HB1023  
1/5/2017  
Recording Job# 26595

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the public employees retirement system; and to provide for a transfer.

Minutes:

Attachment A

**Chairman Brandenburg:** Opened the hearing on HB1023 and HB1083.

**Sparb Collins, Executive Director, ND Public Employees Retirement System:** See testimony attachment A.

**Representative Delmore:** Can you tell me when the contract with Sanford is up for renewal? Is it going to be the same process that we used the last time?

**Sparb Collins:** The plan went out for renewal late this last summer. Blue Cross and Sanford submitted a renewal number to us. The board did renew the contract with Sanford for 2017-2019. Their renewal rate came in at 17.4% for the next two years. As a result of benefit reductions and the use of the PERS surplus; which is around \$35 million, it's been reduced to 10.5% increase. Over a two year period, it's about 5.5% per year increase.

**Representative Nathe:** Could you put out the bid anytime you want? Were you locked in to have the renewal increase? When you sign that contract, is that after we appropriate the money? What is the timing?

**Sparb Collins:** When we go out to bid, it's a fixed for two years. The renewal is subject to the board's renewal decision. The contract doesn't require us to renew with a carrier. The criteria are laid out in the statute. We do the renewal about one year in advance of the end of the contract. Based on the renewal amount, we are able to share with the executive budget office so they can consider it as part of their budgeting processing. We are also able to have a firm number for you that you can use. We ask for renewal of the existing plan design; we also ask for options that could reduce the cost.

**Representative Nathe:** In 2015, I think you signed the contract before the money was allocated. When do you sign since the board has decided to renew Sanford? Does that put the legislature on the hook? What happens if we don't have money to pay for that contract?

**Sparb Collins:** I think last time the contract was signed in March. Other times it's been signed in April or May. The contract has provisions that are subject to other directions by the legislature.

**Representative Nathe:** Do you foresee the signing of this contract being later in the process?

**Sparb Collins:** I haven't talked to my board about that.

**Representative Nathe:** Is that where you are at right now though; to get the board's permission to sign that contract? Where are you in the process right now?

**Sparb Collins:** We haven't started work on the contract.

**Representative Nathe:** You haven't started yet?

**Sparb Collins:** No. We didn't start work on the contract last time until February and it was finalized in March. This time around, since it's being renewed with Sanford, we have a template and it won't take long to put together a contract.

**Representative Vigesaa:** When was the last time the benefit or plan design was altered to reduce the premium?

**Sparb Collins:** It's been about three biennium. Since 1989 the plan design has changed and evolved. It's been pretty stable in the last 6 to 8 years.

**Vice Chairman Boehning:** When was the last time we've taken half the reserve fund and tucked it into buy down payments?

**Sparb Collins:** It's been a few years.

**Vice Chairman Boehning:** I know we've used some of it but not to this extent.

**Sparb Collins:** There was a buy down of \$5.4 million in 2014 and \$5.5 million in 2015.

**Vice Chairman Boehning:** It was which years?

**Sparb Collins:** It was 2014 and 2015. This time for the state portion about \$10 million overall and it would be about \$18 million for everyone. The state is about half of our client base; so what's been done in the past during buy down is that if the legislature indicates that PERS should go to the buy down by a certain amount, we use that as guidance for the other ones to get the same buy down.

**Vice Chairman Boehning:** What is the alternative to not having so much buy down?

**Sparb Collins:** When you're looking at balancing out the plan design, there are a couple of ways to do it. One way is to get buy down. The disadvantage with a buy down is it's a one time thing that has to be made up next time. The other way is with benefit plan design changes; that was part of the Governor's proposal. A third way is with member's premium. In state statute, that's not an option for us; because you have indicated that the PERS board has to accept your amount as payment in full.

**Vice Chairman Boehning:** The fourth option would be to go and rebid.

**Sparb Collins:** That's assuming you would get a lower bid.

**Vice Chairman Boehning:** You wouldn't know it until we went to a bid. Correct?

**Sparb Collins:** We wouldn't know it; it could come in higher.

**Vice Chairman Boehning:** It could come in lower.

**Sparb Collins:** All I'm trying to get across is that it's a role of the dice.

**Representative Nathe:** I have talked to some state employees and I've heard a couple stories. They are on Medicare; but they stay on PERS because they are not 100% covered. So the state pays the \$1,200.00 per month for that member. How does that work?

**Sparb Collins:** What generally would occur is your over 65; if you're an active state employee, Medicare says you stay on your employer plan until you retire and then you go to Medicare. The employer plan is the primary. We do offer for Medicare retirees a Medicare supplement plan. That's substantially lower than the active crowd price; because Medicare pays first and we pay second. I think it runs around \$400.00 per month. As part of the Medicare supplement plan there is the medical part and then Part D; which is the prescription drug component. That's paid out separately as well.

**Representative Nathe:** So the board decides to sign the contract; are we able to amend that contract?

**Sparb Collins:** What we do is make sure that the plan design is the one you adopt.

**Representative Kempenich:** You have to do that on an anniversary date don't you? You can't just change that.

**Sparb Collins:** We have a contract in place for a two year period.

**Representative Kempenich:** The state on retirees for the legislature, we have to pay the premium; the state doesn't pay the premium anymore. Correct?

**Sparb Collins:** You're all considered state employees; so you are all like a regular employee.

**Representative Kempenich:** As long as you're an active legislator. They pay retired legislator's also?

**Sparb Collins:** One hundred percent.

**Representative Kempenich:** Your Medicare programs are out of pocket; so they're out of pocket programs also. You can access the program, but you still have to pay in; the state isn't paying.

**Sparb Collins:** There is one difference for legislators than there is for active employees. Two sessions ago we put in a bill to get out of pre-Medicare; last session we got out of it. It didn't include legislators. We still offer pre-Medicare insurance to legislators; but, we don't offer it to anyone else. Legislators pay 100% of the premium; but there's a provision statute that puts into implicit subsidy to it.

**Representative Nathe:** To refer back to Representative Boehning's questions to digging into the reserves. Is that stated procedure for PERS to do this every session? What was the reason why you did it this time?

**Sparb Collins:** That was part of the Governor's budget.

**Representative Nathe:** Has this been done in the past?

**Sparb Collins:** Yes, it's been done a series of times. There are two types of ways to insure; as a fully insured plan or as a self-insured plan. As a fully insured plan, the carrier assumes all the risk of the cost of the plan. Since 1989 PERS has been fully insured with Blue Cross Blue Shield or Sanford. We have an agreement where we share 50/50 of the first \$6 million in loss. Sanford is taking about \$60 million in loss with our business. Except for the \$3 million, all that risk is moved over to them. If we were a self-insured plan, the employer assumes the risk for that.

**Representative Vigesaa:** Don't you believe if they lost \$60 million on the previous contract, that the 17% increase is an attempt to recoup a lot of that and it's on the back of the North Dakota tax payers?

**Sparb Collins:** They are not allowed to carry over their losses as part of the renewal. I think they're paying providers more than Blue Cross Blue Shield paid providers and that's why they're taking a loss. We are not sharing the loss next time. So now our loss is subject to premium only and no loss sharing. We also asked them to put up \$30 million more in reserves.

**Representative Vigesaa:** How often does the board meet?

**Sparb Collins:** The board meets at least every month.

**Representative Vigesaa:** Our legislative appointees; were they regular attenders? Were they active participants in the process throughout the entire time?

**Sparb Collins:** Yes.

**Representative Kempenich:** We're more than likely going to see a change in the way health insurance is provided. How does that get effected when we're locked in a 6 year program?

**Sparb Collins:** We can make those changes as specified by you. Generally, when you leave at the end of a session, you have funded a certain level of plan design.

**Representative Nathe:** You mentioned you thought part of the reason for the \$60 million loss for Sanford is because they were paying the providers more than Blue Cross Blue Shield. Does the board have any proof or evidence that they can share with us?

**Sparb Collins:** It's just my thought.

**Representative Nathe:** What is their justification for such a large increase?

**Sparb Collins:** For us to determine what is a reasonable rate increase is a difficult thing to do. We retain a consultant; concurrently but independently, using the same data comes up with what they think the renewal should be. The board uses that as a benchmark to determine what is reasonable.

**Representative Nathe:** What was the consultants reason for going up?

**Sparb Collins:** They take a look at the actual claims data and they trend it forward.

**Representative Nathe:** Is there a report with that information that this committee could see the consultant report as to the reason why for the increase?

**Sparb Collins:** There's information.

**Representative Nathe:** Could you provide that information?

**Sparb Collins:** Yes.

**Vice Chairman Boehning:** You've had an increase of over 4.5% with deductibles going up and copays going up. What is the actual true cost of the plan? What percent of real increase is it?

**Sparb Collins:** The 17.4% assumed the existing plan design. That would be the cost of maintaining the plan design we have today. The Governor accepted some plan design changes and that brings it down from 17.4% to about 13%. There's some slight changes with that number that will bring it down a little more. To maintain the plan going forward with the plan design changes is about 12.5% to 13%. With the buy down that was anticipated to be used; that would bring it down to 10.5%.

**Vice Chairman Boehning:** With the 4.4% increase with the copays, what is the average dollar amount per contract or employer?

**Sparb Collins:** I don't have that number; I can get you that number. It's cost transferred to the member.

**Representative Vigesaa:** Do we still have some room on the plan design to make changes before we would affect grandfather cost?

**Sparb Collins:** On plan design, no. On employee premium payments, yes.

**Representative Vigesaa:** Would the deductibles also be at the maximum level?

**Sparb Collins:** Not now; but they will if you approve the proposal that's before you.

**Representative Vigesaa:** So the proposed plan design with regard to deductibles, takes us to the brink.

**Sparb Collins:** Yes.

**Chairman Brandenburg:** We had some discussion on this yesterday in full committee. When is there a bidding process where there's an open bid?

**Sparb Collins:** Last session you passed a section in the century code. It states that we can go out for bid on a 6 year basis subject with a two year contract that can be renewed twice.

**Vice Chairman Boehning:** On your operating budget I see an increase to \$52,000.00. What is that for?

Sparb Collins discussed the green sheet.

**Representative Nathe:** In regards to salary and wages, there was an increase of \$184,000.00. What are the payments to the new board members?

**Sparb Collins:** State statute sets an amount for board members.

**Representative Nathe:** Who gets the \$80,000.00 for salary increases? Who gets this amount for salary increases?

**Sparb Collins:** You approved salary increases in the first and second year of the biennium. In the first year, you fund the full two years of that salary increase in the budget we have. When you do it in the second year of the biennium, you'll find only one year; which is the last year of the biennium. For the next biennium, we need to get additional funds to cover that second year and to continue the salary increases you approved.

**Representative Nathe:** That salary increase is for the staff?

**Sparb Collins:** Yes.

**Vice Chairman Boehning:** I'm trying to add up the increases but they don't make sense.

**Sparb Collins:** There are some offsets.

**Chairman Brandenburg:** Closed the hearing.

# 2017 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Government Operations Division  
Medora Room, State Capitol

HB1023  
1/17/2017  
Recording Job# 26950

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the public employees retirement system; and to provide for a transfer.

Minutes:



**Chairman Brandenburg:** Opened the hearing on HB1023 and HB1083.

**Sharon Schiermeister, Chief Operating Officer, ND Public Employees Retirement System:** Went through the green sheet.

**Representative Kempenich:** In this current budget, on your IT contractual services and reports you have \$618,000.00 that was budgeted just for this current biennium. The biennium before was \$348,000.00. Did you have some initiatives?

**Sharon Schiermeister:** We did have a special initiative this biennium. We had devoted about \$147,000.00 of additional funds to some enhancements to our PERS link system that we had delayed as a result of us having to work on other initiatives. It was a one-time investment that we are doing this biennium that we will not need next biennium.

**Chairman Brandenburg:** Did you have anything on your spend down?

**Sharon Schiermeister:** Not at this time.

**Representative Kempenich:** Did you do an exercise when the allotments came down? If you had to reduce 6.5% of your budget of your budget, did you identify any reductions?

**Sharon Schiermeister:** We did look at things very closely to make sure that what we had included were truly costs that we needed. We did not go through a specific exercise. In preparing our budget request, we did look at things very closely.

**Representative Kempenich:** I don't think that I'm going to require that special funded agencies have to go through an allotment if there is another one. What I think I probably will do is have special agencies go through an exercise to identify reductions. What we're

running into with agencies that are general funded; is that we're driving the cost of government with special funded agencies.

**Sparb Collins, Director, ND Public Employees Retirement System:** We didn't go through the reductions; but, one thing our board did direct us to do was to look at a zero growth budget. Even though we're special funds, this isn't the time to be looking at new initiatives.

**Representative Kempenich:** I know the governor required some agencies, even if they were special funded, to look at their budgets.

**Sparb Collins:** One of the things that's difficult for us in that exercise is as a special fund, our broader responsibilities are with all the funds we administer. One recent thing that came up is that we had part of our settlement with Blue Cross Blue Shield on the affordable care act fees. We saved \$2.5 million because of the audit. If we didn't have the resources to be able to do that, we're going to have money left on the table that none of us are going to know about.

**Representative Kempenich:** You would have to have a report to identify if this does happen.

**Representative Vigesaa:** You mentioned inflationary costs, but I see printing was up 20% in this budget. Could you explain what that would be?

**Sharon Schiermeister:** We included some additional printing costs. This upcoming biennium we're going to have three board elections. Currently, those are all done through the mail; where we mail out ballots to the participating members. In this biennium we didn't have any board elections.

**Representative Vigesaa:** The office remodel; it looks like it's under repairs in the detail. If you could remind us what that \$30,000.00 is for?

**Sharon Schiermeister:** In our current office space we have a receptionist who's in the front area and that person is also on the phone as part of our call center. We've encountered a couple of things: the nature of the calls they're dealing a lot of the time is dealing with confidential information. We've seen an increase in the number of people in our waiting room. It was looking at restructuring our reception area so we had more privacy. We had included that in our budget request for this biennium, however, we did defer making that investment because we had been approached by WSI that there might be office space opening up there if the new building by the Bank of North Dakota had been built.

**Sparb Collins:** On the board mailing with costs going up; our next step is to move functions that we do by mail onto the electronic.

**Vice Chairman Boehning:** What's the salary increase performance?

**Sharon Schiermeister:** That's the 1%.

**Vice Chairman Boehning:** What are the base payroll changes of \$55,000.00?

**Sharon Schiermeister:** That was on the cost to continue.

**Chairman Brandenburg:** That would be for all 34.5 FTE?

**Sharon Schiermeister:** Yes.

**Chairman Brandenburg:** When you look at where we're at, we're trying to get somewhere between that 2013-2015 budget and the 2015-2017 budget. I do see you have \$1.6 million increase from 2013-2015. What happened in 2015-2017 that pushed up that \$1.6 million?

**Sharon Schiermeister:** The big driver between that change or 64% of it was in our salaries and wage line item; for the difference between the 2013-2015 and 2015-2017 biennium. Of that \$1.6 million, 64% of that was in the salary line item.

**Chairman Brandenburg:** I see we went from 33 to 34.5 FTE. So that's part of it and the increase in salaries is the other part. So about \$1 million was in salaries and the FTE's.

**Sharon Schiermeister:** Correct.

**Chairman Brandenburg:** So about \$600,000.00 was in the equity and the other portion was 1.5 FTE's for the wages and for the office space, insurance and benefits. So that's about \$180,000.00 for every FTE.

**Sparb Collins:** The big part of the 64% was the salary and wage line item; out of that 40% was for new positions. The other part of the 64% was the general salary increase and health insurance.

**Chairman Brandenburg:** About \$1 million is tied up with that. What's the other \$600,000.00 is?

**Sharon Schiermeister:** The remainder of the increase was in our operating line item. That generally came with the inflationary increase. The general inflationary increases were almost half of that increase. We also had a special initiative with our PERS link business system; that we're now subtracting out. We had put in \$147,000.00 to do some initial investment in our system for our member self service.

**Representative Kempenich:** What kind of agreement do you have with the space that you're renting. Does the agency have to do all the repairs or upgrades? What's your agreement? What is your square footage cost?

**Sharon Schiermeister:** It's about \$17.50/sq. ft. and we're increasing up to \$18.50/sq. ft. Basically, everything is included in that. The thing that wouldn't be would be our reception area; if we wanted to do a remodel of the space, that would be passed on to us.

**Sparb Collins:** We talk about office remodel; it's not really a remodel. What we're talking about is putting in security. If we do this, we're going to be putting up doors so that people can't walk into the office building in general. We're going to wall off so that the conversations

can't be heard. It's not so much a remodel as trying to put security measures into place; secondly, making sure we don't wind up with a HIPPA violation.

**Chairman Brandenburg:** That's at \$27,500.00?

**Sparb Collins:** Right.

**Chairman Brandenburg:** Closed the hearing.

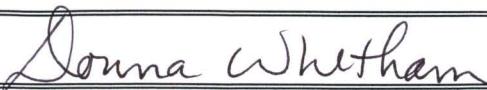
# 2017 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Government Operations Division  
Medora Room, State Capitol

HB1023  
2/1/2017  
Recording Job# 27748

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the public employees retirement system; and to provide for a transfer.

Minutes:

Attachment A and B

**Chairman Brandenburg:** Opened the hearing on HB1023 and HB1073.

**Sharon Schiermeister, Chief Operating Officer, ND Public Employee Retirement System:** See testimony attachment A and B.

**Sparb Collins, Director, ND Public Employee Retirement System:** We can do that, but we would need to do it by administrative rule; which would take us about eight months to get in place. If you do it be statute, we could do it in August.

Sharon Schiermeister continued with her testimony.

**Representative Nathe:** Have there been any discussions that if you want a hard copy to pay \$10.00 a year? Could they incur some of the cost of that hard copy?

**Sharon Schiermeister:** I'm not sure if we have authority to charge a fee.

**Representative Delmore:** Have you thought about how you would notify these people who don't have a computer? There would have to be some form by which you got ahold of the 600 not on direct deposit. Which you just assume people are going to go and see that? I would think that there would still be some cost in going this way; because you would still have to do a notification to at least some people.

**Sharon Schiermeister:** As far as the direct deposit, we have mailing addresses for those people. If we were going to mandate that, we would be doing some direct communication this biennium to let them know this change was coming. With the news letters, there are certain things that we are required to notify our membership of. We're not cutting out member specific mailings. This is our general newsletters.

**Sparb Collins:** We were asked to come up with 10% and this is how we're getting there. We know with these communication things that people are going to be left unaware. We have some alternatives to help with our new website.

**Vice Chairman Boehning:** On the contingency line, what do you use that for and have you used that in the past?

**Sharon Schiermeister:** The contingency line is used in case something unanticipated would come up. We very seldom have used it. This biennium we used it for a one-time development cost for our mobile app.

**Vice Chairman Boehning:** Would it be able to be transferred into operating? Well else could that contingency money go?

**Sharon Schiermeister:** Our board has the authority to put that into any of our line items.

**Vice Chairman Boehning:** So it could go into salaries as well?

**Sharon Schiermeister:** It can.

**Sparb Collins:** We might have to have extra meetings and then we can accommodate them if it happens.

**Vice Chairman Boehning:** So in the event you do need to do something you do have this extra money with the board approval.

**Sparb Collins:** Yes.

Sharon Schiermeister continued with her testimony.

**Representative Nathe:** Have you heard of any other states charging the members? Are you familiar with any other pension plans that do that?

**Sharon Schiermeister:** I am not aware of anyone charging the members for that; but, I've never asked either.

Sharon Schiermeister continued with her testimony.

**Lori Laschkewitsch, Fiscal Analyst, Office of Management and Budget:** Last session Representative Streyle had an amendment added onto the ITD bill that all state agencies that were under 100 FTE's were required to get desktop services through ITD.

Sharon Schiermeister continued with her testimony.

**Vice Chairman Boehning:** What we've found is that a lot of agencies are talking to their vendors and suppliers to negotiate the prices down.

**Sharon Schiermeister:** When we prepare our budget, we ask our vendor and our landlord for an estimate of where they think things could be. We're closer now so they may be able to adjust their inflation increases more accurately than what they're projecting.

Sharon Schiermeister continued with her testimony.

**Vice Chairman Boehning:** That was off the Burgum budget?

**Sharon Schiermeister:** It was off of HB1023.

**Vice Chairman Boehning:** How are you going to fund that FTE that you just hired and how is that going to stay in there? In Burgum's budget he takes out \$150,000.00 plus an FTE; but we're going to keep your FTE and still take the \$150,000.00 out.

**Sharon Schiermeister:** The \$150,000.00 is that when we built our pay plan, we assumed that our staff salaries would be higher level; because we were anticipating that we award our salary equity package that was approved last session. As a result of not granting the second year of that increase, our wage base is lower than what we had projected. This will allow us to fund the \$150,000.00 reduction.

**Chairman Brandenburg:** So you would have some rollup dollars you can use in that position.

**Sharon Schiermeister:** Yes.

**Sparb Collins:** The equity issues we had before are still here. Some day when there's a better opportunity we would like to talk about that again.

**Representative Nathe:** Do you have any turn back money?

**Sharon Schiermeister:** We're all special funds.

**Vice Chairman Boehning:** On the remaining appropriation they have \$578,000.00 than what they're projecting. What happens to that money? Does that go away and you start over new again or does that money get carried over into the budget?

**Lori Laschkewitsch:** It is just authority; so, they have the special fund that has the money in it. That money just stays in that fund as never taken out and spent. At the end of the biennium, that extra authority goes away and starts over. It will start over with whatever the new appropriation is that you appropriate to them for the 2017-2019 biennium.

**Vice Chairman Boehning:** There was about \$1,200.00 that it cost for overtime?

**Sharon Schiermeister:** We budgeted about \$12,000.00 for next biennium in overtime pay. We have exempt staff who are exempt from the fair labor standards act and we have nonexempt who are. At our agency, management level is generally exempt and not eligible for overtime. Non-management level staff are eligible for overtime. We have a policy where

if they do work over the 40 hours, they can accrue comp time rather than being paid out overtime or they can get the overtime.

**Chairman Brandenburg:** Closed the hearing.

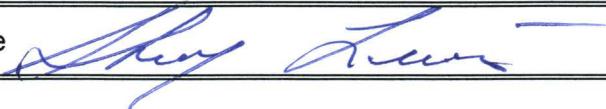
# 2017 HOUSE STANDING COMMITTEE MINUTES

**Appropriations Committee - Government Operations Division**  
Medora Room, State Capitol

HB1023  
2/10/2017  
Recording Job# 28177

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the public employees retirement system; and to provide for a transfer.

**Minutes:**

Attachments A through F

**Chairman Brandenburg:** Opened the hearing on HB1023 and HB1083.

**Vice Chairman Boehning:** Explained attachments A and B.

**Representative Nathe:** What was the \$60.00 for?

**Vice Chairman Boehning:** It's on the green sheet for temporary salaries from the governor's budget.

Vice Chairman Boehning continued with his explanation.

**Representative Vigesaa:** On the removing funding for desktop support services that negative \$75,580.00 is not going to be removed?

**Vice Chairman Boehning:** We're not going to take that out of their budget. We left that in their budget so they have IT as their support staff.

**Representative Carlson, Majority Leader, ND Legislative Assembly:** Explained attachments C.

**Representative Kempenich:** When you hold that reserve money, is that in the retirement system balance?

**Sparb Collins, Director, ND Public Employees Retirement System:** Since it's short term money, it's not invested like retirements in a short term area.

**Representative Kempenich:** It's just a different line in your investment portfolio.

**Sparb Collins:** Within the overall funding, yes.

**Representative Nathe:** How much is in that reserve fund right now?

**Sparb Collins:** About \$34 million. That's the total before any of it was allocated or recommended by the governor.

**Representative Al Carlson:** Explained attachments D, E and F.

**Representative Delmore:** You refer to it as a state agency; but it's really a board that just gets paid for meetings. Are we really having a state agency with this?

**Representative Carlson:** Absolutely. There's an agency. The director is appointed by the governor. The difference is if you look at the make up of the board; the make up of the board is going to be the legislators that are elected to this place plus three state employees. Sparb in this plan would be the same person hired for the position that he's doing today. The people that he's working with and are signing these contracts are going to be involved in the legislative process and the appropriation process. It's not a tremendous change. The biggest change is it puts us back in charge of the dollars and the plans; and it still keeps the voice of the public employees in place. The governor's proposal asked us to have 5% participation by the public employees. The Senate was not willing to put that 5% in there. The governor was not pleased about that; that we hadn't addressed that. Because the Senate didn't do it, we didn't do it. The governor was trying to save an additional \$11 million on the premium that we're paying.

**Representative Nathe:** To make these changes, do you know what the cost may be?

**Representative Carlson:** When we discussed it, we could not identify a fiscal note; because we're taking the same people and moving them to a different title. The job they did yesterday will be the same today.

**Representative Kempenich:** What you're doing now is instead of spending the money and then trying to figure out how to cover it; we're going to cover it before we write the check.

**Representative Carlson:** That's not all it does. There's a lot of work with the plans, there's a lot of discussion about what should be included in the plans, deductibles, copays and then it's put out for bids. All these other duties, the board has to do. This interim committee will be statutory and will meet every quarter. You're allowed to bring in consultants.

**Vice Chairman Boehning:** Made a motion to move amendment 17.0508.01002.

**Representative Nathe:** Seconded the motion.

**Representative Delmore:** What concerns me with this is there isn't any alternative if some of that reserve money is needed. It just says none of that may ever be. Is there another provision of law that would allow them to spend some of that money? Does this amendment mean that under no circumstances?

**Representative Kempenich:** I think that the intent is that without legislative action it wouldn't be spent. This isn't going to be automatic like it was in the past. The intent is to tie it up. It would take legislative action to use the reserve.

**Representative Vigesaa:** This is only for the next biennium. We're using half the reserve for the funding of this next policy. This is a way to make sure that we at least have half of the fund remaining until we go into the following biennium. If the same amount was taken out as Representative Carlson mentioned, we would have absolutely nothing in the reserve fund if the same course of action was taken during that next biennium. This would ensure that at least half of it remains there.

**Representative Kempenich:** This reserve has been efficiencies from past biennium.

**Representative Delmore:** I understand where the reserve dollars came from and I understand the concern of running it down to zero.

**Representative Kempenich:** This is a major change on what's happening with it. This is a spill over from two years ago.

**Representative Delmore:** Is part of that because of when the contract comes due? Is that part of what gets us into trouble?

**Chairman Brandenburg:** I think there is a date change. We come here and it's basically done. By the time we get organized, it's already done and signed and we can't do anything.

**Representative Vigesaa:** There is another bill working its way through the system. I believe it was in IBL concerning switching when the renewal dates would take place. Going forward, we would be in a position to have the dates different.

**Alex Cronquist, Fiscal Analyst, ND Legislative Council:** That bill that you're referring to is HB1406.

**Voice Vote made.**

**Motion Carried.**

**Vice Chairman Boehning:** Made a motion to move amendment 17.0508.01001.

**Representative Brabandt:** Seconded the motion.

**Representative Kempenich:** A lot of it looks like we're changing board to office.

**Vice Chairman Boehning:** The meat of the bill starts on page 16.

**Chairman Brandenburg:** What I see is the membership changes in section 25.

**Representative Delmore:** I wish we had something besides a state agency in here. I wish he would have used state board. It really isn't a state agency to me in the description.

**Representative Kempenich:** It's using office; that's why I suppose they get to be a state agency. It looks like it's going to be an advisory office.

**Chairman Brandenburg:** In order to have access to legal counsel from the attorney general's office, you have to be a state agency. I think that would tie into that; because you can't give it to a private office.

**Representative Kempenich:** It's going to be a cabinet position.

**Representative Nathe:** I like the idea of the amendment. It does put the legislature on the hook for millions of dollars that affect the budget that we're trying to budget. I think we should have more of a legislative voice in saying where all this money goes.

**Chairman Brandenburg:** We took \$16 million out; we come back next time and it could be zero. Then what do we do?

**Representative Kempenich:** It's not just \$16 million; it's \$230 million that we're going to spend on health insurance. What is the total insurance package for the next two years?

**Sparb Collins:** It depends on how you measure it. The state of North Dakota is only one client of PERS. There's political subdivisions, there's retirees. If you look at the whole group of people, the contract this biennium runs around two years for \$650 million; but that's political subdivisions, retirees and the state of North Dakota.

**Chairman Brandenburg:** The reserves are around \$30 million.

**Sparb Collins:** The reserves are around \$34 million. You've used the reserves probably about six times in the past to do the same thing. The board can't lock you into anything in terms of appropriation. It's only until after you leave that we can enter into agreement on price. We have to wait until you go through the full budgeting process for us to be able to put in a price on that. We do give you early on the cost to maintain and you make the decisions from there on.

**Voice Vote made.**

**Motion Carried.**

**Vice Chairman Boehning:** Made a motion for a "Do Pass as Amended".

**Representative Vigesaa:** Seconded the motion.

**Roll Call Vote:** 6 Yeas 1 Nay 0 Absent

**Motion Carried.**

**Chairman Brandenburg:** Closed the hearing.

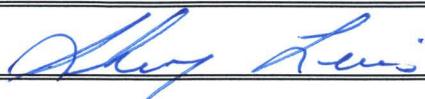
# 2017 HOUSE STANDING COMMITTEE MINUTES

**Appropriations Committee - Government Operations Division**  
Medora Room, State Capitol

HB1023  
2/13/2017  
Recording Job# 28269

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## **Explanation or reason for introduction of bill/resolution:**

A BILL for an Act to provide an appropriation for defraying the expenses of the public employees retirement system; and to provide for a transfer.

**Minutes:**

Attachment A.

**Chairman Brandenburg:** Opened the hearing on HB1023 and HB1083.

**Chairman Brandenburg:** Discussed amendment 17.0508.01006. See attachment A.

**Alex Cronquist, Fiscal Analyst, ND Legislative Council:** Explained amendment 17.0508.01006. See attachment A.

**Vice Chairman Boehning:** Made a motion to move the amendments.

**Representative Nathe:** Seconded the motion.

**Voice Vote made.**

**Motion carried.**

**Vice Chairman Boehning:** Made a motion for a "Do Pass as Amended".

**Representative Vigesaa:** Seconded the motion.

**Roll Call Vote:** 7 Yeas 0 Nays 0 Absent

**Motion Carried.**

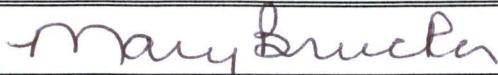
**Chairman Brandenburg:** Closed the hearing.

# 2017 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee  
Roughrider Room, State Capitol

HB 1023  
2/15/2017  
28425

- Subcommittee  
 Conference Committee



## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the public employees retirement system; and to provide for a transfer.

Minutes:

Amendments 1-3

**Chairman Delzer:** There are two amendments that were handed out. See attachments #1 amendment 17.0508.01006 and attachment #2 amendment 17.0508.01007.

**Representative Boehning:** Reviewed the amendment and started with the detail of the house changes on page 83. Continued reviewing the entire amendment starting with section one. Most of this is clean up, section 8 through section 26 most of that language changes the *board* to *office*. Section 27 eliminates the PERS board as it's currently set up and create a separate agency where the director will be appointed by the governor. There will be three elected employee members on the advisory board and they will also be serving on the employee benefits board as nonvoting members. Section 31 we're taking public Employees Retirement System office and changing the structure of that. There will be two members of the legislative assembly on that, one member must be appointed by the governor, one board member appointed by the attorney general, and one member appointed by the State Health Department or the designee. In part D one board member must be elected among the individuals receiving retirement benefits. Section 32 gives them continued appropriations. It will create the Public Employees Retirement System office. Then almost everything in between there is just language changing board to office. The last page, section 121, distributes everything out in electronic form.

**Representative Delmore:** This is just adding another level to something that we don't need. What are some of those specifics; who's paying for this and who's doing it and where are they going to be located?

**Representative Boehning:** It's basically going to function the same as it is. I'm not sure how the salary is going to sit in the governor's budget because there are 33 employees so the money will be carried over to the agency as far as I understand.

**Chairman Delzer:** Currently, the executive director, Bart Collins, and I don't think that will pan out. Is there anything else on the amendment? Is PERS currently under 28-32?

**Representative Boehning:** I do not believe they are under 28-32. **I would move to adopt the amendment 17.0508.01006.**

**Representative Brandenburg second that motion**

**Representative Sanford:** This has nothing to do with the State Investment Board other than for the members that come forward from PERS that might be chosen in a slightly different manner.

**Representative Boehning:** The Investment Board is not affected because that is another separate entity.

**Representative J. Nelson:** Why did you reinvent the PERS board? What was the process?

**Representative Boehning:** These were amendments that came up from Representative Carlson. We had a hearing and we talked about these things in committee.

**Chairman Delzer:** When the PERS board was first set up health insurance wasn't a big issue in the state of North Dakota. Now we're talking around \$475 million a biennium total cost. I am uncomfortable with a committee that is mostly made up with employees that can put us into a position that the legislature doesn't want to be in.

**Representative Holman:** Does it go from nine-member board to a seven-member board?

**Representative Boehning:** Yes it does.

**Representative Holman:** What was the discussion regarding removing the governor appointment, the attorney general appointment, and the state health officer?

**Representative Boehning:** I still believe the governor appointment is still in there. We just removed the attorney general appointment and the state health officer.

**Chairman Delzer:** Currently, I think we're sitting even with the question the language actually says it's supposed to be the health officer.

**Representative Holman:** What was the discussion related to that change?

**Representative Boehning:** There really wasn't a lot of discussion, they were just taken out. We didn't feel that would really change the board make-up if we took the appointee out of the health office.

**Chairman Delzer:** Reducing by two would increase the legislative participation by a percentage. It's certainly not taken over by the legislature in this set up; it's still just two members of the legislature and five other members.

**Representative Holman:** I think a smaller group with the right number of people can get a lot more done.

**Representative Brandenburg:** The reserves are somewhere around \$30 million and we're going to burn up \$16 million of the reserves right now and that's what started some of this discussion. We go another couple years and that reserve is gone then the people we represent are going to ask us what we're doing. This is the action that spurred this discussion, this amendment, and the make-up of the board.

**Chairman Delzer:** That particular part of the amendment certainly brings the issue front and center for the next half because part of that buy down. We had a sheet that showed the side by side on the differences between the current plan and the proposed plan by PERS. Can we get that distributed again to the committee?

**Brady, Legislative Council:** I will get that.

**Representative Kempenich:** I've been going through the history of the minutes from the PERS board and most of them there are no dissenting votes except once in a while. This is an advisory board and it looks like that's how they've been in that past.

**Chairman Delzer:** This changes this to an advisory board and puts the employee benefits committee more in charge of what goes on. I think that is controlled by the legislative body. Any further questions?

**A Roll Call vote was taken. Yea: 15 Nay: 3 Absent: 3**

**Representative Boehning** referred to amendment 17.0508.01007. This amendment outlines the employee benefits program committee should be meeting at least once quarterly and reports to the Employee Benefits program.

**Representative Boehning make a motion to adopt amendment 17.0508.01007**

**Representative Brandenburg second that motion**

**Chairman Delzer:** Is there any discussion?

**Voice vote all in favor, motion carries**

**Representative Boehning:** Distributed proposed amendment 17.0508.01003. See attachment #3. This amendment has new hires paying 5% of their health insurance costs, whether it be a family plan or a single payment plan. Our governor really wanted us to do a 5% for all state employees would pay but I think we should start with this amendment with the new hires paying five percent.

**Chairman Delzer:** Does this amendment split us away from our combined rate and go to a single and family rate?

**Representative Boehning:** It should take care of that. It states a single and family plan.

**Chairman Delzer:** Brady, will that change the way we do any of our bills as far as the health insurance?

**Brady, Legislative Council:** That could potentially have an effect on the amount of funding that would be required for each agency.

**Representative Delmore:** This is a pretty major change from something that most of us agreed that we weren't going to do this session. There's been no hearing or no public input on it. It concerns me that there's not an option for people in the public to come and give us information on a very major change we are making for any new hires in the state.

**Chairman Delzer:** Was this offered in section?

**Representative Boehning:** No, it wasn't offered in sections.

**Representative Streyle:** I agree that this should be talked about but I think it should be budgeted for next time. I would vote against this amendment.

**Chairman Delzer:** Representative Boehning, if you want you can offer to further amend. Before we do discussion we should really have that in a second.

**Representative Boehning:** I would move 17.0508.01003

**Representative Brandenburg second that motion**

**Chairman Delzer:** I don't plan to support this either because I think we're a way along now and it would be different if we had the money to do a pay raise and cover the initial cost. With the situation of not giving a pay raise I understand Representative Boehning's desire to move this forward for new hires but that would create two different classes we'd be dealing with and I'm uncomfortable with that.

**Representative Boehning:** A few sessions ago we changed the PERS and TIF from rule of 85 to rule of 90 for new hires. I think this is a good amendment. Sometimes we have to start with baby steps.

**Representative Kempenich:** We've changed the retirement midstream.

**Representative Boe:** I don't think it's a terrible idea. Before I support it I would want to hear from the department heads to find out the possible backlash of not being able to fill positions because of this hanging over their head. It's not enough information to vote for it at this time.

**Chairman Delzer:** Is there further discussion? We will try it as a voice vote. **Failed by voice vote.**

**Chairman Delzer:** Are there further amendments?

**Representative Boehning motion to Do Pass as Amended**

**Representative Brandenburg second that motion**

**A Roll Call vote was taken. Yea: 15      Nay: 3      Absent: 3**

**Representative Boehning will carry the bill**

17.0508.01002  
Title.

Prepared by the Legislative Council staff for  
Representative Carlson  
February 3, 2017

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1023

Page 1, line 2, after the semicolon insert "to limit the use of health insurance program reserves;"

Page 2, after line 2, insert:

**"SECTION 4. HEALTH INSURANCE RESERVE FUND - LIMITATIONS.**

Notwithstanding any other provision of law, the public employees retirement system board may not spend any moneys in the fund created under section 54-52.1-06 or from any other source for the purpose of reducing uniform group insurance premium amounts for the biennium beginning July 1, 2017, and ending June 30, 2019."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

This amendment adds a section prohibiting the use of health insurance reserve funds for reducing health insurance premiums.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1023

Page 1, line 2, replace "and" with "to provide a continuing appropriation;"

Page 1, line 2, after "transfer" insert "; and to amend and reenact subdivision j of subsection 2 of section 12-60-24, paragraph 4 of subdivision a of subsection 4 of section 15-10-17, sections 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, subsection 2 of section 39-03.1-09, sections 39-03.1-10.1, 39-03.1-10.2, 39-03.1-11, 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, 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 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, 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, 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, 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, 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, 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, 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, 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, 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, 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, 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, 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, 54-52.6-18, 54-52.6-19, 54-52.6-20, and 54-52.6-21 of the North Dakota Century Code, relating to the public employees retirement board, the public employees retirement system, and the membership of the employee benefits programs committee"

Page 2, after line 2, insert:

**"SECTION 4. AMENDMENT.** Subdivision j of subsection 2 of section 12-60-24 of the North Dakota Century Code is amended and reenacted as follows:

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

**SECTION 5. AMENDMENT.** Paragraph 4 of subdivision a of subsection 4 of section 15-10-17 of the North Dakota Century Code is amended and reenacted as follows:

- (4) Employees of the university system who are members of the public employees retirement system under chapter 54-52 or 54-52.6 and who become entitled to participate in the alternate retirement program are entitled to a special annuity purchase in the alternate retirement program in accordance with this subdivision. An eligible employee who consents to have that employee's contribution included is entitled to have that employee's contribution and employer's contribution, with

interest, in the public employees retirement system fund, used by the ~~retirement board of the~~ public employees retirement system office to purchase for that employee an annuity in the alternate retirement program in lieu of any other rights under the public employees retirement fund. However, before the employer's contribution may be used for an annuity purchase, the employee's combined years of service with the public employees retirement system and the alternate retirement program must equal or exceed the years of service necessary to be eligible for retirement benefits under the public employees retirement system. An employee who transferred from the public employees retirement system before March 30, 1987, and who received a refund of that employee's contribution is entitled to have the employer's contribution, with interest, used to purchase an annuity even if that employee did not purchase an annuity in the alternate employee program with the employee's contribution. If an employee makes the election allowed under this subdivision, that employee relinquishes all rights the employee or any of the employee's beneficiaries may have had to benefits provided under chapters 54-52 and 54-52.6.

**SECTION 6. AMENDMENT.** Section 21-10-01 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The North Dakota state investment board consists of the governor, the state treasurer, the commissioner of university and school lands, the director of workforce safety and insurance, the insurance commissioner, three members of the teachers' fund for retirement board or the board's designees who need not be members of the fund as selected by that board, two of the elected members of the public employees retirement system advisory board as selected by that board, and ~~one member of the public employees retirement system board as selected by that board~~office executive director or the director's designee. The director of workforce safety and insurance may appoint a designee, subject to approval by the workforce safety and insurance board of directors, to attend the meetings, participate, and vote when the director is unable to attend. The teachers' fund for retirement board may appoint an alternate designee with full voting privileges to attend meetings of the state investment board when a selected member is unable to attend. The public employees retirement system advisory board may appoint an alternate designee with full voting privileges from the public employees retirement system advisory board to attend meetings of the state investment board when a selected member is unable to attend. The members of the state investment board, except elected and appointed officials and the director of workforce safety and insurance or the director's designee and the public employees retirement system executive director, are entitled to receive as compensation one hundred forty-eight dollars per day and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09 for attending meetings of the state investment board.

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

**SECTION 7. AMENDMENT.** Section 39-03.1-01 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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

**SECTION 8. AMENDMENT.** Section 39-03.1-04 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 9. AMENDMENT.** Section 39-03.1-06 of the North Dakota Century Code is amended and reenacted as follows:

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

The ~~board~~office shall, from time to time, establish such rules and regulations for the administration of this chapter as may be deemed necessary. It shall cause to be made periodic actuarial investigations into the mortality and service experience of the contributors to and the beneficiaries of the fund.

**SECTION 10. AMENDMENT.** Section 39-03.1-07 of the North Dakota Century Code is amended and reenacted as follows:

#### **39-03.1-07. Membership.**

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

**SECTION 11. AMENDMENT.** Section 39-03.1-08.1 of the North Dakota Century Code is amended and reenacted as follows:

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

A contributor may, prior to retirement, purchase service credit for the time during each legislative session spent serving as a member of the legislative assembly while a member of the fund. The contributor shall pay for the service credit an amount equal to the required member contributions and the state contributions for that period of time plus interest as established by the ~~board~~office. Service credit for legislative sessions prior to July 1, 1985, must be purchased before January 1, 1986. Service credit for each later legislative session must be purchased within one year after the adjournment of that legislative session.

**SECTION 12. AMENDMENT.** Section 39-03.1-08.2 of the North Dakota Century Code is amended and reenacted as follows:

#### **39-03.1-08.2. Purchase of additional service credit.**

1. The fund may accept rollovers from other eligible plans under rules adopted by the board for the purchase of additional service credit, but only to the extent the transfer is a rollover contribution that meets the requirement of section 408 of the Internal Revenue Code [26 U.S.C. 408].
2. The ~~board~~office may accept trustee-to-trustee transfers as permitted by Internal Revenue Code section 403(b)(13) and section 457(e)(17) from an Internal Revenue Code section 403(b) annuity or Internal Revenue Code section 457 deferred compensation plan for the purchase of permissive service credit, as defined in Internal Revenue Code section 415(n)(3)(A), or as repayment of a cashout from a governmental plan under Internal Revenue Code section 415(k)(3).
3. A contributor may elect to purchase credit for years of service and prior service for which the contributor is not presently receiving credit. A contributor is entitled to purchase additional credit under this section for

the following service or prior service, except this service is not eligible for credit if the years claimed also qualify for retirement benefits from another retirement system:

- a. Except as provided in subsection 3 of section 39-03.1-10.1, up to four years of credit for active employment in the armed forces of the United States.
- b. Employment as a permanent employee by a public employer either within or outside the state.
- c. Employment as a permanent employee by the federal government.
4. A contributor may elect to purchase credit for the following absences for which the participating contributor is not receiving service credit:
  - a. Employer-approved leave of absence; and
  - b. Months away from work while participating as a seasonal employee.
5. The contributor may purchase credit under this section by paying to the boardoffice an amount equal to the actuarial cost to the fund of providing the credit. The boardoffice shall adopt rules governing the purchase of additional credit under this section.
6. The boardoffice may establish individual retirement accounts and individual retirement annuities as permitted under section 408(q) of the Internal Revenue Code to allow employees to make voluntary employee contributions. The boardoffice may adopt appropriate rules as may be necessary to implement and administer the accounts and annuities under this section.
7. In addition to service credit identified in this section, a contributor may purchase up to five years of service credit.
8. Pursuant to rules adopted by the boardoffice, the boardoffice may allow a contributor to purchase service credit with either pretax or aftertax moneys, at the board's discretion of the office. If a contributor elects to purchase service credit using pretax moneys, the requirements and restrictions in subsection 2 of section 39-03.1-09 apply to the purchase arrangement.

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

2. The state of North Dakota, at its option, may pay the member contributions required by subsection 1 for all compensation earned after June 30, 1983, and may pay the member contributions required to purchase service credit on a pretax basis pursuant to subsection 8 of section 39-03.1-08.2. The amount paid must be paid by the state in lieu of contributions by the member. A member may not receive the contributed amounts directly once the employer has elected to pay the member contributions. If the state decides not to pay the contributions, the amount that would have been paid will continue to be deducted from compensation. If contributions are paid by the state, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the state, they must not be

included as gross income of the member in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The state shall pay these member contributions from the same source of funds used in paying compensation to the members. The state shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a combination of a reduction in gross salary and offset against future salary increases. If member contributions are paid by the state, they must be treated for the purposes of this chapter in the same manner and to the same extent as member contributions made prior to the date the contributions were assumed by the state. The option given employers by this subsection must be exercised in accordance with rules adopted by the boardoffice.

**SECTION 14. AMENDMENT.** Section 39-03.1-10.1 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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

**SECTION 15. AMENDMENT.** Section 39-03.1-10.2 of the North Dakota Century Code is amended and reenacted as follows:

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

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

1. The contributor may not be given the option to choose between an employer service purchase and an equivalent amount paid in cash.

2. The contributor must meet one of the following conditions at the time the purchase is made:
  - a. The contributor's age plus service credit must be equal to or greater than seventy; or
  - b. The contributor's age must be at least fifty and the contributor must have at least ten years of service credit.
3. The boardoffice must determine the purchase price on an actuarially equivalent basis.
4. The purchase must be completed before the contributor's retirement.
5. The employer may purchase a maximum of five years of service credit on behalf of the contributor.
6. The employer must pay the purchase price for the service credit purchased under this section in a lump sum.

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

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

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

1. A contributor is entitled to credit for permanent employment or its equivalent from the date eligibility is attained until normal or postponed retirement date, as described in subsection 3.
2. Retirement benefits are based on the contributor's final average salary. Final average salary is the average of the highest salary received by the contributor for any thirty-six months employed during the last one hundred twenty months of employment. For contributors who terminate employment on or after August 1, 2010, final average salary is the average of the highest salary received by the contributor for any thirty-six months employed during the last one hundred eighty months of employment. For contributors who terminate employment between July 31, 2005, and August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the period for which the boardoffice has appropriate and accurate salary records on its electronic database, but that period may not be more than the last one hundred eighty months of employment. Months not employed or months in which employment was not as a permanent employee are excluded in arriving at the thirty-six months to be used for the purpose of computing an average. If the contributor has worked for less than thirty-six months at the postponed retirement date, the final average salary is the average salary for all months of employment.
3. Retirement dates are as follows:

- a. Early retirement date is the first day of the month next following the month in which the contributor attains the age of fifty years and has completed at least ten years of eligible employment.
  - b. Normal retirement date is:
    - (1) The first day of the month next following the month in which the contributor attains the age of fifty-five years and has completed at least ten years of eligible employment; or
    - (2) When the contributor has a combined total of years of service credit and years of age equal to eighty and has not received a retirement benefit under this chapter.
  - c. Postponed retirement date is the first day of the month next following the month in which the contributor attains the age of sixty years.
  - d. Disability retirement date is the first day of the month after a contributor becomes permanently and totally disabled, according to medical evidence called for under the rules of the boardoffice, and has completed at least one hundred eighty days of employment.
4. The boardoffice shall calculate retirement benefits as follows:
- a. Normal retirement benefits for all contributors reaching the normal retirement date are payable monthly, and are:
    - (1) The first twenty-five years of credited service multiplied by three and sixty hundredths percent of final average salary.
    - (2) All years in excess of twenty-five years of credited service multiplied by one and three-fourths percent of final average salary.
    - (3) All contributors who retired before August 1, 2001, or their beneficiaries, are entitled to receive benefits equal to three and sixty hundredths percent of final average salary multiplied by the first twenty-five years of credited service, plus one and three-fourths percent of final average salary multiplied by credited service in excess of twenty-five years, with the increased benefits payable beginning August 1, 2001.
  - b. Early retirement benefits are normal retirement benefits accrued to the date of termination of employment, but actuarially reduced to account for benefit payments beginning before the normal retirement date.
  - c. Postponed retirement benefits, for all contributors reaching the postponed retirement date, are calculated in the same manner as normal retirement benefits.
  - d. Disability retirement benefits are payable monthly and are:
    - (1) Seventy percent of the contributor's final average salary, reduced by any workforce safety and insurance benefits paid. The minimum monthly disability retirement benefit under this subsection is one hundred dollars.

- (2) An individual or that person's beneficiary who, on July 31, 2001, is receiving a disability retirement benefit is entitled to receive an increase in benefits equal to six percent of the individual's present benefits, with the increase payable beginning August 1, 2001.
5. On termination of employment after completing ten years of eligible employment but before the normal retirement date, a contributor who does not elect to receive early retirement benefits is eligible to receive deferred vested retirement benefits. The deferred benefits are payable beginning on the contributor's normal retirement date in one of the forms provided in this section. Contributors who have delayed or inadvertently failed to apply for retirement benefits to commence on their normal retirement date may choose to receive either a lump sum payment equal to the amount of missed payments, or an actuarial increase to the form of benefit the member has selected, which increase must reflect the missed payments. The final average salary used for calculating deferred vested retirement benefits must be increased annually, from the later of the date of termination of employment or July 1, 1991, until the date the contributor begins to receive retirement benefits from the fund, at a rate as determined by the boardoffice not to exceed a rate that would be approximately equal to annual salary increases provided state employees pursuant to action by the legislative assembly.
6. If before retiring a contributor dies after completing ten years of eligible employment, the boardoffice shall pay the contributor's accumulated deductions to the contributor's designated beneficiary as provided in this subsection. If the contributor has designated an alternate beneficiary with the surviving spouse's written consent, the boardoffice shall pay the contributor's account balance to the named beneficiary. If the contributor has named more than one primary beneficiary, the boardoffice shall pay the contributor's account balance to the named primary beneficiaries in the percentages designated by the contributor or, if the contributor has not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the contributor, the boardoffice shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If there are no remaining primary beneficiaries, the boardoffice shall pay the contributor's account balance to the contingent beneficiaries in the same manner. If there are no remaining designated beneficiaries, the boardoffice shall pay the contributor's account balance to the contributor's estate. If the contributor has not designated an alternate beneficiary under this section or the surviving spouse is the beneficiary, the surviving spouse of the contributor may select one of the following optional forms of payment:
- a. A lump sum payment of the contributor's accumulated deductions as of the date of death.
  - b. Payment of a monthly retirement benefit equal to fifty percent of the deceased contributor's accrued normal retirement benefits until the spouse dies.
7. If a contributor not eligible for the benefits of subsection 6 terminates employment for any reason before retirement, the contributor or the

contributor's designated beneficiary is entitled to the contributor's accumulated deductions at termination.

8. The surviving spouse of a member receiving retirement benefits must be the member's primary beneficiary unless there is no surviving spouse or the surviving spouse designates an alternate beneficiary in writing. If a contributor receiving retirement benefits, or a contributor's surviving spouse receiving retirement benefits, dies before the total amount of benefits paid to them equals the amount of the contributor's accumulated deductions at retirement, the difference must be paid to the named beneficiary of the recipient or, if there is no named beneficiary, to the recipient's estate.
9. The ~~board~~office shall adopt rules providing for the receipt of retirement benefits in the following optional forms:
  - a. An actuarially equivalent joint and survivor one hundred percent option.
  - b. An actuarially equivalent life with ten-year or twenty-year certain options.
  - c. An actuarially equivalent partial lump sum distribution option with a twelve-month maximum lump sum distribution.
  - d. An actuarially equivalent graduated benefit option with either a one percent or two percent increase to be applied the first day of January of each year.

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

**SECTION 17. AMENDMENT.** Section 39-03.1-11.2 of the North Dakota Century Code is amended and reenacted as follows:

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

The ~~board~~office 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 benefits from all the plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. If the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. This reduction must be made pro rata between the plans, in proportion to the participating member's service in each plan.
2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirements under section 401(a)(9)(G), and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. A member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.
  3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
  4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
  5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.

**SECTION 18. AMENDMENT.** Section 39-03.1-11.3 of the North Dakota Century Code is amended and reenacted as follows:

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

If the boardoffice determines that the fund has obtained a total return on investments of nine and six hundredths percent or higher for the fiscal year ending June 30, 2007, or June 30, 2008, the boardoffice shall authorize an additional payment equal to seventy-five percent of the January retirement allowance following the fiscal yearend to each eligible retiree in pay status as of that January, including joint and

survivor and term certain beneficiaries, under this chapter. The ~~board~~office may only make one payment under this section.

**SECTION 19. AMENDMENT.** Section 39-03.1-14.1 of the North Dakota Century Code is amended and reenacted as follows:

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

1. For the purpose of determining eligibility for benefits under this chapter, a member's years of service is the total of the years of service earned under this chapter and the years of service employment or years of service credit earned in any number of the following, the total of which may not exceed twelve months of credit per year:
  - a. The public employees retirement system.
  - b. The teachers' fund for retirement.
  - c. 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.
2. If a member terminates eligible employment under this chapter, if that member has not received a refund of the member's accumulated deductions, and if that member begins eligible employment in a plan described in subdivision a or b of subsection 1, that member may elect to remain an inactive member of the system without refund of the member's accumulated deductions. The election must be made within ninety days after beginning the eligible employment. The ~~board~~office shall terminate the inactive status of a member under this subsection if the member gains eligible employment under this chapter or if the member terminates eligible employment under a plan described in subdivision a or b of subsection 1.
3. Pursuant to rules adopted by the ~~board~~office, a member who has service credit in the system and in any of the alternate plans described in subdivision a or b of subsection 1 is entitled to benefits under this chapter. The employee may elect to have benefits calculated using the benefit formula in section 39-03.1-11 under either of the following calculation methods:
  - a. By using the final average salary as calculated in section 39-03.1-11. 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.
  - b. Using the final average salary as calculated in section 39-03.1-11, with service credit not to exceed one month in any month when combined with the service credit earned in the alternate retirement system.

The ~~board~~office shall calculate benefits for an employee under this subsection by using only those years of service employment earned under this chapter.

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

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

1. The ~~board~~office shall pay retirement benefits in accordance with the applicable requirements of any qualified domestic relations order. The ~~board~~office shall review a domestic relations order submitted to it to determine if the domestic relations order is qualified under this section and under rules established by the ~~board~~office for determining the qualified status of domestic relations orders and administering distributions under the qualified orders. Upon determination that a domestic relations order is qualified, the ~~board~~office shall notify the contributor and the named alternate payee of its receipt of the qualified domestic relations order.
2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of a contributor, is made pursuant to a North Dakota domestic relations law, and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of the benefits payable to the contributor. A qualified domestic relations order may not require the ~~board~~office to provide any type or form of benefit, or any option, not otherwise provided under the retirement system, or to provide increased benefits as determined on the basis of actuarial value. However, a qualified domestic relations order may require the payment of benefits at the early retirement date notwithstanding that the contributor has not terminated eligible employment. A qualified domestic relations order must specify:
  - a. The name and the last-known mailing address of the contributor and the name and mailing address of each alternate payee covered by the order;
  - b. The amount or percentage of the contributor's benefits to be paid by the plan 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 21. AMENDMENT.** Section 39-03.1-25 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 22. AMENDMENT.** Section 39-03.1-28 of the North Dakota Century Code is amended and reenacted as follows:

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

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

1. A person to whom the member has given written consent to have the information disclosed.
2. A person legally representing the member, upon proper proof of representation, and unless the member specifically withdraws consent.
3. A person authorized by a court order.
4. A member's participating employer, limited to information concerning the member's years of service credit and years of age. The boardoffice may share other types of information as needed by the employer to validate the employer's compliance with existing state or federal laws. Any information provided to the member's participating employer under this subsection must remain confidential except as provided under subsection 6.
5. The administrative staff of the retirement and investment office for purposes relating to membership and benefits determination.
6. State or federal agencies for purposes of reporting on a service provider's provision of services or when the employer must supply information to an agency to validate the employer's compliance with existing state or federal laws.
7. Member interest groups approved by the boardoffice on a third-party blind list basis, limited to information concerning the member's participation, name, and address.
8. The member's spouse or former spouse, that individual's legal representative, and the judge presiding over the member's dissolution proceeding for purposes of aiding the parties in drafting a qualified domestic relations order under section 39-03.1-14.2. The information disclosed under this subsection must be limited to information necessary for drafting the order.
9. Beneficiaries designated by a participating member or a former participating member to receive benefits after the member's death, but only after the member's death. Information relating to beneficiaries may be disclosed to other beneficiaries of the same member.
10. Any person if the boardoffice determines disclosure is necessary for treatment, operational, or payment purposes, including the completion of necessary documents.
11. The general public, but only after the boardoffice has been unable to locate the member for a period in excess of two years, and limited to the

member's name and the fact that the ~~board~~office has been unable to locate the member.

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 under section 39-03.1-10.2, 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 23. AMENDMENT.** Section 39-03.1-29 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 24. AMENDMENT.** Section 52-11-01 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The North Dakota national guard is authorized to establish an employee retirement program by contract with an insurance company, state or national bank and trust company, or an investment company, authorized under the law to do business in this state, the state investment board, or the North Dakota public employees retirement system office. Except for a retirement program established under chapter 54-52, the North Dakota national guard shall prepare specifications of the terms of the retirement program which must be submitted to not less than three companies or agencies with a request for bids upon the retirement program contracts. After the submission of at least three bids, the adjutant general shall compare the bids, and with the approval of the governor, shall execute a contract for the retirement program with the company or agency submitting the lowest and best bid. The public employees retirement system ~~board~~ is ~~authorized to~~office may administer the retirement plan established in 1961 and frozen to new entrants in 1980 for employees of job service North Dakota. The public employees retirement system ~~board~~office shall fund the administrative expenses of administering that retirement plan from the funds in that plan.
2. The employing agency shall be authorized to withhold the employee's share of the contributions required under such retirement program from the

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

3. The employing agency's share of the costs of such retirement program must be paid from any funds made available to it for this purpose by the United States government, and in the case of employees of such agencies for whom the state does not receive federal payments for salary costs, such employer's share may be made from any appropriations made available for the purpose of paying such salaries. Payments may be made for prior service of employees in accordance with the terms of the retirement program contract and in accordance with the availability of funds. The contract must specify the terms and conditions under which employee contributions may be withdrawn from the program and for the crediting of the employer's contributions to future payments due from the employing agency. Provision may be made in the contract for optional payment of benefits to survivors of covered employees. Each agency participating in the retirement program shall be authorized to do all things necessary for the proper administration of the program, but no benefits payable under the terms of the retirement program contract shall ever become an obligation of the state.

**SECTION 25. AMENDMENT.** Section 54-35-02.3 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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

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

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

1. "Account balance" means the total contributions made by the employee, vested employer contributions under section 54-52-11.1, the vested portion of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the ~~board~~office.
2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
3. "Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.
4. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. Eligible employee does not include state employees who elect to become members of the retirement plan established under chapter 54-52.6.
5. "Employee" means any person employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.
6. "Employer" means a governmental unit.
7. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution ~~which the~~ ~~retirement~~ ~~board~~office may select to hold and invest the employers' and members' contributions.
8. "Governmental unit" means the state of North Dakota, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision thereof.
9. "National guard security officer or firefighter" means a participating member who is:
  - a. A security police employee of the North Dakota national guard; or
  - b. A firefighter employee of the North Dakota national guard.
10. "Office" means the public employees retirement system office.

11. "Participating member" means all eligible employees who through payment into the plan have established a claim against the plan.
- 11.12. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the bureau of criminal investigation or by a political subdivision and, notwithstanding subsection 12, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. Participating members of the law enforcement retirement plan created by this chapter who begin employment after August 1, 2005, are ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.
- 12.13. "Permanent employee" means a governmental unit employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least twenty weeks each year of employment.
- 13.14. "Prior service" means service or employment prior to July 1, 1966.
- 14.15. "Prior service credit" means such credit toward a retirement benefit as the ~~retirement board~~office may determine under the provisions of this chapter.
- 15.16. "Public employees retirement system" means the retirement plan and program established by this chapter.
- 16.17. "Retirement" means the acceptance of a retirement allowance under this chapter upon either termination of employment or termination of participation in the retirement plan and meeting the normal retirement date.
- 17.18. "Retirement board" or "board" means the ~~governing authority~~retirement system advisory board created under section 54-52-03.
- 18.19. "Seasonal employee" means a participating member who does not work twelve months a year.
- 19.20. "Service" means employment on or after July 1, 1966.
- 20.21. "Service benefit" means the credit toward retirement benefits as determined by the ~~retirement board~~office under the provisions of this chapter.
- 21.22. "Temporary employee" means a governmental unit employee who is not eligible to participate as a permanent employee, who is at least eighteen years old and not actively contributing to another employer-sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.
- 22.23. "Wages" and "salaries" means the member's earnings in eligible employment under this chapter reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime,

housing allowances, transportation expenses, early retirement incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between the member and participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the ~~board~~office.

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

1. "Account balance" means the total contributions made by the employee, vested employer contributions under section 54-52-11.1, the vested portion of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the ~~board~~director.
2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
3. "Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.
4. "Director" means the executive director of the public employees retirement system office.
5. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. Eligible employee does not include nonclassified state employees who elect to become members of the retirement plan established under chapter 54-52.6 but does include employees of the judicial branch and employees of the board of higher education and state institutions under the jurisdiction of the board.
- 5.6. "Employee" means any person employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.
- 6.7. "Employer" means a governmental unit.
- 7.8. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution ~~which the retirement board~~the director may select to hold and invest the employers' and members' contributions.

- 8.9. "Governmental unit" means the state of North Dakota, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision thereof.
- 9.10. "National guard security officer or firefighter" means a participating member who is:
- a. A security police employee of the North Dakota national guard; or
  - b. A firefighter employee of the North Dakota national guard.
11. "Office" means the public employees retirement system office.
- 10.12. "Participating member" means all eligible employees who through payment into the plan have established a claim against the plan.
- 11.13. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the bureau of criminal investigation or by a political subdivision and, notwithstanding subsection 12, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. Participating members of the law enforcement retirement plan created by this chapter who begin employment after August 1, 2005, are ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.
- 12.14. "Permanent employee" means a governmental unit employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least twenty weeks each year of employment.
- 13.15. "Prior service" means service or employment prior to July 1, 1966.
- 14.16. "Prior service credit" means such credit toward a retirement benefit as the ~~retirement board~~director may determine under the provisions of this chapter.
- 15.17. "Public employees retirement system" means the retirement plan and program established by this chapter.
- 16.18. "Retirement" means the acceptance of a retirement allowance under this chapter upon either termination of employment or termination of participation in the retirement plan and meeting the normal retirement date.
- 17.19. "Retirement board" or "board" means the ~~seven persons designated by this chapter as the governing authority for the retirement system created~~retirement system advisory board established under section 54-52-03.
- 18.20. "Seasonal employee" means a participating member who does not work twelve months a year.
- 19.21. "Service" means employment on or after July 1, 1966.

- 20.22. "Service benefit" means the credit toward retirement benefits as determined by the ~~retirement board~~director under the provisions of this chapter.
- 21.23. "Temporary employee" means a governmental unit employee who is not eligible to participate as a permanent employee, who is at least eighteen years old and not actively contributing to another employer-sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.
- 22.24. "Wages" and "salaries" means the member's earnings in eligible employment under this chapter reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between the member and participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the boardoffice.

**SECTION 27. AMENDMENT.** Section 54-52-02.1 of the North Dakota Century Code is amended and reenacted as follows:

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

1. A political subdivision may, on behalf of its permanent employees, on behalf of its peace officers and correctional officers separately from its other employees, and permanent noncertified employees only in the case of school districts, enter into agreements with the ~~retirement board~~office for the purpose of extending the benefits of the public employees retirement system, as provided in this chapter, to those employees. The agreement may, in accordance with this chapter, contain provisions relating to benefits, contributions, effective date, modification, administration, and other appropriate provisions as the ~~retirement board~~office and the political subdivision agree upon, but the agreement must provide that:
  - a. The political subdivision will contribute on behalf of each eligible employee an amount equal to that provided in section 54-52-06 or 54-52-06.3 for peace officers and correctional officers participating separately from other political subdivision employees.
  - b. A portion of the moneys paid by the political subdivision may be used to pay administrative expenses of the ~~retirement board~~office.
2. Notwithstanding any other provision of law, a political subdivision having an existing police pension plan may merge that plan into the public employees retirement system under rules adopted by and in a manner determined by the boardoffice.

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

**SECTION 28. AMENDMENT.** Section 54-52-02.6 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 29. AMENDMENT.** Section 54-52-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-03. Governing authorityPublic employees retirement system office - Retirement system advisory board.**

1. ~~A state agency~~The public employees retirement system office is hereby created to constitute the governing authority of the public employees retirement system to consist of a board of nine individuals known as the retirement board.
2. A seven-member retirement system advisory board shall advise the director, the governor, and the legislative management in the administration of the public employees retirement system. No more than one elected member of the board may be in the employ of a single department, institution, or agency of the state or in the employ of a political subdivision. An employee of the public employees retirement system office or the state retirement and investment office may not serve on the board.
  1. a. Two members of the legislative assembly must be appointed by the chairman of the legislative management to serve on the board.
    1. (1) If the same political party has the greatest number of members in both the house and senate, one member must be from that majority party and one member from the political party with the next greatest number of members in the house and senate.
    2. (2) If the same political party does not have the greatest number of members in both the house and senate, one member must be from the majority party in the house and one member must be from the majority party in the senate.
  2. b. One member of the board must be appointed by the governor to serve a term of five years. The appointee must be a North Dakota citizen

who is not a state or political subdivision employee and who by experience is familiar with money management. ~~The citizen member is chairman of the board.~~

3. ~~One member of the board must be appointed by the attorney general from the attorney general's legal staff and shall serve a term of five years.~~
4. ~~The state health officer appointed under section 23-01-05 or the state health officer's designee is a member of the board.~~
5.
  - c. Three board members must be elected by and from among the active participating members, members of the retirement plan established under chapter 54-52.6, members of the retirement plan established under chapter 39-03.1, and members of the job service North Dakota retirement plan. Employees who have terminated their employment for whatever reason are not eligible to serve as elected members of the board under this subsection. Board members must be elected to a five-year term pursuant to an election called by the board. Notice of board elections must be given to all active participating members. The time spent in performing duties as a board member may not be charged against any employee's accumulated annual or any other type of leave.
6.
  - d. One board member must be elected by and from among those individuals who are receiving retirement benefits under this chapter. The board shall call the election and must give prior notice of the election to the individuals eligible to participate in the election pursuant to this subsection. The board member shall serve a term of five years.
7.
  - e. The members of the board are entitled to receive one hundred forty-eight dollars per day compensation and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09. This is in addition to any other pay or allowance due the chairman or a member, plus an allowance for expenses they may incur through service on the board.
8.
  - f. A board member shall serve a five-year term and until the board member's successor qualifies. Each board member is entitled to one vote, and ~~five~~four of the ~~nine~~seven board members constitute a quorum. ~~Five~~Four votes are necessary for resolution or action by the board at any meeting.

**SECTION 30. AMENDMENT.** Section 54-52-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-04. Board authorityAuthority - Continuing appropriation.**

1. ~~The board~~public employees retirement system office shall adopt rules necessary to implement this chapter, and to manage the system, subject to the limitations of this chapter. ~~The board has the powers and privileges of a corporation, including the right to sue and be sued in its own name as the board. The venue of all actions in which the board is a party must be Burleigh County, North Dakota.~~

2. The ~~boardgovernor~~ shall appoint an executive director to serve at ~~its the~~ ~~governor's~~ discretion. ~~The executive director shall perform such duties as assigned by the board.~~
3. The ~~boardoffice~~ shall authorize the creation of whatever employ staff it deemsas necessary for sound and economical administration of the system. ~~The executive director shall hire the staff, subject to the approval of the board.~~
4. The ~~boardoffice~~ shall arrange for actuarial and medical advisers for the system. The ~~boardoffice~~ shall causecontract with a qualified, competent actuary to be retained on a consulting basis. The actuary shall make an annual valuation of the liabilities and reserves of the system and a determination of the contributions required by the system to discharge its liabilities and pay the administrative costs under this chapter, and to recommend to the ~~boardoffice~~ rates of employer and employee contributions required, based upon the entry age normal cost method, to maintain the system on an actuarial reserve basis; once every five years make a general investigation of the actuarial experience under the system including mortality, retirement, employment turnover, and other items required by the ~~boardoffice~~, and recommend actuarial tables for use in valuations and in calculating actuarial equivalent values based on such investigation; and perform other duties as may be assigned by the ~~boardoffice~~.
5. The state shall provide the ~~boardoffice~~ with the ~~retirement systems~~ office or offices to be used for the ~~meetings of the board and for the general purposes of the administrative personnel office.~~
6. The funds necessary for paying prior service and service benefits, consultant fees, and making withdrawal payments and refunds are hereby appropriated from the retirement fund for those purposes. The amount necessary to pay the consulting fees and insurance benefits related to the uniform group insurance program is hereby appropriated from the insurance premiums received by the ~~boardoffice~~.
7. The ~~boardoffice~~ shall administer chapters 39-03.1, 54-52.1, and 54-52.2, and may administer other optional employee benefit programs, including a flexible benefits plan, an optional employee short-term disability plan, a long-term care plan, or other optional employee benefit programs as the ~~boardoffice~~ deems appropriate. The ~~boardoffice~~ shall also administer the retirement plan established in 1961 and frozen to new entrants in 1980 for employees of job service North Dakota under chapter 52-11.
8. ~~The board shall annually~~Annually, the office shall report the investment performance of the fund and distribute a copy to each participant.
9. The ~~boardoffice~~ may distribute the employer contribution and applicable interest for any employee of any development foundation associated with a public institution of higher education in this state who may previously have been included in the public employees retirement system while employed by such foundation. Such employee is entitled to have that employee's contribution and the contribution of the development foundation, with interest.

10. The boardoffice may audit any books, papers, accounts, bills, vouchers, and other documents or property of any and all departments, boards, commissions, political subdivisions, financial institutions, contractors, health care organizations, and consultants relating to their participation in services provided to programs administered by the boardoffice.
11. The boardoffice shall fund the administrative expenses of chapter 54-52.2 from funds collected under chapters 54-52, 54-52.1, and 54-52.3 and from fines and fees collected from deferred compensation services providers, including any fees paid for by participant funds, subject to appropriation by the legislative assembly.
12. Except as provided by section 54-52-17.7, the boardoffice may adjust service and make any correction of member, retiree, or beneficiary records and benefits after an error or inequity has been determined.
13. The boardSubject to appropriation, the office may use any amount credited to the separate uniform group insurance program fund created by section 54-52.1-06 in excess of the costs of administration of the uniform group insurance program to reduce the amount of premium amounts paid monthly by enrolled members of the uniform group insurance program, to reduce any increase in premium amounts paid monthly by enrolled members, or to provide increased insurance coverage to the members, as the boardoffice may determine.
14. The boardoffice may create and implement an Internal Revenue Code section 115 trust health care savings plan for all supreme and district court judges participating in the public employees retirement system if seventy-five percent of the total active participating supreme and district court judges vote to approve the program. If approved, the contribution level specified in the vote applies to all current and future participating supreme and district court judges and must be paid pursuant to the plan document developed by the boardoffice. The contribution level may only be changed by a vote of seventy-five percent of the total active participating supreme and district court judges at that time.

SECTION 31. AMENDMENT. Subsection 3 of section 54-52-05 of the North Dakota Century Code is amended and reenacted as follows:

3. Each employer, at its option, may pay all or a portion of the employee contributions required by subsection 2 and sections 54-52-06.1, 54-52-06.2, 54-52-06.3, and 54-52-06.4 or the employee contributions required to purchase service credit on a pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not receive the contributed amounts directly once the employer has elected to pay the employee contributions. The amount paid must be paid by the employer in lieu of contributions by the employee. If the state determines not to pay the contributions, the amount that would have been paid must continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the employer, they may not be included as gross income of the employee in determining tax treatment under this code and the Internal Revenue Code until they are distributed or

made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee or from the levy authorized by subsection 5 of section 57-15-28.1. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a contribution of a reduction in gross salary and offset against future salary increases. If employee contributions are paid by the employer, they must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made prior to the date on which employee contributions were assumed by the employer. An employer exercising its option under this subsection shall report its choice to the boardoffice in writing.

**SECTION 32. AMENDMENT.** Section 54-52-06 of the North Dakota Century Code is amended and reenacted as follows:

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

Each governmental unit shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Governmental unit contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. 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 boarddirector 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 33. AMENDMENT.** Section 54-52-06.2 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 34. AMENDMENT.** Section 54-52-06.3 of the North Dakota Century Code is amended and reenacted as follows:

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

Each peace officer or correctional officer employed by a political subdivision that enters into an agreement with the ~~retirement~~ ~~board~~office on behalf of its peace officers and correctional officers separately from its other employees and who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Peace officer or correctional officer contributions increase by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2014. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's or correctional officer's employer shall contribute an amount determined by the ~~board~~office to be actuarially required to support the level of benefits specified in section 54-52-17. If the peace officer's or correctional officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace officer's or correctional officer's assessment.

**SECTION 35. AMENDMENT.** Section 54-52-06.4 of the North Dakota Century Code is amended and reenacted as follows:

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

Each peace officer employed by the bureau of criminal investigation who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Peace officer contributions increase by one percent of the member's monthly salary 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. Effective August 1, 2015, each national guard security officer who is a member of the public employee's retirement system is assessed and monthly shall pay six percent of the employee's monthly salary. National guard security officer contributions decrease by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2016. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's or security officer's employer shall contribute an amount determined by the boardoffice to be actuarially required to support the level of benefits specified in section 54-52-17. The employer's contribution must be paid from funds appropriated for salary or from any other funds available for such purposes. If the peace officer's or security officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace officer's or security officer's assessment.

**SECTION 36. AMENDMENT.** Section 54-52-10 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 37. AMENDMENT.** Section 54-52-10.1 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 38. AMENDMENT.** Section 54-52-11.1 of the North Dakota Century Code is amended and reenacted as follows:

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

Except for supreme and district court judges, who are not eligible for benefits under this section, a member's account balance includes vested employer contributions equal to the member's contributions to the deferred compensation plan for public employees under chapter 54-52.2, or member contributions to other participating employer supplemental Internal Revenue Code section 457 or 403(b) retirement programs as approved by the boardoffice, with the minimum member

contribution being twenty-five dollars. However, the vested employer contribution may not exceed:

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

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

**SECTION 39. AMENDMENT.** Section 54-52-14 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 40. AMENDMENT.** Section 54-52-14.2 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 41. AMENDMENT.** Section 54-52-16 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 42. AMENDMENT.** Section 54-52-17 of the North Dakota Century Code is amended and reenacted as follows:

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

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

1. Participating members shall receive credit for full-time employment or its equivalent from the date they attain eligibility until their normal retirement date, postponed retirement date, or early retirement date, as defined in this section. Part-time employment will be recognized as full-time employment on a prorated basis as the boardoffice may prescribe.
2. Retirement benefits are calculated from the participating member's final average salary, which is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred twenty months of employment. For members who terminate employment on or after August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred eighty months of employment. For members who terminate employment between July 31, 2005, and August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the period for which the boardoffice has appropriate and accurate salary records on its electronic database, but that period may not be more than the last one hundred eighty months of employment. Months not employed are excluded in arriving at the thirty-six months to be used for the purpose of computing an average. If the participating member has worked for less than thirty-six months at the normal retirement date, the final average salary is the average salary for the total months of employment.
3. Retirement dates are defined as follows:
  - a. Normal retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is:
    - (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
    - (2) When the member has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
  - b. Normal retirement date for members first enrolled after December 31, 2015, except for a national guard security officer or firefighter, a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, or a supreme court or district court judge, is:
    - (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
    - (2) When the member has a combined total of years of service credit and years of age equal to ninety and the member attains a

minimum age of sixty and has not received a retirement benefit under this chapter.

- c. Normal retirement date for a national guard security officer or firefighter is:
  - (1) The first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty-five years and has completed at least three eligible years of employment; or
  - (2) When the national guard security officer or firefighter has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- d. Normal retirement date for a peace officer or correctional officer employed by a political subdivision is:
  - (1) The first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty-five years and has completed at least three eligible years of employment; or
  - (2) When the peace officer or correctional officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- e. Normal retirement date for a peace officer employed by the bureau of criminal investigation is:
  - (1) The first day of the month next following the month in which the peace officer attains the age of fifty-five years and has completed at least three eligible years of employment; or
  - (2) When the peace officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- f. Postponed retirement date is the first day of the month next following the month in which the member, on or after July 1, 1977, actually severs or has severed the member's employment after reaching the normal retirement date.
- g. Early retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed three years of eligible employment. For a national guard security officer or firefighter, early retirement date is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty years and has completed at least three years of eligible employment. For a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, early retirement date is the first day of the month next following the month in

which the peace officer or correctional officer attains the age of fifty years and has completed at least three years of eligible employment.

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

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

4. The ~~board~~office shall calculate retirement benefits as follows:
  - a. Normal retirement benefits for all retirees, except supreme and district court judges, reaching normal retirement date equal an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which is determined as follows:
    - (1) Service benefit equals two percent of final average salary multiplied by the number of years of service employment.
    - (2) Prior service benefit equals two percent of final average salary multiplied by the number of years of prior service employment.
  - b. Normal retirement benefits for all supreme and district court judges under the public employees retirement system reaching normal retirement date equal an annual amount, payable monthly, comprised of a benefit as defined in this chapter, determined as follows:
    - (1) Benefits must be calculated from the time of appointment or election to the bench and must equal three and one-half percent of final average salary multiplied by the first ten years of judicial service, two and eighty hundredths percent of final average salary multiplied by the second ten years of judicial service, and one and one-fourth percent of final average salary multiplied by the number of years of judicial service exceeding twenty years.

- (2) Service benefits must include, in addition, an amount equal to the percent specified in subdivision a of final average salary multiplied by the number of years of nonjudicial employee service and employment.
- c. Postponed retirement benefits are calculated as for single life benefits for those members who retired on or after July 1, 1977.
- d. Early retirement benefits are calculated as for single life benefits accrued to the date of termination of employment, but must be actuarially reduced to account for benefit payments beginning prior to the normal retirement date, which is the earlier of age sixty-five or the age at which current service plus age equals eighty-five. Except for a national guard security officer or firefighter, a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, or a supreme court or district court judge, early retirement benefits for members first enrolled after December 31, 2015, are calculated for single life benefits accrued to the date of termination of employment, but must be reduced by fixed rate of eight percent per year to account for benefit payments beginning before the normal retirement date. A retiree, other than a supreme or district court judge, is eligible for early retirement benefits only after having completed three years of eligible employment. A supreme or district court judge retiree is eligible for early retirement benefits only after having completed five years of eligible employment.
- e. Except for supreme and district court judges, disability retirement benefits are twenty-five percent of the member's final average salary. Disability retirement benefits for supreme and district court judges are seventy percent of final average salary reduced by the member's primary social security benefits and by any workforce safety and insurance benefits paid. The minimum monthly disability retirement benefit under this section is one hundred dollars.
5. Upon termination of employment after completing three years of eligible employment, except for supreme and district court judges, who must complete five years of eligible employment, but before normal retirement date, a member who does not elect to receive early retirement benefits is eligible to receive deferred vested retirement benefits payable commencing on the member's normal retirement date in one of the optional forms provided in subsection 9. Members who have delayed or inadvertently failed to apply for retirement benefits to commence on their normal retirement date may choose to receive either a lump sum payment equal to the amount of missed payments, or an actuarial increase to the form of benefit the member has selected, which increase must reflect the missed payments.
6. If before retiring a member dies after completing three years of eligible employment, except for supreme and district court judges, who must have completed five years of eligible employment, the boardoffice shall pay the member's account balance to the member's designated beneficiary as provided in this subsection. If the member has designated an alternate beneficiary with the surviving spouse's written consent, the boardoffice shall pay the member's account balance to the named beneficiary. If the member has named more than one primary beneficiary, the boardoffice

shall pay the member's account balance to the named primary beneficiaries in the percentages designated by the member or, if the member has not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the member, the boardoffice shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If any beneficiary survives the member, yet dies before distribution of the beneficiary's share, the beneficiary must be treated as if the beneficiary predeceased the member. If there are no remaining primary beneficiaries, the boardoffice shall pay the member's account balance to the contingent beneficiaries in the same manner. If there are no remaining designated beneficiaries, the boardoffice shall pay the member's account balance to the member's estate. If the member has not designated an alternate beneficiary or the surviving spouse is the beneficiary, the surviving spouse of the member may select a form of payment as follows:

- a. If the member was a supreme or district court judge, the surviving spouse may select one of the following optional forms of payment:
    - (1) A lump sum payment of the member's retirement account as of the date of death.
    - (2) Payments as calculated for the deceased member as if the member was of normal retirement age at the date of death, payable until the spouse dies.
  - b. The surviving spouse of all other members may select one of the following options:
    - (1) A lump sum payment of the member's retirement account as of the date of death.
    - (2) Payment of a monthly retirement benefit equal to fifty percent of the deceased member's accrued single life retirement benefits until the spouse dies.
    - (3) If the member dies on or after the member's normal retirement date, the payment of a monthly retirement benefit equal to an amount that would have been paid to the surviving spouse if the member had retired on the day of the member's death and had selected a one hundred percent joint and survivor annuity, payable until the spouse dies. A surviving spouse who received a benefit under this subsection as of July 31, 1995, is entitled to the higher of that person's existing benefit or the equivalent of the accrued benefit available under the one hundred percent joint and survivor provision as if the deceased member were of normal retirement age, with the increase payable beginning August 1, 1995.
7. If a member not coming under the provisions of subsection 6 terminates employment because of death, permanent and total disability, or any voluntary or involuntary reason prior to retirement, the member or the member's designated beneficiary is entitled to the member's account balance at termination. The boardoffice automatically shall refund a member's account balance if the member has completed less than three years of eligible employment, has an account balance of less than one

thousand dollars, and was not a supreme or district court judge. If the member was a supreme or district court judge, the boardoffice automatically shall refund a member's account balance if the member completed less than five years of eligible employment. A member may waive the refund if the member submits a written statement to the boardoffice, within thirty days after termination, requesting that the member's account balance remain in the fund.

8. The surviving spouse of a member receiving retirement benefits must be the member's primary beneficiary unless there is no surviving spouse or the surviving spouse designates an alternate beneficiary in writing. If a member receiving retirement benefits or the member's surviving spouse receiving retirement benefits dies before the total amount of benefits paid to either or both equals the amount of the member's account balance at retirement, the difference must be paid to the named beneficiary of the recipient or, if there is no named beneficiary, to the recipient's estate.
9. The boardoffice shall adopt rules providing for the receipt of retirement benefits in the following optional forms:
  - a. Single life.
  - b. An actuarially equivalent joint and survivor option, with fifty percent or one hundred percent options.
  - c. Actuarially equivalent life with ten-year or twenty-year certain options.
  - d. An actuarially equivalent partial lump sum distribution option with a twelve-month maximum lump sum distribution.
  - e. An actuarially equivalent graduated benefit option with either a one percent or two percent increase to be applied the first day of January of each year.

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

10. The fund may accept rollovers from other eligible plans under rules adopted by the boardoffice for the purchase of additional service credit, but only to the extent the transfer is a rollover contribution that meets the requirement of section 408 of the Internal Revenue Code.
11. The boardoffice may accept trustee-to-trustee transfers as permitted by Internal Revenue Code section 403(b)(13) and section 457(e)(17) from an Internal Revenue Code section 403(b) annuity or Internal Revenue Code section 457 deferred compensation plan for the purchase of permissive service credit, as defined in Internal Revenue Code section 415(n)(3)(A) or as repayment of a cashout from a governmental plan under Internal Revenue Code section 415(k)(3).

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

**SECTION 43. AMENDMENT.** Section 54-52-17.2 of the North Dakota Century Code is 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 retirement system is required, then, for purposes of current participation, the employee is a member of each applicable

retirement system. The employer shall pay over to each retirement system the member assessment and employer contributions at the rates currently existing for that retirement system.

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

**SECTION 44. AMENDMENT.** Section 54-52-17.3 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 45. AMENDMENT.** Section 54-52-17.4 of the North Dakota Century Code is amended and reenacted as follows:

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

1. A participating member may elect to purchase credit for years of service and prior service for which the participating member is not presently receiving credit. A participating member is entitled to purchase additional credit under this section for the following service or prior service, except this service is not eligible for credit if the years claimed also qualify for retirement benefits from another retirement system:
  - a. Active prior employment in the armed forces of the United States, except as provided in section 54-52-17.14, for up to four years of credit.
  - b. Employment as a permanent employee by a public employer either within or outside the state of North Dakota.
  - c. Employment as a permanent employee by a political subdivision participating in the public employees retirement system which did not pay the cost of past service benefits under section 54-52-02.1.
  - d. Service the participating member did not elect to repurchase upon re-employment under section 54-52-02.6.

- e. Service of an eligible employee, who exercised the privilege to withdraw from the predecessor plan to the public employees retirement system under subsection 10 of section 54-52-17 as created by section 13 of chapter 499 of the 1977 Session Laws.
  - f. Employment as a permanent employee by the federal government.
2. A participating member may elect to purchase credit for the following absences for which the participating member is not receiving service credit:
  - a. Employer-approved leave of absence; or
  - b. Months away from work while participating as a seasonal employee.
3. Supreme and district court judges under the public employees retirement system may elect to purchase credit for the following years of service:
  - a. Except as provided in section 54-52-17.14, for up to four years of credit for active employment in the armed forces of the United States.
  - b. As a county judge in a county or counties that did not participate in the public employees retirement system under this chapter.
  - c. Participation in the public employees retirement system as a county judge may be converted to credit in the judges' retirement system.
4. The participating member may purchase credit under this section, or the participating member's employer may purchase for the participating member, by paying to the boardoffice an amount equal to the actuarial cost to the fund of providing the credit. If the participating member purchases credit pursuant to subdivision d of subsection 1, the participating member must pay to the boardoffice an amount equal to the greater of the actuarial cost to the fund of providing the credit, or the amount the participating member received upon taking a refund of the participating member's account balance, plus interest at the actuarial rate of return from the time the participating member was issued the refund. If the participating member is not repurchasing all of the credit originally refunded, the participating member must pay a pro rata amount of the refunded amount determined by dividing the refunded amount by the number of months of credit refunded, multiplying that amount times the number of months of credit the participating member seeks to repurchase, and adding interest at the actuarial rate of return. The participating member or the participating member's employer shall also pay to the retiree health benefits fund established under section 54-52.1-03.2 an amount equal to the actuarial cost to that fund for the additional credit. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. The boardoffice shall adopt rules governing the purchase of additional credit under this section.
5. Pursuant to rules adopted by the boardoffice, the boardoffice may allow a participating member to purchase service credit with either pretax or aftertax moneys, at the board's discretion of the office. If the participating member elects to purchase service credit using pretax moneys, the requirements and restrictions in subsection 3 of section 54-52-05 apply to the purchase arrangement.

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

**SECTION 46. AMENDMENT.** Section 54-52-17.6 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The boardoffice shall pay retirement benefits in accordance with the applicable requirements of any qualified domestic relations order. The boardoffice shall review a domestic relations order submitted to it to determine if the domestic relations order is qualified under this section and under rules established by the boardoffice for determining the qualified status of domestic relations orders and administering distributions under the qualified orders. Upon determination that a domestic relations order is qualified, the boardoffice shall notify the participating member and the named alternate payee of its receipt of the qualified domestic relations order.
2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of a participating member, is made pursuant to a North Dakota domestic relations law, and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of the benefits payable to the participating member. A qualified domestic relations order may not require the boardoffice to provide any type or form of benefit, or any option, not otherwise provided under the public employees retirement system, or to provide increased benefits as determined on the basis of actuarial value. However, a qualified domestic relations order may require the payment of benefits at the early retirement date notwithstanding that the participating member has not terminated eligible employment. A qualified domestic relations order must specify:
  - a. The name and the last-known mailing address of the participating member and the name and mailing address of each alternate payee covered by the order;
  - b. The amount or percentage of the participating member's benefits to be paid by the plan 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 47. AMENDMENT.** Section 54-52-17.11 of the North Dakota Century Code is amended and reenacted as follows:

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

A supreme or district court judge or that person's beneficiary who, on December 31, 2007, is receiving retirement benefits under subdivision b of

subsection 4 of section 54-52-17, is entitled to receive an increase in benefits equal to two percent of the individual's present benefits with the increase payable beginning January 1, 2008. A supreme or district court judge or that person's beneficiary who, on December 31, 2008, is receiving retirement benefits under subdivision b of subsection 4 of section 54-52-17, is entitled to receive an increase in benefits equal to two percent of the individual's present benefits with the increase payable beginning January 1, 2009. The increases allowed by this section may only be given if the ~~public employees retirement board~~office determines there is actuarial margin sufficient to pay the increases.

**SECTION 48. AMENDMENT.** Section 54-52-17.13 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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

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

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

**SECTION 50. AMENDMENT.** Section 54-52-26 of the North Dakota Century Code is amended and reenacted as follows:

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

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

1. A person to whom the member has given written consent to have the information disclosed.
2. A person legally representing the member, upon proper proof of representation, and unless the member specifically withdraws consent.
3. A person authorized by a court order.

4. A member's participating employer, limited to information concerning the member's years of service credit and years of age. The boardoffice may share other types of information as needed by the employer to validate the employer's compliance with existing state or federal laws. Any information provided to the member's participating employer under this subsection must remain confidential except as provided under subsection 6.
5. The administrative staff of the retirement and investment office for purposes relating to membership and benefits determination.
6. State or federal agencies for purposes of reporting on a service provider's provision of services or when the employer must supply information to an agency to validate the employer's compliance with existing state or federal laws.
7. Member interest groups approved by the boardoffice on a third-party blind list basis, limited to information concerning the member's participation, name, and address.
8. The member's spouse or former spouse, that individual's legal representative, and the judge presiding over the member's dissolution proceeding for purposes of aiding the parties in drafting a qualified domestic relations order under section 54-52-17.6. The information disclosed under this subsection must be limited to information necessary for drafting the order.
9. Beneficiaries designated by a participating member or a former participating member to receive benefits after the member's death, but only after the member's death. Information relating to beneficiaries may be disclosed to other beneficiaries of the same member.
10. The general public, but only after the boardoffice has been unable to locate the member for a period in excess of two years, and limited to the member's name and 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 51. 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 ~~board~~office 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 benefits from all the plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. If the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. The reduction must be made pro rata between the plans, in proportion to the participating member's service in each plan.
2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirements under section 401(a)(9)(G), and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. A member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.
3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a

direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.

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

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

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

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

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

**SECTION 53. AMENDMENT.** Section 54-52.1-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-01. Definitions.**

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

1. "Board" means the public employees retirement board.
2. "Carrier" means:
  - a. For the hospital benefits coverage, an insurance company authorized to do business in the state, or a nonprofit hospital service association, or a prepaid group practice hospital care plan authorized to do

- business in the state, or the state if a self-insurance plan is used for providing hospital benefits coverage.
- b. For the medical benefits coverage, an insurance company authorized to do business in the state, or a nonprofit medical service association, or a prepaid group practice medical care plan authorized to do business in the state, or the state if a self-insurance plan is used for providing medical benefits coverage.
  - c. For the life insurance benefits coverage, an insurance company authorized to do business in the state.
- 3-2. "Department, board, or agency" means the departments, boards, agencies, or associations of this state, and includes the state's charitable, penal, and higher educational institutions; the Bank of North Dakota; the state mill and elevator association; and counties, cities, district health units, and school districts.
3. "Director" means the executive director of the public employees retirement system office.
4. "Eligible employee" means every permanent employee who is employed by a governmental unit, as that term is defined in section 54-52-01. "Eligible employee" includes members of the legislative assembly, judges of the supreme court, paid members of state or political subdivision boards, commissions, or associations, full-time employees of political subdivisions, elective state officers as defined by subsection 2 of section 54-06-01, and disabled permanent employees who are receiving compensation from the North Dakota workforce safety and insurance fund. As used in this subsection, "permanent employee" means one whose services are not limited in duration, who is filling an approved and regularly funded position in a governmental unit, and who is employed at least seventeen and one-half hours per week and at least five months each year or for those first employed after August 1, 2003, is employed at least twenty hours per week and at least twenty weeks each year of employment. For purposes of sections 54-52.1-04.1, 54-52.1-04.7, 54-52.1-04.8, and 54-52.1-11, "eligible employee" includes retired and terminated employees who remain eligible to participate in the uniform group insurance program pursuant to applicable state or federal law.
5. "Health maintenance organization" means an organization certified to establish and operate a health maintenance organization in compliance with chapter 26.1-18.1.
6. "Hospital benefits coverage" means a plan which either provides coverage for, or pays, or reimburses expenses for hospital services incurred in accordance with the uniform contract.
7. "Life insurance benefits coverage" means a plan which provides both term life insurance and accidental death and dismemberment insurance in amounts determined by the boardoffice, with a minimum of one thousand dollars provided for the term life insurance portion of the coverage.

8. "Medical benefits coverage" means a plan which either provides coverage for, or pays, or reimburses expenses for medical services in accordance with the uniform contract.
9. "Member contribution" means the payment by the member into the retiree health benefits fund pursuant to sections 54-52-02.9 and 54-52-17.4.
10. "Member's account balance" means the member's contributions plus interest at the rate set by the boardoffice.
11. "Office" means the public employees retirement system office.
12. "Temporary employee" means a governmental unit employee who is not filling an approved and regularly funded position in an eligible governmental unit and whose services may or may not be limited in duration.

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

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

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

1. Medical and hospital benefits coverage group consisting of active eligible employees and retired employees not eligible for medicare, except for employees who first retire after the effective date of this section and are not eligible for medicare on their retirement. In determining premiums for coverage under this subsection for retired employees not eligible for medicare, the rate for a non-medicare retiree single plan is one hundred fifty percent of the active member single plan rate, the rate for a non-medicare retiree family plan of two people is twice the non-medicare retiree single plan rate, and the rate for a non-medicare retiree family plan of three or more persons is two and one-half times the non-medicare retiree single plan rate.
2. In addition to the coverage provided in subsection 1, another coverage option may be provided for retired employees not eligible for medicare, except for employees who first retire after the effective date of this section and are not eligible for medicare on their retirement, provided the option does not increase the implicit subsidy as determined by the governmental accounting standards board's other postemployment benefit reporting procedure. In offering this additional option, the boardoffice may have an open enrollment but thereafter enrollment for this option must be as specified in section 54-52.1-03.

3. Retired medicare-eligible employee group medical and hospital benefits coverage.
4. Active eligible employee life insurance benefits coverage.
5. Retired employee life insurance benefits coverage.
6. Terminated employee continuation group medical and hospital benefits coverage.
7. Terminated employee conversion group medical and hospital benefits coverage.
8. Dental benefits coverage.
9. Vision benefits coverage.
10. Long-term care benefits coverage.
11. Employee assistance benefits coverage.
12. Prescription drug coverage.

**SECTION 55. AMENDMENT.** Section 54-52.1-03 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Any eligible employee may be enrolled in the uniform group insurance program created by this chapter by requesting enrollment with the employing department. If an eligible employee does not enroll in the uniform group insurance program at the time of beginning employment, in order to enroll at a later time the eligible employee must meet minimum requirements established by the boardoffice. An employing department may not require an active eligible employee to request coverage under the uniform group insurance program as a prerequisite to receive the minimum employer-paid life insurance benefits coverage or employee assistance program benefits coverage.
2. Within five days after the expiration of the payroll period during which enrollment was requested, the employing department shall enroll the employee with the boardoffice. The employee's insurance coverage becomes effective on the date of enrollment.
3. A retiree who has accepted a periodic distribution from the defined contribution retirement plan pursuant to section 54-52.6-13 who the boardoffice determines is eligible for participation in the uniform group insurance program or has accepted a retirement allowance from the public employees retirement system, the highway patrolmen's retirement system, the teachers' insurance and annuity association of America - college retirement equities fund for service credit earned while employed by North Dakota institutions of higher education, the retirement system established by job service North Dakota under section 52-11-01, the judges' retirement system established under chapter 27-17, or the teachers' fund for

retirement may elect to participate in the uniform group under this chapter without meeting minimum requirements at age sixty-five, when the member's spouse reaches age sixty-five, upon the receipt of a benefit, or when the spouse terminates employment. If a retiree or surviving spouse does not elect to participate at the times specified in this subsection, the retiree or surviving spouse must meet the minimum requirements established by the boardoffice. Subject to sections 54-52.1-03.2 and 54-52.1-03.3, each retiree or surviving spouse shall pay directly to the boardoffice the premiums in effect for the coverage then being provided. A retiree or surviving spouse who has met the initial eligibility requirements of this subsection to begin participation in the uniform group insurance program remains eligible as long as the retiree maintains the retiree's participation in the program by paying the required premium pursuant to rules adopted by the boardoffice.

4. Upon the termination of employment when the employee is not eligible to participate under subsection 3 or 5 or applicable federal law, that employee cannot continue as a member of the uniform group.
5. A member or former member of the legislative assembly or that person's surviving spouse may elect to continue membership in the uniform group within the applicable time limitations after either termination of eligible employment as a member of the legislative assembly or termination of other eligible employment or, for a surviving spouse, upon the death of the member or former member of the legislative assembly. The member or former member of the legislative assembly or that person's surviving spouse shall pay the premiums in effect for the coverage provided directly to the boardoffice.
6. Each eligible employee requesting enrollment shall furnish the appropriate person in the employing department, board, or agency with such information and in such form as prescribed by the boardoffice to enable the enrollment of the employee, or employee and dependents, in the uniform group insurance program created by this chapter.
7. If the participating employee is a faculty member in a state charitable, penal, or educational institution who receives a salary or wages on less than a twelve-month basis and has signed a contract to teach for the next ensuing school year, the agency shall make arrangements to include that employee in the insurance program on a twelve-month basis and make the contribution authorized by this section for each month of the twelve-month period.

**SECTION 56. AMENDMENT.** Section 54-52.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

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

If eligible under federal law, a political subdivision may extend the benefits of the uniform group insurance program under this chapter to its permanent employees, subject to minimum requirements established by the boardoffice and a minimum period of participation of sixty months. If the political subdivision withdraws from participation in the uniform group insurance program, before completing sixty

months of participation, unless federal or state laws or rules are modified or interpreted in a way that makes participation by the political subdivision in the uniform group insurance program no longer allowable or appropriate, the political subdivision shall make payment to the boardoffice in an amount equal to any expenses incurred in the uniform group insurance program that exceed income received on behalf of the political subdivision's employees as determined under rules adopted by the boardoffice. The Garrison Diversion Conservancy District, and district health units required to participate in the public employees retirement system under section 54-52-02, shall participate in the uniform group insurance program under the same terms and conditions as state agencies. A retiree who has accepted a retirement allowance from a participating political subdivision's retirement plan may elect to participate in the uniform group under this chapter without meeting minimum requirements at age sixty-five, when the employee's spouse reaches age sixty-five, upon the receipt of a benefit, when the political subdivision joins the uniform group insurance plan if the retiree was a member of the former plan, or when the spouse terminates employment. If a retiree or surviving spouse does not elect to participate at the times specified in this section, the retiree or surviving spouse must meet the minimum requirements established by the boardoffice. Each retiree or surviving spouse shall pay directly to the boardoffice the premiums in effect for the coverage then being provided. The boardoffice may require documentation that the retiree has accepted a retirement allowance from an eligible retirement plan other than the public employees retirement system.

**SECTION 57. AMENDMENT.** Section 54-52.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The boardoffice shall establish a retiree health benefits fund account with the Bank of North Dakota for the purpose of prefunding and providing hospital benefits coverage and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program for retired eligible employees or surviving spouses of retired eligible employees and their dependents as provided in this chapter. The state shall contribute monthly to the retiree health benefits fund an amount equal to one and fourteen hundredths percent of the monthly salaries and wages of all participating members of the highway patrolmen's retirement system under chapter 39-03.1, and one and fourteen hundredths percent of the monthly salaries of all supreme or district court judges who are participating members of the public employees retirement system under chapter 54-52. Each governmental unit that contributes to the public employees retirement system fund under section 54-52-06 or the retirement plan under chapter 54-52.6 shall contribute monthly to the retiree health benefits fund an amount equal to one and fourteen hundredths percent of the monthly salaries or wages of all participating members of the public employees retirement system under chapter 54-52 or chapter 54-52.6, except for nonteaching employees of the superintendent of public instruction who elect to participate in the public employees retirement system pursuant to section 54-52-02.13 and employees of the state board for career and technical education who elect to participate in the public employees retirement system pursuant to section 54-52-02.14. For nonteaching employees of the superintendent of public instruction who elect to participate in the public employees retirement system pursuant to section 54-52-02.13, the superintendent of

public instruction shall contribute monthly to the retiree health benefits fund an amount equal to three and twenty-four hundredths percent of the monthly salaries or wages of those nonteaching employee members, beginning on the first of the month following the transfer under section 54-52-02.13 and continuing thereafter for a period of eight years, after which time the superintendent of public instruction shall contribute one and fourteen hundredths percent of the monthly salary or wages of those nonteaching employee members. For employees of the state board for career and technical education who elect to participate in the public employees retirement system pursuant to section 54-52-02.14, the state board for career and technical education shall contribute monthly to the retiree health benefits fund an amount equal to two and ninety-nine hundredths percent of the monthly salary or wages of those employee members, beginning on the first of the month following the transfer under section 54-52-02.14 and continuing thereafter for a period of eight years, after which time the state board for career and technical education shall contribute one and fourteen hundredths percent of the monthly salary or wages of those employee members. The employer of a national guard security officer or firefighter shall contribute monthly to the retiree health benefits fund an amount equal to one and fourteen hundredths percent of the monthly salaries or wages of all national guard security officers or firefighters participating in the public employees retirement system under chapter 54-52. Job service North Dakota shall reimburse monthly the retiree health benefits fund for credit received under section 54-52.1-03.3 by members of the retirement program established by job service North Dakota under section 52-11-01. The ~~board~~office, as trustee of the fund and in exclusive control of its administration, shall:

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

**SECTION 58. AMENDMENT.** Section 54-52.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The following persons are entitled to receive credit for hospital and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program under subsection 2:
  - a. A member or surviving spouse of the highway patrolmen's retirement system is eligible for the credit beginning on the date retirement benefits are effective unless the premium is billed to the employer.
  - b. A member or surviving spouse of the public employees retirement system is eligible for the credit beginning on the date retirement benefits are effective unless the premium is billed to the employer.
  - c. A member or surviving spouse of the retirement program established by job service North Dakota under section 52-11-01 receiving retirement benefits is eligible for the credit beginning on the date retirement benefits are effective unless the premium is billed to the employer.
  - d. A retired judge or surviving spouse receiving retirement benefits under the retirement program established under chapter 27-17 is eligible for the credit beginning on the date retirement benefits are effective unless the premium is billed to the employer.
  - e. A former participating member of the defined contribution retirement plan receiving retirement benefits, or the surviving spouse of a former participating member of that retirement plan who was eligible to receive or was receiving benefits, under section 54-52.6-13, is eligible as determined by the boardoffice pursuant to its rules.
2. The boardoffice shall calculate the allowable monthly credit toward hospital and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program for a person eligible under subsection 1 in an amount equal to five dollars multiplied by the member's or deceased member's number of years of credited service under the highway patrolmen's retirement system, the public employees retirement system, the retirement program established by job service North Dakota under section 52-11-01, or the judges' retirement program established under chapter 27-17. For a member of the public employees retirement system receiving an early retirement benefit or the surviving spouse of that member, or a former participating member of the defined contribution retirement plan who is receiving a periodic distribution and would not meet the normal retirement provisions of the public employees retirement system, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of sixty-five and an additional reduction factor of six percent shall apply for each year the member terminates employment prior to attaining the age of sixty-four. For a member of the highway patrolmen's retirement system receiving an early retirement benefit or the surviving spouse of that member, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of fifty-five and an additional reduction factor of six percent shall apply for each year the member terminates employment prior to attaining the age of fifty-four.

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

3. The boardoffice shall apply the credit allowable under subsection 2 as elected by the eligible participant to the payment of monthly premiums required of each person eligible under subsection 1 for hospital benefits coverage and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program. The boardoffice shall allow spouses who each have credit under subsection 2 to combine their credits and shall apply the combined credit to the required monthly premiums as elected pursuant to this subsection. However, if the allowable credit under any circumstance exceeds the monthly premium in effect for selected coverage, that amount of the credit which exceeds the premium is forfeited and may not be used for any other purpose.
4. The boardoffice may, as an alternative to the calculation of the allowable monthly credit under subsection 2, provide actuarially reduced benefit options for the member and the member's surviving spouse, including a one hundred percent joint and survivor option or a fifty percent joint and survivor option.

**SECTION 59. AMENDMENT.** Section 54-52.1-03.4 of the North Dakota Century Code is amended and reenacted as follows:

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

A temporary employee employed before August 1, 2007, may elect to participate in the uniform group insurance program by completing the necessary enrollment forms and qualifying under the medical underwriting requirements of the program if such election is made before January 1, 2015, and if the temporary employee is participating in the uniform group insurance program on January 1, 2015. In order for a temporary employee employed after July 31, 2007, to qualify to participate in the uniform group insurance program, the employee must be employed at least twenty hours per week; must be employed at least twenty weeks each year of employment; must make the election to participate before January 1, 2015; and must be participating in the uniform group insurance program as of January 1, 2015. To be eligible to participate in the uniform group insurance program, a temporary employee first employed after December 31, 2014, or any temporary employee not participating in the uniform group insurance program as of January 1, 2015, must meet the definition of a full-time employee under section 4980H(c)(4) of the Internal Revenue Code [26 U.S.C. 4980H(c)(4)]. Monthly, the temporary employee or the temporary employee's employer shall pay to the boardoffice the premiums in effect for the coverage being provided. In the case of a temporary employee who is an applicable taxpayer as defined in section 36B(c)(1)(A) of the Internal Revenue Code [26 U.S.C.

36B(c)(1)(A)], the temporary employee's required contribution for medical and hospital benefits self-only coverage may not exceed the maximum employee required contribution specified under section 36B(c)(2)(C) of the Internal Revenue Code [26 U.S.C. 36B(c)(2)(C)], and the employer shall pay any difference between the maximum employee required contribution for medical and hospital benefits self-only coverage and the cost of the premiums in effect for this coverage. An employer may pay health or life insurance premiums for a permanent employee on an unpaid leave of absence. A political subdivision, department, board, or agency may make a contribution for coverage under this section.

**SECTION 60. AMENDMENT.** Section 54-52.1-04 of the North Dakota Century Code is amended and reenacted as follows:

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

The boardoffice shall receive bids for the providing of hospital benefits coverage, medical benefits coverage, life insurance benefits coverage for a specified term, and employee assistance program services; may receive bids separately for prescription drug coverage; and shall accept one or more bids of and contract with the carriers that in the judgment of the boardoffice best serves the interests of the state and its eligible employees. Solicitations must be made not later than ninety days before the expiration of an existing uniform group insurance contract. Bids must be solicited by advertisement in a manner selected by the boardoffice that will provide reasonable notice to prospective bidders. In preparing bid proposals and evaluating bids, the boardoffice may utilize the services of consultants on a contract basis in order that the bids received may be uniformly compared and properly evaluated. In determining which bid, if any, will best serve the interests of eligible employees and the state, the boardoffice shall give adequate consideration to the following factors:

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

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

**SECTION 61. AMENDMENT.** Section 54-52.1-04.1 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 62. AMENDMENT.** Section 54-52.1-04.2 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 63. AMENDMENT.** Section 54-52.1-04.3 of the North Dakota Century Code is amended and reenacted as follows:

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

The boardoffice shall establish under a self-insurance plan a contingency reserve fund to provide for adverse fluctuations in future charges, claims, costs, or expenses of the uniform group insurance program. The boardoffice shall determine the amount necessary to provide a balance in the contingency reserve fund between one and one-half months and three months of claims paid based on the average monthly claims paid during the twelve-month period immediately preceding March first of each year. The boardoffice also shall determine the amount necessary to provide an additional balance in the contingency reserve fund between one month and one and

one-half months for claims incurred but not yet reported. The ~~board~~office may arrange for the services of an actuarial consultant to assist the ~~board~~office in making these determinations. Upon the initial changeover from a contract for insurance pursuant to section 54-52.1-04 to a self-insurance plan pursuant to section 54-52.1-04.2, the ~~board~~office must have a plan in place which is reasonably calculated to meet the funding requirements of this chapter within sixty months. All moneys in the contingency reserve fund, not otherwise appropriated, are appropriated for the payment of claims and other costs of the uniform group insurance program during periods of adverse claims or cost fluctuations.

**SECTION 64. AMENDMENT.** Section 54-52.1-04.4 of the North Dakota Century Code is amended and reenacted as follows:

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

The ~~board~~office shall provide medical benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 for:

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

**SECTION 65. AMENDMENT.** Section 54-52.1-04.6 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 66. AMENDMENT.** Section 54-52.1-04.7 of the North Dakota Century Code is amended and reenacted as follows:

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

The ~~board~~office may establish a dental plan, a vision plan, or both, for eligible employees. The ~~board~~office shall receive bids for the plan or plans pursuant to section 54-52.1-04. The ~~board~~office may reject any or all bids and provide a plan of self-insurance. Premiums for this coverage must be paid by the eligible employee. Any refund, rebate, dividend, experience rating allowance, discount, or other reduction of premium must be credited as provided by section 54-52.1-06.

**SECTION 67. AMENDMENT.** Section 54-52.1-04.8 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 68. AMENDMENT.** Section 54-52.1-04.9 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 69. AMENDMENT.** Section 54-52.1-04.10 of the North Dakota Century Code is amended and reenacted as follows:

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

The ~~board~~office shall provide medical benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 for dental anesthesia and hospitalization in the same manner as provided under section 26.1-36-09.9.

**SECTION 70. AMENDMENT.** Section 54-52.1-04.11 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 71. AMENDMENT.** Section 54-52.1-04.12 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 72. AMENDMENT.** Section 54-52.1-04.13 of the North Dakota Century Code is amended and reenacted as follows:

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

1. As used in this section:
  - a. "Distant site" means a site at which a health care provider or health care facility is located while providing medical services by means of telehealth.
  - b. "Health care facility" means any office or institution at which health services are provided. The term includes hospitals; clinics; ambulatory surgery centers; outpatient care facilities; nursing homes; nursing, basic, long-term, or assisted living facilities; laboratories; and offices of any health care provider.
  - c. "Health care provider" includes an individual licensed under chapter 43-05, 43-06, 43-12.1 as a registered nurse or as an advanced practice registered nurse, 43-13, 43-15, 43-17, 43-26.1, 43-28, 43-32, 43-37, 43-40, 43-41, 43-42, 43-44, 43-45, 43-47, 43-58, or 43-60.
  - d. "Originating site" means a site at which a patient is located at the time health services are provided to the patient by means of telehealth.
  - e. "Policy" means health benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2.
  - f. "Store-and-forward technology" means electronic information, imaging, and communication that is transferred, recorded, or otherwise stored in order to be reviewed at a distant site at a later date by a health care provider or health care facility without the patient present in real time. The term includes telehome monitoring and interactive audio, video, and data communication.
  - g. "Telehealth":
    - (1) Means the use of interactive audio, video, or other telecommunications technology that is used by a health care provider or health care facility at a distant site to deliver health services at an originating site; and that is delivered over a secure connection that complies with the requirements of state and federal laws.
    - (2) Includes the use of electronic media for consultation relating to the health care diagnosis or treatment of a patient in real time or through the use of store-and-forward technology.

- (3) Does not include the use of audio-only telephone, electronic mail, or facsimile transmissions.
2. For all policies that become effective after June 30, 2015, and which do not extend past June 30, 2017, the ~~board~~office shall provide health benefits coverage under a policy that provides coverage for health services delivered by means of telehealth which is the same as the coverage for health services delivered by in-person means.
3. Payment or reimbursement of expenses for covered health services delivered by means of telehealth under this section may be established through negotiations conducted by the ~~board~~office or the ~~board's~~office's contractor with the health services providers in the same manner as the ~~board~~office establishes payment or reimbursement of expenses for covered health services that are delivered by in-person means.
4. Coverage under this section may be subject to deductible, coinsurance, and copayment provisions.
5. This section does not require:
  - a. A policy to provide coverage for health services that are not medically necessary, subject to the terms and conditions of the policy;
  - b. A policy to provide coverage for health services delivered by means of telehealth if the policy would not provide coverage for the health services if delivered by in-person means;
  - c. A policy to reimburse a health care provider or health care facility for expenses for health services delivered by means of telehealth if the policy would not reimburse that health care provider or health care facility if the health services had been delivered by in-person means; or
  - d. A health care provider to be physically present with a patient at the originating site unless the health care provider who is delivering health services by means of telehealth determines the presence of a health care provider is necessary.

**SECTION 73. AMENDMENT.** Section 54-52.1-04.14 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 74. AMENDMENT.** Section 54-52.1-05 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Each uniform group insurance contract entered by the ~~board~~office must be consistent with the provisions of this chapter, must be signed for the state

of North Dakota by the ~~chairman of the board~~director, and must include the following:

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

**SECTION 75. AMENDMENT.** Section 54-52.1-05.1 of the North Dakota Century Code is amended and reenacted as follows:

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

Except as necessary for treatment, payment, or health care operations, a carrier providing health insurance benefits coverage under this chapter may not disclose identifiable or unidentifiable insured or provider data or information to a related or unrelated health care delivery entity. The ~~board~~office may establish exceptions to the disclosure limitations under this section for the limited purpose of addressing public

interest and benefit activities or for the limited purpose of addressing research, public health, or health care operations. An exception established by the ~~board~~office under this section may not be more permissive than allowed under state and federal privacy laws.

**SECTION 76. AMENDMENT.** Section 54-52.1-06 of the North Dakota Century Code is amended and reenacted as follows:

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

Each department, board, or agency shall pay to the ~~board~~office each month from its funds appropriated for payroll and salary amounts a state contribution in the amount as determined by the primary carrier of the group contract for the full single rate monthly premium for each of its eligible employees enrolled in the uniform group insurance program and the full rate monthly premium, in an amount equal to that contributed under the alternate family contract, including major medical coverage, for hospital and medical benefits coverage for spouses and dependent children of its eligible employees enrolled in the uniform group insurance program pursuant to section 54-52.1-07. The ~~board~~office shall then pay the necessary and proper premium amount for the uniform group insurance program to the proper carrier or carriers on a monthly basis. Any refund, rebate, dividend, experience rating allowance, discount, or other reduction of premium amount must be credited at least annually to a separate fund of the uniform group insurance program to be used by the ~~board~~office to reimburse the administrative expense and benefit fund of the public employees retirement program for the costs of administration of the uniform group insurance program. In the event an enrolled eligible employee is not entitled to receive salary, wages, or other compensation for a particular calendar month, that employee may make direct payment of the required premium to the ~~board~~office to continue the employee's coverage, and the employing department, board, or agency shall provide for the giving of a timely notice to the employee of that person's right to make such payment at the time the right arises.

**SECTION 77. AMENDMENT.** Section 54-52.1-06.1 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 78. AMENDMENT.** Section 54-52.1-08 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 79. AMENDMENT.** Section 54-52.1-08.1 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 80. AMENDMENT.** Section 54-52.1-08.2 of the North Dakota Century Code is amended and reenacted as follows:

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

If the ~~board~~office determines that any section or the phraseology of any section of this chapter does not comply with applicable federal statutes or rules, the ~~board~~office shall adopt appropriate terminology with respect to that section to comply with the federal statutes or rules, subject to the approval of the legislative management's employee benefits programs committee. The ~~board~~office may assume responsibility for group purchasing arrangements as provided by federal law. Any plan modifications made by the ~~board~~office under this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

**SECTION 81. AMENDMENT.** Section 54-52.1-09 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 82. AMENDMENT.** Section 54-52.1-11 of the North Dakota Century Code is amended and reenacted as follows:

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

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

1. A person to whom the eligible employee has given written authorization to have the information disclosed.
2. A person legally representing the eligible employee, upon proper proof of representation, and unless the eligible employee specifically withholds authorization.
3. A person authorized by a court order.
4. A person or entity to which the boardoffice is required to disclose information pursuant to federal or state statutes or regulations.
5. Any person or entity if the purpose of the disclosure is for treatment, payment, or health care operations.

**SECTION 83. AMENDMENT.** Section 54-52.1-12 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 84. AMENDMENT.** Section 54-52.1-13 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 85. AMENDMENT.** Section 54-52.1-14 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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

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

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

**SECTION 87. AMENDMENT.** Section 54-52.1-16 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The boardoffice may establish a collaborative drug therapy program available to individuals in the medical and hospital benefits coverage group. The purpose of the collaborative drug therapy program is to improve the health of individuals in identified health populations and to manage health care expenditures.
2. Under the program, the boardoffice may involve physicians, pharmacists, and other health professionals to coordinate health care for individuals in identified health populations in order to improve health outcomes and reduce spending on care for the identified health problem. Under the program, pharmacists and other health professionals may be reimbursed for providing face-to-face collaborative drug therapy services to covered individuals in the identified health population. To encourage enrollment in the plan, the boardoffice may provide incentives to covered individuals in the identified health population which may include waived or reduced copayment for related treatment drugs and supplies.
3. The boardoffice may request the assistance of the North Dakota pharmacists association or a specified delegate to implement a formalized disease management program with the approval of the prescriptive practices committee established in section 43-15-31.4, which must serve to standardize chronic disease care and improve patient outcomes. This program must facilitate enrollment procedures, provide standards of care, enable consistent documentation of clinical and economic outcomes, and structure an outcomes reporting system.
4. The boardoffice may seek and accept private contributions, gifts, and grants-in-aid from the federal government, private industry, and other sources for a collaborative drug therapy program for identified health populations. Any funds that may become available through contributions, gifts, grants-in-aid, or other sources to the boardoffice for a collaborative drug therapy program are appropriated to the boardoffice on a continuing basis.

**SECTION 88. AMENDMENT.** Section 54-52.1-17 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The ~~board~~office shall establish a collaborative drug therapy program that is to be available to individuals in the medical and hospital benefits coverage group. The purpose of the collaborative drug therapy program is to improve the health of individuals with diabetes and to manage health care expenditures.
2. The ~~board~~office shall involve physicians, pharmacists, and certified diabetes educators to coordinate health care for covered individuals with diabetes in order to improve health outcomes and reduce spending on diabetes care. Under the program, pharmacists and certified diabetes educators may be reimbursed for providing face-to-face collaborative drug therapy services to covered individuals with diabetes. To encourage enrollment in the plan, the ~~board~~office shall provide incentives to covered individuals who have diabetes which may include waived or reduced copayment for diabetes treatment drugs and supplies.
3. The North Dakota pharmacists association or a specified delegate shall implement a formalized diabetes management program with the approval of the prescriptive practices committee established in section 43-15-31.4, which must serve to standardize diabetes care and improve patient outcomes. This program must facilitate enrollment procedures, provide standards of diabetes care, enable consistent documentation of clinical and economic outcomes, and structure an outcomes reporting system.
4. The ~~board~~office shall fund the program from any available funds in the uniform group insurance program and if necessary the fund may add up to a two dollar per month charge on the policy premium for medical and hospital benefits coverage. A state agency shall pay any additional premium from the agency's existing appropriation.

**SECTION 89. AMENDMENT.** Section 54-52.1-18 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The ~~board~~office shall develop and implement a high-deductible health plan as an alternative to the plan under section 54-52.1-02. The high-deductible health plan alternative with a health savings account must be made available to state employees by January 1, 2012. After June 30, 2015, at the ~~board's~~ discretion of the office, the high-deductible health plan alternative may be offered to political subdivisions for coverage of political subdivision employees. If a political subdivision elects this high-deductible option the political subdivision may not offer the plan under section 54-52.1-02.
2. Health savings account fees for participating state employees must be paid by the employer.
  - a. Except as provided in subdivision b, subject to the limits of section 223(b) of the Internal Revenue Code [26 U.S.C. 233(b)], the difference between the cost of the single and family premium for

- eligible state employees under section 54-52.1-06 and the premium for those employees electing to participate under the high-deductible health plan under this section must be deposited in a health savings account for the benefit of each participating employee.
- b. If the public employees retirement system is unable to establish a health savings account due to the employee's ineligibility under federal or state law or due to failure of the employee to provide necessary information in order to establish the account, the system is not responsible for depositing the health savings account contribution. The member will remain a participant in the high-deductible health plan regardless of whether a health savings account is established.
  3. Each new state employee must be provided the opportunity to elect the high-deductible health plan alternative. At least once each biennium, the ~~board~~office shall provide an open enrollment period allowing existing state employees or a political subdivision to change their coverage.

**SECTION 90. AMENDMENT.** Section 54-52.2-01 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 91. AMENDMENT.** Section 54-52.2-02 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 92. AMENDMENT.** Section 54-52.2-03 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 93. AMENDMENT.** Section 54-52.2-03.2 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The ~~board~~public employees retirement system office shall adopt rules necessary to implement this chapter and to manage the deferred compensation plan subject to the limitations of this chapter.
2. The ~~board~~office shall do all things necessary to preserve the tax-exempt status of the plan.
3. All providers must be authorized to do business in this state and all agents of providers must be licensed by the appropriate licensing authority or authorities in this state.
4. To continue to participate in the program, each provider must report annually, in a form and manner specified by the ~~board~~office, information related to their products, administrative and management fees, contract and maintenance charges, withdrawal penalties, market rating, and such other information the ~~board~~office may require.
5. The ~~board~~office may suspend participation of any provider that does not meet the requirements of this chapter or the rules adopted by the ~~board~~office.
6. The ~~board has the authority to~~public employees retirement system office executive director may establish a deferred compensation advisory committee, which ~~shall~~must include active providers who have signed a provider administrative agreement with the state of North Dakota deferred compensation plan.

**SECTION 94. AMENDMENT.** Section 54-52.2-03.3 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The ~~board~~public employees retirement system office or a vendor contracted for by the ~~board~~office shall apportion a participating member's account in the deferred compensation plan under this chapter in accordance with the applicable requirements of any qualified domestic relations order. The ~~board~~office shall review a domestic relations order submitted to the ~~board~~office to determine if the domestic relations order is qualified under this section and pursuant to the plan document established by the ~~board~~office for determining the qualified status of domestic relations orders and administering distributions under the qualified orders.
2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of a participating member, is made pursuant to a North Dakota domestic relations law, and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of the benefits payable to the participating member. A qualified domestic relations order may not require the ~~board~~office to provide any type or form of benefit, or any option, not otherwise provided under this chapter, or to provide increased benefits. A qualified domestic relations order must specify:
  - a. The name and the last-known mailing address of the participating member and the name and mailing address of each alternate payee covered by the order;
  - b. The amount or percentage of the participating member's benefits to be paid by the plan to each alternate payee;
  - c. That the alternate payee must take a lump sum payment of the benefits allocated to the alternate payee within one hundred twenty days of the later of the ~~board~~office's acceptance of the qualified domestic relations order or the entry of the order by the court; and
  - d. Each plan to which the order applies.

**SECTION 95. AMENDMENT.** Section 54-52.3-01 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 96. AMENDMENT.** Section 54-52.3-02 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 97. AMENDMENT.** Section 54-52.3-03 of the North Dakota Century Code is amended and reenacted as follows:

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

The office of management and budget shall transfer funds from the savings accruing to the agencies' salaries and wages line item, as a result of the diminution of the state's employer contribution for the Federal Insurance Contribution Act tax, to a payroll clearing account. The office of management and budget shall transfer funds from the payroll clearing account to the ~~board~~public employees retirement system office as necessary to defray the reasonable expenses of administering the pretax benefits program established under this chapter, including expenses associated with the program's medical spending account. Any revenue collected by the ~~board~~office from participating district health units must be used, and is hereby appropriated, to defray the expenses of administering the program. The amount necessary to pay consultants retained by the ~~board~~office, vendors retained by the ~~board~~office to provide claims administration services, any insurance costs associated with the medical spending account, and medical reimbursements for the medical spending account if funds are insufficient to pay claims are hereby appropriated from the savings and revenue generated by the program. All other expenses of administering the program must be paid in accordance with the agency's appropriation authority as established by the legislative assembly. The director of the office of management and budget may decrease or suspend the transfer of the savings accruing to the agencies' salaries and wages line item to the payroll clearing account upon determination that the funds deposited under this section are sufficient to offset anticipated obligations. Notwithstanding other provisions in this section, the public employees retirement system ~~board~~office, or any successor state agency, may not establish, enroll, or administer any pretax benefits program for a political subdivision or any other public or private business or entity, except for any program established specifically for employees of the state and employees of district health units.

**SECTION 98. AMENDMENT.** Section 54-52.3-05 of the North Dakota Century Code is amended and reenacted as follows:

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

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

1. A person to whom the employee has given written authorization to have the information disclosed.

2. A person legally representing the employee, upon proper proof of representation.
3. A person authorized by a court order.
4. A person or entity to which the ~~board~~office is required to disclose information pursuant to federal or state statutes or regulations.
5. Any person or entity if the purpose of the disclosure is for health care treatment, payment, or operations.

**SECTION 99. AMENDMENT.** Section 54-52.3-06 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 100. AMENDMENT.** Section 54-52.6-01 of the North Dakota Century Code is amended and reenacted as follows:

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

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

1. "~~Board~~" means the ~~public employees retirement system~~ board.
2. "Deferred member" means a person who elected to receive deferred vested retirement benefits under chapter 54-52.
3. "Eligible employee" means a permanent state employee who elects to participate in the retirement plan under this chapter.
4. "Employee" means any person employed by the state, whose compensation is paid out of state funds, or funds controlled or administered by the state or paid by the federal government through any of its executive or administrative officials.
5. "Employer" means the state of North Dakota.
6. "Office" means the public employees retirement system office.
7. "Participating member" means an eligible employee who elects to participate in the defined contribution retirement plan established under this chapter.
7. "Permanent employee" means a state employee whose services are not limited in duration and who is filling an approved and regularly funded

position and is employed twenty hours or more per week and at least five months each year.

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

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

1. "Board" means the public employees retirement system board.
2. "Deferred member" means a person who elected to receive deferred vested retirement benefits under chapter 54-52.
- 3.2. "Eligible employee" means a permanent state employee, except an employee of the judicial branch or an employee of the board of higher education and state institutions under the jurisdiction of the board, who is eighteen years or more of age and who is in a position not classified by North Dakota human resource management services. If a participating member loses permanent employee status and becomes a temporary employee, the member may still participate in the defined contribution retirement plan.
- 4.3. "Employee" means any person employed by the state, whose compensation is paid out of state funds, or funds controlled or administered by the state or paid by the federal government through any of its executive or administrative officials.
- 5.4. "Employer" means the state of North Dakota.
5. "Office" means the public employees retirement system office.
6. "Participating member" means an eligible employee who elects to participate in the defined contribution retirement plan established under this chapter.
7. "Permanent employee" means a state employee whose services are not limited in duration and who is filling an approved and regularly funded position and is employed twenty hours or more per week and at least five months each year.
8. "Wages" and "salaries" means earnings in eligible employment under this chapter reported as salary on a federal income tax withholding statement plus any salary reduction or salary deferral amounts under 26 U.S.C. 125,

401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement, incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between an employee and a participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the boardoffice.

**SECTION 101. AMENDMENT.** Section 54-52.6-02 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The boardoffice shall provide an opportunity for eligible employees who are new members of the public employees retirement system under chapter 54-52 to transfer to the defined contribution plan under this chapter pursuant to the rules and policies adopted by the boardoffice. An election made by a member of the public employees retirement system under chapter 54-52 to transfer to the defined contribution retirement plan under this chapter is irrevocable. For an individual who elects to transfer membership from the public employees retirement system under chapter 54-52 to the defined contribution retirement plan under this chapter, the boardoffice shall transfer a lump sum amount from the public employees retirement system fund to the participating member's account in the defined contribution retirement plan under this chapter. However, if the individual terminates employment prior to receiving the lump sum transfer under this section, the election made is ineffective and the individual remains a member of the public employees retirement system under chapter 54-52 and retains all the rights and privileges under that chapter. This section does not affect an individual's right to health benefits or retiree health benefits under chapter 54-52.1.
2. If the boardoffice receives notification from the internal revenue service that this section or any portion of this section will cause the public employees retirement system or the retirement plan established under this chapter to be disqualified for tax purposes under the Internal Revenue Code, then the portion that will cause the disqualification does not apply.
3. A participating member who becomes a temporary employee may still participate in the defined contribution retirement plan upon filing an election with the boardoffice within one hundred eighty days of transferring to temporary employee status. The participating member may not become a member of the defined benefit plan as a temporary employee. The temporary employee electing to participate in the defined contribution retirement plan shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by two percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of two percent, beginning with the monthly reporting period of January 2013, and with an additional increase of two

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

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

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

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

2. If an individual who is a deferred member of the public employees retirement system on September 30, 2001, is re-employed and by virtue of that employment is again eligible for membership in the public employees retirement system under chapter 54-52, the individual may elect in writing to remain a member of the public employees retirement system or if eligible to participate in the defined contribution retirement plan established under this chapter to terminate membership in the public employees retirement system and become a participating member in the defined contribution retirement plan established under this chapter. An election made by a deferred member under this section is irrevocable. The boardoffice shall accept written elections under this section from a deferred member during the period beginning on the date of the individual's re-employment and ending upon the expiration of six months after the date of that re-employment. If the boardoffice, in its sole discretion, determines that the employee was not adequately notified of the employee's option to participate in the defined contribution retirement plan, the boardoffice may provide the employee a reasonable time within which to make that election, which may extend beyond the original six-month decision window. A deferred member who makes and files a written election to remain a member of the public employees retirement system retains all rights and is subject to all conditions as a member of that retirement system. A deferred member who does not make a written election or who does not file the election during the period specified in this section continues to be a member of the public employees retirement system. A deferred member who makes and files a written election to terminate membership in the public employees retirement system ceases to be a member of the public employees retirement system effective on the last day of the payroll period that includes the date of the election; becomes a participating member in the defined contribution retirement plan under this chapter effective the first day of the payroll immediately following the date of the election; and waives all of that person's rights to a pension, an annuity, a retirement allowance, insurance benefit, or any other benefit under the public employees retirement system effective the last day of the payroll that includes the date of the election. This section does not affect any right to health benefits or retiree health benefits to which the deferred member may otherwise be entitled.
3. An eligible employee who elects to participate in the retirement plan established under this chapter must remain a participant even if that employee returns to the classified service or becomes employed by a political subdivision that participates in the public employees retirement system. The contribution amount must be as provided in this chapter, regardless of the position in which the employee is employed. Notwithstanding the irrevocability provisions of this chapter, if a member who elects to participate in the retirement plan established under this chapter becomes a supreme or district court judge, becomes a member of the highway patrol, becomes employed in a position subject to teachers' fund for retirement membership, or becomes an employee of the board of higher education or state institution under the jurisdiction of the board who is eligible to participate in an alternative retirement program established under subsection 6 of section 15-10-17, the member's status as a member of the defined contribution retirement plan is suspended, and the member becomes a new member of the retirement plan for which that member's new position is eligible. The member's account balance remains in the

defined contribution retirement plan, but no new contributions may be made to that account. The member's service credit and salary history that were forfeited as a result of the member's transfer to the defined contribution retirement plan remain forfeited, and service credit accumulation in the new retirement plan begins from the first day of employment in the new position. If the member later returns to employment that is eligible for the defined contribution plan, the member's suspension must be terminated, the member again becomes a member of the defined contribution retirement plan, and the member's account resumes accepting contributions. At the member's option, and pursuant to rules adopted by the boardoffice, the member may transfer any available balance as determined by the provisions of the alternate retirement plan into the member's account under this chapter.

4. After consultation with its actuary, the boardoffice shall determine the method by which a participating member or deferred member may make a written election under this section. If the participating member or deferred member is married at the time of the election, the election is not effective unless the election is signed by the individual's spouse. However, the boardoffice may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.
5. If the boardoffice receives notification from the internal revenue service that this section or any portion of this section will cause the public employees retirement system or the retirement plan established under this chapter to be disqualified for tax purposes under the Internal Revenue Code, then the portion that will cause the disqualification does not apply.
6. A participating member who becomes a temporary employee may still participate in the defined contribution retirement plan upon filing an election with the boardoffice within one hundred eighty days of transferring to temporary employee status. The participating member may not become a member of the defined benefit plan as a temporary employee. The temporary employee electing to participate in the defined contribution retirement plan shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by two percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of two percent, beginning with the monthly reporting period of January 2013, and with an additional increase of two percent, beginning with the monthly reporting period of January 2014. The temporary employee shall also pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee until termination of employment or reclassification of the temporary employee as a permanent employee.
7. A former participating member who has accepted a retirement distribution pursuant to section 54-52.6-13 and who subsequently becomes employed by an entity different from the employer with which the member was employed at the time the member retired but which does participate in any

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

**SECTION 102. AMENDMENT.** Section 54-52.6-03 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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

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

**SECTION 103. AMENDMENT.** Section 54-52.6-03.1 of the North Dakota Century Code is amended and reenacted as follows:

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

1. In this section the term "participating member" is limited in application to a participating member who elected to participate in the defined contribution retirement plan established under this chapter as an active employee of a participating employer, is an actively participating member of the defined contribution plan as of July 1, 2015, and is an active employee with a participating employer on the date an election is made under this section. The term does not include a participant who is not actively employed with a participating employer on the date of transfer of the funds under this section, has taken a distribution from the defined contribution plan, is retired, is no longer actively employed with a participating employer, or

who is a member who has a qualified domestic relations order or other court order on the member's account.

2. Notwithstanding any other provision of law, the boardoffice shall provide an opportunity for each participating member to elect in writing to terminate membership in the defined contribution retirement plan under this chapter and to elect to become a participating member in the public employees retirement system under chapter 54-52.
3. The boardoffice shall establish a three-calendar-month election period beginning not later than February 1, 2016. A participating member who does not make a written election or who does not file the election with the North Dakota public employees retirement system office during the period specified in this section continues to be a member of the defined contribution plan. A participating member who makes and files a written election with the North Dakota public employees retirement system office under this section ceases to be a member of the defined contribution plan upon receipt by the public employees retirement system of the accumulated fund balance of the member's defined contribution plan under this chapter and waives all rights to that employee's accumulated fund balance under the defined contribution plan. If the executive director of the North Dakota public employees retirement system determines a participating member was not adequately notified of the option to make an election under this section, the executive director may provide that participating member a reasonable time, not to exceed three months, within which to make that election.
4. The public employees retirement system shall credit the transferring employee with the service credit and salary history reflected on the public employees retirement system's electronic database.
5. The boardoffice shall determine the method by which a participating member may make a written election under this section. If the participating member is married at the time of the election, the election is not effective unless the election is signed by the individual's spouse. However, the executive director of the North Dakota public employees retirement system may waive this spousal signature requirement if the spouse's signature cannot be obtained because of extenuating circumstances.
6. For a participating member who elects to terminate membership in the defined contribution plan under this section, the boardoffice shall transfer that member's accumulated fund balance, less any rollovers from other plans made into the defined contribution plan, to the public employees retirement system under chapter 54-52. If funds are transferred from the defined contribution plan to the defined benefit plan under an election made under this section, the boardoffice shall record this transfer to the defined benefit plan as employee and employer contributions in the same manner as transferred by the defined contribution provider. If a participating member has a separate account attributable to rollover contributions to the defined contribution plan pursuant to section 54-52.6-09.1, the participating member shall make an election to receive a distribution of the entire amount held in the rollover account at the time of transfer.

7. A participating member who elects a transfer under this section is entitled to vested employer contribution amounts under section 54-52-11.1 prospectively from the date of transfer. A participating member who elects a transfer under this section must be assessed and required to pay monthly to the defined benefit plan an additional employee contribution of an additional two percent of the monthly salary or wages paid to the member.

**SECTION 104. AMENDMENT.** Section 54-52.6-04 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 105. AMENDMENT.** Section 54-52.6-05 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 106. AMENDMENT.** Section 54-52.6-06 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 107. AMENDMENT.** Section 54-52.6-08 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 108. AMENDMENT.** Section 54-52.6-09 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Each participating member shall contribute monthly four percent of the monthly salary or wage paid to the participant, and this assessment must be deducted from the participant's salary in equal monthly installments commencing with the first month of participation in the defined contribution retirement plan established under this chapter. Participating member contributions increase by one percent of the monthly salary or wage paid to the participant beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014.
2. The employer shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Employer contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. If the employee's contribution is paid by the employer under subsection 3, the employer shall contribute, in addition, an amount equal to the required employee's contribution. The employer shall pay monthly such contribution into the participating member's account from its funds appropriated for payroll and salary or any other funds available for such purposes. If the employer fails to pay the contributions monthly, it is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due.
3. Each employer, at its option, may pay the employee contributions required by this section for all compensation earned after December 31, 1999. The amount paid must be paid by the employer in lieu of contributions by the employee. If the employer decides not to pay the contributions, the amount that would have been paid will continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. Contributions paid by the employer may not be included as gross income of the employee in determining tax treatment under this code and the federal Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee. The employer shall pay

these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a combination of a reduction in gross salary and offset against future salary increases. Employee contributions paid by the employer must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made before the date on which employee contributions were assumed by the employer. An employer shall exercise its option under this subsection by reporting its choice to the boardoffice in writing.

**SECTION 109. AMENDMENT.** Section 54-52.6-09.1 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 110. AMENDMENT.** Section 54-52.6-11 of the North Dakota Century Code is amended and reenacted as follows:

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

A participating or former participating member may nominate one or more individuals as a refund beneficiary by filing written notice of nomination with the boardoffice. If the participating member or former participating member is married at the time of the nomination and the participant's spouse is not the refund beneficiary for one hundred percent of the account, the nomination is not effective unless the nomination is signed by the participant's spouse. However, the boardoffice may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.

**SECTION 111. AMENDMENT.** Section 54-52.6-12 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The boardoffice or a vendor contracted for by the boardoffice shall apportion a participating member's account in the defined contribution retirement plan under this chapter in accordance with the applicable requirements of any qualified domestic relations order. The boardoffice shall review a domestic relations order submitted to it to determine if the domestic relations order is qualified under this section and under rules adopted by the boardoffice for determining the qualified status of domestic relations orders, administering distributions, and apportioning accounts under the qualified orders. Upon determination of the domestic relations order as qualified, the boardoffice shall notify the participating member, the named alternate payee, and the vendor, if applicable, of its receipt of the qualified domestic relations order.
2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other

dependent of a participating member, is made pursuant to a North Dakota domestic relations law, which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of a participating member's account in the defined contribution retirement plan under this chapter. A qualified domestic relations order may not require the ~~board~~office to provide any type or form of benefit, or any option, not otherwise allowed under this chapter.

However, a qualified domestic relations order may require distribution from an account in the defined contribution retirement plan under this chapter notwithstanding that the participating member has not terminated eligible employment. A qualified domestic relations order must specify:

- a. The name and last-known mailing address of the participating member and the 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 112. 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 ~~board~~office 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 ~~board~~office 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 ~~board~~office 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 ~~board~~office 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 ~~board~~office 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 ~~board~~office 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.

3. A former participating member may elect one or a combination of several of the following methods of distribution of the accumulated balance:
  - a. A lump sum distribution to the recipient.
  - b. A lump sum direct rollover to another qualified plan, to the extent allowed by federal law.
  - c. Periodic distributions, as authorized by the ~~board~~office.
  - d. No current distribution, in which case the accumulated balance must remain in the plan until the former participating member or refund beneficiary elects a method or methods of distribution under this section, to the extent allowed by federal law.

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

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

**SECTION 113. AMENDMENT.** Section 54-52.6-14 of the North Dakota Century Code is amended and reenacted as follows:

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

The ~~board~~office shall allow distribution of the participating member's vested account balance if the ~~board~~office determines that the participating member has become totally and permanently disabled. If approved, the disabled member has the same distribution options as provided in subdivisions a and c of subsection 3 of section 54-52.6-13. However, if the member chooses the periodic distribution option, the member may only receive distributions for as long as the disability continues and the member submits the necessary documentation and undergoes medical testing required by the ~~board~~office, or for as long as the member participates in a rehabilitation program required by the ~~board~~office, or both. If the ~~board~~office determines that a member no longer meets the eligibility definition, the ~~board~~office shall discontinue the disability retirement benefit.

**SECTION 114. AMENDMENT.** Section 54-52.6-15 of the North Dakota Century Code is amended and reenacted as follows:

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

The ~~board~~office shall provide information to employees who are eligible to elect to become participating members under this chapter. The information must

include at a minimum the employee's current account balance, the assumption of investment risk under a defined contribution retirement plan, administrative and investment costs, coordination of benefits information, and a comparison of projected retirement benefits under the public employees retirement system under chapter 54-52 and the retirement plan established under this chapter. Notwithstanding any other provision of law, the ~~board~~office is not liable for any election or investment decision made by an employee based upon information provided to an employee under this chapter.

**SECTION 115. AMENDMENT.** Section 54-52.6-18 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 116. AMENDMENT.** Section 54-52.6-19 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 117. AMENDMENT.** Section 54-52.6-20 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 118. AMENDMENT.** Section 54-52.6-21 of the North Dakota Century Code is amended and reenacted as follows:

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

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

1. Section 415, including the defined contribution limitations under section 415(c)(1)(A) and (B) of the Internal Revenue Code and the Treasury Regulations thereunder, which are incorporated herein by reference.

- a. In accordance with the defined contribution limitations under section 415(c) of the Internal Revenue Code, annual additions (as defined in section 415(c)(2) of the Internal Revenue Code) under this plan may not exceed the limitations set forth in section 415(c)(1)(A) and (B), as adjusted under section 415(d) of the Internal Revenue Code, effective January first of each year following a regular legislative session.
  - b. If a participating member's aggregate annual additions exceed the defined contribution limitations under section 415(c) of the Internal Revenue Code, the member's annual additions must be reduced to the extent necessary to comply with section 415(c) of the Internal Revenue Code and the Treasury Regulations thereunder.
2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. A member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.
3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded."

Renumber accordingly

## PROPOSED AMENDMENTS TO HOUSE BILL NO. 1023

Page 1, line 2, replace "and" with "to provide a continuing appropriation;"

Page 1, line 2, after "transfer" insert "; and to amend and reenact subdivision j of subsection 2 of section 12-60-24, paragraph 4 of subdivision a of subsection 4 of section 15-10-17, sections 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, subsection 2 of section 39-03.1-09, sections 39-03.1-10.1, 39-03.1-10.2, 39-03.1-11, 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, 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 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, 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, 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, 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, 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, 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, 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, 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, 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, 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, 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, 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, 54-52.6-18, 54-52.6-19, 54-52.6-20, and 54-52.6-21 of the North Dakota Century Code, relating to the public employees retirement board, the public employees retirement system, and the membership of the employee benefits programs committee"

Page 1, replace lines 11 through 15 with:

"Salaries and wages	\$6,315,360	\$8,263	\$6,323,623
Operating expenses	2,753,643	(132,844)	2,620,799
Contingencies	<u>250,000</u>	0	<u>250,000</u>
Total special funds	\$9,319,003	(\$124,581)	\$9,194,422
Full-time equivalent positions	34.50	(1.00)	33.50"

Page 1, after line 15, insert:

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

Page 1, line 22, remove "Upon approval of the retirement"

Page 1, line 23, replace "board, the" with "The"

Page 1, line 23, after "system" insert "office"

Page 2, after line 2, insert:

**"SECTION 5. HEALTH INSURANCE RESERVE FUND - LIMITATIONS.**

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

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

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

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

- (4) Employees of the university system who are members of the public employees retirement system under chapter 54-52 or 54-52.6 and who become entitled to participate in the alternate retirement program are entitled to a special annuity purchase in the alternate retirement program in accordance with this subdivision. An eligible employee who consents to have that employee's contribution included is entitled to have that employee's contribution and employer's contribution, with interest, in the public employees retirement system fund, used by the ~~retirement board of the~~ public employees retirement system office to purchase for that employee an annuity in the alternate retirement program in lieu of any other rights under the public employees retirement fund. However, before the employer's contribution may be used for an annuity purchase, the employee's combined years of service with the public employees retirement system and the alternate retirement program must equal or exceed the years of service necessary to be eligible for retirement benefits under the public employees retirement system. An employee who transferred from the public employees retirement system before March 30, 1987, and who received a refund of that employee's contribution is entitled to have the employer's contribution, with interest, used to purchase an annuity even if that employee did not purchase an annuity in the alternate employee program with the employee's contribution. If an employee makes the election allowed under this subdivision, that employee relinquishes all rights the employee or any of the employee's beneficiaries may have had to benefits provided under chapters 54-52 and 54-52.6.

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

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

1. The North Dakota state investment board consists of the governor, the state treasurer, the commissioner of university and school lands, the director of workforce safety and insurance, the insurance commissioner, three members of the teachers' fund for retirement board or the board's designees who need not be members of the fund as selected by that board, two of the elected members of the public employees retirement system advisory board as selected by that board, and ~~one member of the public employees retirement system board as selected by that board~~office executive director or the director's designee. The director of workforce safety and insurance may appoint a designee, subject to approval by the workforce safety and insurance board of directors, to attend the meetings, participate, and vote when the director is unable to attend. The teachers' fund for retirement board may appoint an alternate designee with full voting privileges to attend meetings of the state investment board when a selected member is unable to attend. The public employees retirement system advisory board may appoint an alternate designee with full voting privileges from the public employees retirement system advisory board to attend meetings of the state investment board when a selected member is unable to attend. The members of the state investment board, except elected and appointed officials and the director of workforce safety and insurance or the director's designee and the public employees retirement system executive director, are entitled to receive as compensation one hundred forty-eight dollars per day and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09 for attending meetings of the state investment board.
2. The state investment board may establish an advisory council composed of individuals who are experienced and knowledgeable in the field of investments. The state investment board shall determine the responsibilities of the advisory council. Members of the advisory council are entitled to receive the same compensation as provided the members of the advisory board of the Bank of North Dakota and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09.

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

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

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

1. "Accumulated deductions" means the total of the amounts deducted from the salary of a contributor and paid into the fund, and standing to the contributor's credit in the fund, and interest credited on those amounts at a rate established by the ~~board~~office.
2. "~~Board~~" means the North Dakota public employees retirement board.
3. "Contributor" means any person who is a member of the North Dakota highway patrol, is subject to salary deductions to support the fund, and is employed on or after July 1, 1981.

- 4.3. "Fund" means the North Dakota highway patrolmen's retirement fund.
4. "Office" means the public employees retirement system office.
5. "Patrol" means the North Dakota highway patrol.
6. "Salary" means the actual dollar compensation, excluding any bonus, overtime, or expense allowance, paid to or for a contributor for the contributor's services.
7. "Surviving spouse" means that person lawfully married to the contributor at the time of the contributor's death.

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

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

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

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

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

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

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

**39-03.1-07. Membership.**

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

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

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

A contributor may, prior to retirement, purchase service credit for the time during each legislative session spent serving as a member of the legislative assembly while a member of the fund. The contributor shall pay for the service credit an amount equal to the required member contributions and the state contributions for that period

of time plus interest as established by the boardoffice. Service credit for legislative sessions prior to July 1, 1985, must be purchased before January 1, 1986. Service credit for each later legislative session must be purchased within one year after the adjournment of that legislative session.

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

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

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

necessary to implement and administer the accounts and annuities under this section.

7. In addition to service credit identified in this section, a contributor may purchase up to five years of service credit.
8. Pursuant to rules adopted by the ~~board~~office, the ~~board~~office may allow a contributor to purchase service credit with either pretax or aftertax moneys, at the ~~board's~~ discretion of the office. If a contributor elects to purchase service credit using pretax moneys, the requirements and restrictions in subsection 2 of section 39-03.1-09 apply to the purchase arrangement.

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

2. The state of North Dakota, at its option, may pay the member contributions required by subsection 1 for all compensation earned after June 30, 1983, and may pay the member contributions required to purchase service credit on a pretax basis pursuant to subsection 8 of section 39-03.1-08.2. The amount paid must be paid by the state in lieu of contributions by the member. A member may not receive the contributed amounts directly once the employer has elected to pay the member contributions. If the state decides not to pay the contributions, the amount that would have been paid will continue to be deducted from compensation. If contributions are paid by the state, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the state, they must not be included as gross income of the member in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The state shall pay these member contributions from the same source of funds used in paying compensation to the members. The state shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a combination of a reduction in gross salary and offset against future salary increases. If member contributions are paid by the state, they must be treated for the purposes of this chapter in the same manner and to the same extent as member contributions made prior to the date the contributions were assumed by the state. The option given employers by this subsection must be exercised in accordance with rules adopted by the ~~board~~office.

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

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

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

1. a. If the contributor has less than ten years of service at termination of employment, the refund is payable either on application of the contributor or is automatically payable if within thirty days after termination the contributor has not provided a written statement to the ~~board~~office waiving the refund and requesting the contributor's

- account remain in the fund and the contributor has an account balance of less than one thousand dollars.
- b. If the contributor has at least ten years of service at the date of termination, the contributor may apply for a refund of accumulated deductions instead of retirement benefits. By receiving the refund of accumulated deductions under this subdivision, the contributor forfeits all months of service to the date of refund and cannot use those months for any future benefit calculations.
  2. A contributor who was paid a refund under subdivision a of subsection 1 may, upon re-employment, elect to repurchase the forfeited past service for the retirement program and the retiree health benefits program in accordance with the rules adopted by the boardoffice.

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

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

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

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

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

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

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

1. A contributor is entitled to credit for permanent employment or its equivalent from the date eligibility is attained until normal or postponed retirement date, as described in subsection 3.
2. Retirement benefits are based on the contributor's final average salary. Final average salary is the average of the highest salary received by the contributor for any thirty-six months employed during the last one hundred twenty months of employment. For contributors who terminate employment on or after August 1, 2010, final average salary is the average of the highest salary received by the contributor for any thirty-six months employed during the last one hundred eighty months of employment. For contributors who terminate employment between July 31, 2005, and August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the period for which the ~~board~~office has appropriate and accurate salary records on its electronic database, but that period may not be more than the last one hundred eighty months of employment. Months not employed or months in which employment was not as a permanent employee are excluded in arriving at the thirty-six months to be used for the purpose of computing an average. If the contributor has worked for less than thirty-six months at the postponed retirement date, the final average salary is the average salary for all months of employment.
3. Retirement dates are as follows:
  - a. Early retirement date is the first day of the month next following the month in which the contributor attains the age of fifty years and has completed at least ten years of eligible employment.
  - b. Normal retirement date is:
    - (1) The first day of the month next following the month in which the contributor attains the age of fifty-five years and has completed at least ten years of eligible employment; or
    - (2) When the contributor has a combined total of years of service credit and years of age equal to eighty and has not received a retirement benefit under this chapter.
  - c. Postponed retirement date is the first day of the month next following the month in which the contributor attains the age of sixty years.
  - d. Disability retirement date is the first day of the month after a contributor becomes permanently and totally disabled, according to medical evidence called for under the rules of the ~~board~~office, and has completed at least one hundred eighty days of employment.
4. The ~~board~~office shall calculate retirement benefits as follows:
  - a. Normal retirement benefits for all contributors reaching the normal retirement date are payable monthly, and are:
    - (1) The first twenty-five years of credited service multiplied by three and sixty hundredths percent of final average salary.

- (2) All years in excess of twenty-five years of credited service multiplied by one and three-fourths percent of final average salary.
  - (3) All contributors who retired before August 1, 2001, or their beneficiaries, are entitled to receive benefits equal to three and sixty hundredths percent of final average salary multiplied by the first twenty-five years of credited service, plus one and three-fourths percent of final average salary multiplied by credited service in excess of twenty-five years, with the increased benefits payable beginning August 1, 2001.
- b. Early retirement benefits are normal retirement benefits accrued to the date of termination of employment, but actuarially reduced to account for benefit payments beginning before the normal retirement date.
  - c. Postponed retirement benefits, for all contributors reaching the postponed retirement date, are calculated in the same manner as normal retirement benefits.
  - d. Disability retirement benefits are payable monthly and are:
    - (1) Seventy percent of the contributor's final average salary, reduced by any workforce safety and insurance benefits paid. The minimum monthly disability retirement benefit under this subsection is one hundred dollars.
    - (2) An individual or that person's beneficiary who, on July 31, 2001, is receiving a disability retirement benefit is entitled to receive an increase in benefits equal to six percent of the individual's present benefits, with the increase payable beginning August 1, 2001.
- 5. On termination of employment after completing ten years of eligible employment but before the normal retirement date, a contributor who does not elect to receive early retirement benefits is eligible to receive deferred vested retirement benefits. The deferred benefits are payable beginning on the contributor's normal retirement date in one of the forms provided in this section. Contributors who have delayed or inadvertently failed to apply for retirement benefits to commence on their normal retirement date may choose to receive either a lump sum payment equal to the amount of missed payments, or an actuarial increase to the form of benefit the member has selected, which increase must reflect the missed payments. The final average salary used for calculating deferred vested retirement benefits must be increased annually, from the later of the date of termination of employment or July 1, 1991, until the date the contributor begins to receive retirement benefits from the fund, at a rate as determined by the boardoffice not to exceed a rate that would be approximately equal to annual salary increases provided state employees pursuant to action by the legislative assembly.
  - 6. If before retiring a contributor dies after completing ten years of eligible employment, the boardoffice shall pay the contributor's accumulated deductions to the contributor's designated beneficiary as provided in this subsection. If the contributor has designated an alternate beneficiary with the surviving spouse's written consent, the boardoffice shall pay the

contributor's account balance to the named beneficiary. If the contributor has named more than one primary beneficiary, the boardoffice shall pay the contributor's account balance to the named primary beneficiaries in the percentages designated by the contributor or, if the contributor has not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the contributor, the boardoffice shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If there are no remaining primary beneficiaries, the boardoffice shall pay the contributor's account balance to the contingent beneficiaries in the same manner. If there are no remaining designated beneficiaries, the boardoffice shall pay the contributor's account balance to the contributor's estate. If the contributor has not designated an alternate beneficiary under this section or the surviving spouse is the beneficiary, the surviving spouse of the contributor may select one of the following optional forms of payment:

- a. A lump sum payment of the contributor's accumulated deductions as of the date of death.
- b. Payment of a monthly retirement benefit equal to fifty percent of the deceased contributor's accrued normal retirement benefits until the spouse dies.
7. If a contributor not eligible for the benefits of subsection 6 terminates employment for any reason before retirement, the contributor or the contributor's designated beneficiary is entitled to the contributor's accumulated deductions at termination.
8. The surviving spouse of a member receiving retirement benefits must be the member's primary beneficiary unless there is no surviving spouse or the surviving spouse designates an alternate beneficiary in writing. If a contributor receiving retirement benefits, or a contributor's surviving spouse receiving retirement benefits, dies before the total amount of benefits paid to them equals the amount of the contributor's accumulated deductions at retirement, the difference must be paid to the named beneficiary of the recipient or, if there is no named beneficiary, to the recipient's estate.
9. The boardoffice shall adopt rules providing for the receipt of retirement benefits in the following optional forms:
  - a. An actuarially equivalent joint and survivor one hundred percent option.
  - b. An actuarially equivalent life with ten-year or twenty-year certain options.
  - c. An actuarially equivalent partial lump sum distribution option with a twelve-month maximum lump sum distribution.
  - d. An actuarially equivalent graduated benefit option with either a one percent or two percent increase to be applied the first day of January of each year.

Unless a contributor requests that the contributor receive benefits according to one of these options at the time of applying for retirement, all

retirement benefits must be in the form of a lifetime monthly pension, with a fifty percent option to the surviving spouse.

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

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

The ~~board~~office 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 benefits from all the plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. If the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. This reduction must be made pro rata between the plans, in proportion to the participating member's service in each plan.
2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirements under section 401(a)(9)(G), and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. A member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.

3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.

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

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

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

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

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

1. For the purpose of determining eligibility for benefits under this chapter, a member's years of service is the total of the years of service earned under this chapter and the years of service employment or years of service credit earned in any number of the following, the total of which may not exceed twelve months of credit per year:
  - a. The public employees retirement system.
  - b. The teachers' fund for retirement.
  - c. 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.
2. If a member terminates eligible employment under this chapter, if that member has not received a refund of the member's accumulated deductions, and if that member begins eligible employment in a plan described in subdivision a or b of subsection 1, that member may elect to remain an inactive member of the system without refund of the member's accumulated deductions. The election must be made within ninety days after beginning the eligible employment. The boardoffice shall terminate

the inactive status of a member under this subsection if the member gains eligible employment under this chapter or if the member terminates eligible employment under a plan described in subdivision a or b of subsection 1.

3. Pursuant to rules adopted by the ~~board~~office, a member who has service credit in the system and in any of the alternate plans described in subdivision a or b of subsection 1 is entitled to benefits under this chapter. The employee may elect to have benefits calculated using the benefit formula in section 39-03.1-11 under either of the following calculation methods:
  - a. By using the final average salary as calculated in section 39-03.1-11. 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.
  - b. Using the final average salary as calculated in section 39-03.1-11, with service credit not to exceed one month in any month when combined with the service credit earned in the alternate retirement system.

The ~~board~~office shall calculate benefits for an employee under this subsection by using only those years of service employment earned under this chapter.

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

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

1. The ~~board~~office shall pay retirement benefits in accordance with the applicable requirements of any qualified domestic relations order. The ~~board~~office shall review a domestic relations order submitted to it to determine if the domestic relations order is qualified under this section and under rules established by the ~~board~~office for determining the qualified status of domestic relations orders and administering distributions under the qualified orders. Upon determination that a domestic relations order is qualified, the ~~board~~office shall notify the contributor and the named alternate payee of its receipt of the qualified domestic relations order.
2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of a contributor, is made pursuant to a North Dakota domestic relations law, and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of the benefits payable to the contributor. A qualified domestic relations order may not require the ~~board~~office to provide any type or form of benefit, or any option, not otherwise provided under the retirement system, or to provide increased benefits as determined on the basis of actuarial value. However, a qualified domestic relations order may require the payment of benefits at the early retirement date

notwithstanding that the contributor has not terminated eligible employment. A qualified domestic relations order must specify:

- a. The name and the last-known mailing address of the contributor and the name and mailing address of each alternate payee covered by the order;
- b. The amount or percentage of the contributor's benefits to be paid by the plan 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 23. AMENDMENT.** Section 39-03.1-25 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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

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

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

1. A person to whom the member has given written consent to have the information disclosed.
2. A person legally representing the member, upon proper proof of representation, and unless the member specifically withdraws consent.
3. A person authorized by a court order.
4. A member's participating employer, limited to information concerning the member's years of service credit and years of age. The boardoffice may share other types of information as needed by the employer to validate the employer's compliance with existing state or federal laws. Any information provided to the member's participating employer under this subsection must remain confidential except as provided under subsection 6.
5. The administrative staff of the retirement and investment office for purposes relating to membership and benefits determination.

6. State or federal agencies for purposes of reporting on a service provider's provision of services or when the employer must supply information to an agency to validate the employer's compliance with existing state or federal laws.
7. Member interest groups approved by the ~~board~~office on a third-party blind list basis, limited to information concerning the member's participation, name, and address.
8. The member's spouse or former spouse, that individual's legal representative, and the judge presiding over the member's dissolution proceeding for purposes of aiding the parties in drafting a qualified domestic relations order under section 39-03.1-14.2. The information disclosed under this subsection must be limited to information necessary for drafting the order.
9. Beneficiaries designated by a participating member or a former participating member to receive benefits after the member's death, but only after the member's death. Information relating to beneficiaries may be disclosed to other beneficiaries of the same member.
10. Any person if the ~~board~~office determines disclosure is necessary for treatment, operational, or payment purposes, including the completion of necessary documents.
11. The general public, but only after the ~~board~~office has been unable to locate the member for a period in excess of two years, and limited to the member's name and the fact that the ~~board~~office has been unable to locate the member.
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 under section 39-03.1-10.2, 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 25. AMENDMENT.** Section 39-03.1-29 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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

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

1. The North Dakota national guard is authorized to establish an employee retirement program by contract with an insurance company, state or national bank and trust company, or an investment company, authorized under the law to do business in this state, the state investment board, or the North Dakota public employees retirement system office. Except for a retirement program established under chapter 54-52, the North Dakota national guard shall prepare specifications of the terms of the retirement program which must be submitted to not less than three companies or agencies with a request for bids upon the retirement program contracts. After the submission of at least three bids, the adjutant general shall compare the bids, and with the approval of the governor, shall execute a contract for the retirement program with the company or agency submitting the lowest and best bid. The public employees retirement system ~~board is authorized to~~ office may administer the retirement plan established in 1961 and frozen to new entrants in 1980 for employees of job service North Dakota. The public employees retirement system ~~board~~ office shall fund the administrative expenses of administering that retirement plan from the funds in that plan.
2. The employing agency shall be authorized to withhold the employee's share of the contributions required under such retirement program from the salary paid each employee of such agency. The amount of such withholding must be an adjustable percentage rate of the employee's salary sufficient to provide financing of the required employee's contributions to such retirement plan as such plan was originally contracted and as it has been or will be amended, provided that such percentage rate may not exceed the percentage rate which may be fixed for withholding from federal employees for employee contributions to the federal retirement program under civil service. The employing agency shall be authorized to pay a sum as prescribed in the program contract toward the cost of such retirement program, which sum may not be in excess of the amount approved by the appropriate federal agency supervising the payment or reimbursement of salary and retirement program costs. The amount withheld from the wages due an employee and the amount to be paid by the employing agency must be paid to the company holding such retirement program contract in accordance with the terms of such contract.
3. The employing agency's share of the costs of such retirement program must be paid from any funds made available to it for this purpose by the United States government, and in the case of employees of such agencies for whom the state does not receive federal payments for salary costs, such employer's share may be made from any appropriations made available for the purpose of paying such salaries. Payments may be made for prior service of employees in accordance with the terms of the retirement program contract and in accordance with the availability of funds. The contract must specify the terms and conditions under which employee contributions may be withdrawn from the program and for the crediting of the employer's contributions to future payments due from the employing agency. Provision may be made in the contract for optional

payment of benefits to survivors of covered employees. Each agency participating in the retirement program shall be authorized to do all things necessary for the proper administration of the program, but no benefits payable under the terms of the retirement program contract shall ever become an obligation of the state.

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

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

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

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

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

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

1. "Account balance" means the total contributions made by the employee, vested employer contributions under section 54-52-11.1, the vested portion of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the boardoffice.
2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
3. "Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.
4. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. Eligible employee does not include state employees who elect to become members of the retirement plan established under chapter 54-52.6.

5. "Employee" means any person employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.
6. "Employer" means a governmental unit.
7. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution ~~which the retirement board~~office may select to hold and invest the employers' and members' contributions.
8. "Governmental unit" means the state of North Dakota, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision thereof.
9. "National guard security officer or firefighter" means a participating member who is:
  - a. A security police employee of the North Dakota national guard; or
  - b. A firefighter employee of the North Dakota national guard.
10. "Office" means the public employees retirement system office.
11. "Participating member" means all eligible employees who through payment into the plan have established a claim against the plan.
- 11.12. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the bureau of criminal investigation or by a political subdivision and, notwithstanding subsection 12, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. Participating members of the law enforcement retirement plan created by this chapter who begin employment after August 1, 2005, are ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.
- 12.13. "Permanent employee" means a governmental unit employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least twenty weeks each year of employment.
- 13.14. "Prior service" means service or employment prior to July 1, 1966.
- 14.15. "Prior service credit" means such credit toward a retirement benefit as the ~~retirement board~~office may determine under the provisions of this chapter.
- 15.16. "Public employees retirement system" means the retirement plan and program established by this chapter.

- 46.17. "Retirement" means the acceptance of a retirement allowance under this chapter upon either termination of employment or termination of participation in the retirement plan and meeting the normal retirement date.
- 47.18. "Retirement board" or "board" means the ~~governing authority~~retirement system advisory board created under section 54-52-03.
- 48.19. "Seasonal employee" means a participating member who does not work twelve months a year.
- 49.20. "Service" means employment on or after July 1, 1966.
- 50.21. "Service benefit" means the credit toward retirement benefits as determined by the ~~retirement board~~office under the provisions of this chapter.
- 51.22. "Temporary employee" means a governmental unit employee who is not eligible to participate as a permanent employee, who is at least eighteen years old and not actively contributing to another employer-sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.
- 52.23. "Wages" and "salaries" means the member's earnings in eligible employment under this chapter reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between the member and participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the ~~board~~office.

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

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

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

- 5.6. "Employee" means any person employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.
- 6.7. "Employer" means a governmental unit.
- 7.8. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution ~~which the retirement board~~the director may select to hold and invest the employers' and members' contributions.
- 8.9. "Governmental unit" means the state of North Dakota, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision thereof.
- 9.10. "National guard security officer or firefighter" means a participating member who is:
  - a. A security police employee of the North Dakota national guard; or
  - b. A firefighter employee of the North Dakota national guard.
- 11. "Office" means the public employees retirement system office.
- 10.12. "Participating member" means all eligible employees who through payment into the plan have established a claim against the plan.
- 11.13. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the bureau of criminal investigation or by a political subdivision and, notwithstanding subsection 12, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. Participating members of the law enforcement retirement plan created by this chapter who begin employment after August 1, 2005, are ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.

- 42.14. "Permanent employee" means a governmental unit employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least twenty weeks each year of employment.
- 43.15. "Prior service" means service or employment prior to July 1, 1966.
- 44.16. "Prior service credit" means such credit toward a retirement benefit as the ~~retirement board~~director may determine under the provisions of this chapter.
- 45.17. "Public employees retirement system" means the retirement plan and program established by this chapter.
- 46.18. "Retirement" means the acceptance of a retirement allowance under this chapter upon either termination of employment or termination of participation in the retirement plan and meeting the normal retirement date.
- 47.19. "Retirement board" or "board" means the ~~seven persons designated by this chapter as the governing authority for the retirement system~~ created~~retirement system~~ advisory board established under section 54-52-03.
- 48.20. "Seasonal employee" means a participating member who does not work twelve months a year.
- 49.21. "Service" means employment on or after July 1, 1966.
- 50.22. "Service benefit" means the credit toward retirement benefits as determined by the ~~retirement board~~director under the provisions of this chapter.
- 51.23. "Temporary employee" means a governmental unit employee who is not eligible to participate as a permanent employee, who is at least eighteen years old and not actively contributing to another employer-sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.
- 52.24. "Wages" and "salaries" means the member's earnings in eligible employment under this chapter reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between the member and participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the board~~office~~.

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

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

1. A political subdivision may, on behalf of its permanent employees, on behalf of its peace officers and correctional officers separately from its other employees, and permanent noncertified employees only in the case of school districts, enter into agreements with the ~~retirement board~~office for the purpose of extending the benefits of the public employees retirement system, as provided in this chapter, to those employees. The agreement may, in accordance with this chapter, contain provisions relating to benefits, contributions, effective date, modification, administration, and other appropriate provisions as the ~~retirement board~~office and the political subdivision agree upon, but the agreement must provide that:
  - a. The political subdivision will contribute on behalf of each eligible employee an amount equal to that provided in section 54-52-06 or 54-52-06.3 for peace officers and correctional officers participating separately from other political subdivision employees.
  - b. A portion of the moneys paid by the political subdivision may be used to pay administrative expenses of the ~~retirement board~~office.
2. Notwithstanding any other provision of law, a political subdivision having an existing police pension plan may merge that plan into the public employees retirement system under rules adopted by and in a manner determined by the ~~board~~office.
3. Notwithstanding any other provision of this chapter, a political subdivision of this state not currently participating in the public employees retirement system may not become a participant in the retirement system until an actuarial study is performed under the direction of the ~~board~~office to calculate the required employer contribution for any past service liability and the required employer contribution must be an amount determined sufficient to amortize and fund any past service liability over a period not to exceed thirty years as determined by the ~~board~~office. Any fees incurred in performing the actuarial study must be paid for by the political subdivision in a manner determined by the ~~board~~office.

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

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

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

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

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

1. A state agencyThe public employees retirement system office is hereby created to constitute the governing authority of the public employees retirement system to consist of a board of nine individuals known as the retirement board.
2. A seven-member retirement system advisory board shall advise the director, the governor, and the legislative management in the administration of the public employees retirement system. No more than one elected member of the board may be in the employ of a single department, institution, or agency of the state or in the employ of a political subdivision. An employee of the public employees retirement system office or the state retirement and investment office may not serve on the board.
  4. a. Two members of the legislative assembly must be appointed by the chairman of the legislative management to serve on the board.
    - a. (1) If the same political party has the greatest number of members in both the house and senate, one member must be from that majority party and one member from the political party with the next greatest number of members in the house and senate.
    - b. (2) If the same political party does not have the greatest number of members in both the house and senate, one member must be from the majority party in the house and one member must be from the majority party in the senate.
  2. b. One member of the board must be appointed by the governor to serve a term of five years. The appointee must be a North Dakota citizen who is not a state or political subdivision employee and who by experience is familiar with money management. The citizen member is chairman of the board.
  3. One member of the board must be appointed by the attorney general from the attorney general's legal staff and shall serve a term of five years.
  4. The state health officer appointed under section 23-01-05 or the state health officer's designee is a member of the board.
  5. c. Three board members must be elected by and from among the active participating members, members of the retirement plan established under chapter 54-52.6, members of the retirement plan established under chapter 39-03.1, and members of the job service North Dakota retirement plan. Employees who have terminated their employment for whatever reason are not eligible to serve as elected members of the board under this subsection. Board members must be elected to a five-year term pursuant to an election called by the board. Notice of board elections must be given to all active participating members. The time spent in performing duties as a board member may not be charged against any employee's accumulated annual or any other type of leave.
  6. d. One board member must be elected by and from among those individuals who are receiving retirement benefits under this chapter.

The board shall call the election and must give prior notice of the election to the individuals eligible to participate in the election pursuant to this subsection. The board member shall serve a term of five years.

7. e. The members of the board are entitled to receive one hundred forty-eight dollars per day compensation and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09. This is in addition to any other pay or allowance due the chairman or a member, plus an allowance for expenses they may incur through service on the board.
8. f. A board member shall serve a five-year term and until the board member's successor qualifies. Each board member is entitled to one vote, and ~~five~~four of the ~~nine~~seven board members constitute a quorum. ~~Five~~Four votes are necessary for resolution or action by the board at any meeting.

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

**54-52-04. Board authorityAuthority - Continuing appropriation.**

1. The ~~board~~public employees retirement system office shall adopt rules necessary to implement this chapter, and to manage the system, subject to the limitations of this chapter. ~~The board has the powers and privileges of a corporation, including the right to sue and be sued in its own name as the board. The venue of all actions in which the board is a party must be Burleigh County, North Dakota.~~
2. The ~~board~~governor shall appoint an executive director to serve at ~~its~~the governor's discretion. ~~The executive director shall perform such duties as assigned by the board.~~
3. The ~~board~~office shall ~~authorize the creation of whatever employ~~ staff it ~~deemsas~~ necessary for sound and economical administration of the system. ~~The executive director shall hire the staff, subject to the approval of the board.~~
4. The ~~board~~office shall arrange for actuarial and medical advisers for the system. The ~~board~~office shall ~~causecontract with~~ a qualified, competent actuary to be retained on a consulting basis. The actuary shall make an annual valuation of the liabilities and reserves of the system and a determination of the contributions required by the system to discharge its liabilities and pay the administrative costs under this chapter, and to recommend to the ~~board~~office rates of employer and employee contributions required, based upon the entry age normal cost method, to maintain the system on an actuarial reserve basis; once every five years make a general investigation of the actuarial experience under the system including mortality, retirement, employment turnover, and other items required by the ~~board~~office, and recommend actuarial tables for use in valuations and in calculating actuarial equivalent values based on such investigation; and perform other duties as may be assigned by the ~~board~~office.

5. The state shall provide the boardoffice with the ~~retirement systems~~ office or offices to be used for the meetings of the board and for the general purposes of the administrative personnel office.
6. The funds necessary for paying prior service and service benefits, consultant fees, and making withdrawal payments and refunds are hereby appropriated from the retirement fund for those purposes. The amount necessary to pay the consulting fees and insurance benefits related to the uniform group insurance program is hereby appropriated from the insurance premiums received by the boardoffice.
7. The boardoffice shall administer chapters 39-03.1, 54-52.1, and 54-52.2, and may administer other optional employee benefit programs, including a flexible benefits plan, an optional employee short-term disability plan, a long-term care plan, or other optional employee benefit programs as the boardoffice deems appropriate. The boardoffice shall also administer the retirement plan established in 1961 and frozen to new entrants in 1980 for employees of job service North Dakota under chapter 52-11.
8. ~~The board shall annually~~Annually, the office shall report the investment performance of the fund and distribute a copy to each participant.
9. The boardoffice may distribute the employer contribution and applicable interest for any employee of any development foundation associated with a public institution of higher education in this state who may previously have been included in the public employees retirement system while employed by such foundation. Such employee is entitled to have that employee's contribution and the contribution of the development foundation, with interest.
10. The boardoffice may audit any books, papers, accounts, bills, vouchers, and other documents or property of any and all departments, boards, commissions, political subdivisions, financial institutions, contractors, health care organizations, and consultants relating to their participation in services provided to programs administered by the boardoffice.
11. The boardoffice shall fund the administrative expenses of chapter 54-52.2 from funds collected under chapters 54-52, 54-52.1, and 54-52.3 and from fines and fees collected from deferred compensation services providers, including any fees paid for by participant funds, subject to appropriation by the legislative assembly.
12. Except as provided by section 54-52-17.7, the boardoffice may adjust service and make any correction of member, retiree, or beneficiary records and benefits after an error or inequity has been determined.
13. ~~The board~~Subject to appropriation, the office may use any amount credited to the separate uniform group insurance program fund created by section 54-52.1-06 in excess of the costs of administration of the uniform group insurance program to reduce the amount of premium amounts paid monthly by enrolled members of the uniform group insurance program, to reduce any increase in premium amounts paid monthly by enrolled members, or to provide increased insurance coverage to the members, as the boardoffice may determine.

14. The ~~board~~office may create and implement an Internal Revenue Code section 115 trust health care savings plan for all supreme and district court judges participating in the public employees retirement system if seventy-five percent of the total active participating supreme and district court judges vote to approve the program. If approved, the contribution level specified in the vote applies to all current and future participating supreme and district court judges and must be paid pursuant to the plan document developed by the ~~board~~office. The contribution level may only be changed by a vote of seventy-five percent of the total active participating supreme and district court judges at that time.
15. The office shall establish policies and implement procedures to make and collect payments in the most cost-effective manner, including the use of electronic transfer of funds.

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

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

SECTION 34. AMENDMENT. Section 54-52-06 of the North Dakota Century Code is amended and reenacted as follows:

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

Each governmental unit shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Governmental unit contributions increase by one percent of the monthly salary or wage

of a participating member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. 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:

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

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

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

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

Each peace officer or correctional officer employed by a political subdivision that enters into an agreement with the ~~retirement board~~ office on behalf of its peace officers and correctional officers separately from its other employees and who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Peace officer or correctional officer contributions increase by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2014. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's or correctional officer's employer shall contribute an amount determined by the ~~board~~ office to be actuarially required to support the level of benefits specified in section 54-52-17. If the peace officer's or correctional officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace officer's or correctional officer's assessment.

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

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

Each peace officer employed by the bureau of criminal investigation who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Peace officer contributions increase by one percent of the member's monthly salary 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. Effective August 1, 2015, each national guard security officer who is a member of the public employee's retirement system is assessed and monthly shall pay six percent of the employee's monthly salary. National guard security officer contributions decrease by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2016. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's or security officer's employer shall contribute an amount determined by the ~~board~~ office to be actuarially required to support the level of benefits specified in section 54-52-17. The employer's contribution must be paid from funds appropriated for salary or from any other funds available for such purposes. If the peace officer's or security officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace officer's or security officer's assessment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Participating members shall receive credit for full-time employment or its equivalent from the date they attain eligibility until their normal retirement date, postponed retirement date, or early retirement date, as defined in this section. Part-time employment will be recognized as full-time employment on a prorated basis as the ~~board~~office may prescribe.
2. Retirement benefits are calculated from the participating member's final average salary, which is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred twenty months of employment. For members who terminate employment on or after August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred eighty months of employment. For members who terminate employment between July 31, 2005, and August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the period for which the ~~board~~office has appropriate and accurate salary records on its electronic

database, but that period may not be more than the last one hundred eighty months of employment. Months not employed are excluded in arriving at the thirty-six months to be used for the purpose of computing an average. If the participating member has worked for less than thirty-six months at the normal retirement date, the final average salary is the average salary for the total months of employment.

3. Retirement dates are defined as follows:
  - a. Normal retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is:
    - (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
    - (2) When the member has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
  - b. Normal retirement date for members first enrolled after December 31, 2015, except for a national guard security officer or firefighter, a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, or a supreme court or district court judge, is:
    - (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
    - (2) When the member has a combined total of years of service credit and years of age equal to ninety and the member attains a minimum age of sixty and has not received a retirement benefit under this chapter.
  - c. Normal retirement date for a national guard security officer or firefighter is:
    - (1) The first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty-five years and has completed at least three eligible years of employment; or
    - (2) When the national guard security officer or firefighter has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
  - d. Normal retirement date for a peace officer or correctional officer employed by a political subdivision is:
    - (1) The first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty-five years and has completed at least three eligible years of employment; or
    - (2) When the peace officer or correctional officer has a combined total of years of service credit and years of age equal to

- eighty-five and has not received a retirement benefit under this chapter.
- e. Normal retirement date for a peace officer employed by the bureau of criminal investigation is:
    - (1) The first day of the month next following the month in which the peace officer attains the age of fifty-five years and has completed at least three eligible years of employment; or
    - (2) When the peace officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
  - f. Postponed retirement date is the first day of the month next following the month in which the member, on or after July 1, 1977, actually severs or has severed the member's employment after reaching the normal retirement date.
  - g. Early retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed three years of eligible employment. For a national guard security officer or firefighter, early retirement date is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty years and has completed at least three years of eligible employment. For a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, early retirement date is the first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty years and has completed at least three years of eligible employment.
  - h. Disability retirement date is the first day of the month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules of the boardoffice, and has completed at least one hundred eighty days of eligible employment. For supreme and district court judges, permanent and total disability is based solely on a judge's inability to perform judicial duties arising out of physical or mental impairment, as determined pursuant to rules adopted by the boardoffice or as provided by subdivision a of subsection 3 of section 27-23-03. A member is eligible to receive disability retirement benefits only if the member:
    - (1) Became disabled during the period of eligible employment; and
    - (2) Applies for disability retirement benefits within twelve months of the date the member terminates employment.

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

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

4. The ~~board~~office shall calculate retirement benefits as follows:

- a. Normal retirement benefits for all retirees, except supreme and district court judges, reaching normal retirement date equal an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which is determined as follows:
  - (1) Service benefit equals two percent of final average salary multiplied by the number of years of service employment.
  - (2) Prior service benefit equals two percent of final average salary multiplied by the number of years of prior service employment.
- b. Normal retirement benefits for all supreme and district court judges under the public employees retirement system reaching normal retirement date equal an annual amount, payable monthly, comprised of a benefit as defined in this chapter, determined as follows:
  - (1) Benefits must be calculated from the time of appointment or election to the bench and must equal three and one-half percent of final average salary multiplied by the first ten years of judicial service, two and eighty hundredths percent of final average salary multiplied by the second ten years of judicial service, and one and one-fourth percent of final average salary multiplied by the number of years of judicial service exceeding twenty years.
  - (2) Service benefits must include, in addition, an amount equal to the percent specified in subdivision a of final average salary multiplied by the number of years of nonjudicial employee service and employment.
- c. Postponed retirement benefits are calculated as for single life benefits for those members who retired on or after July 1, 1977.
- d. Early retirement benefits are calculated as for single life benefits accrued to the date of termination of employment, but must be actuarially reduced to account for benefit payments beginning prior to the normal retirement date, which is the earlier of age sixty-five or the age at which current service plus age equals eighty-five. Except for a national guard security officer or firefighter, a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, or a supreme court or district court judge, early retirement benefits for members first enrolled after December 31, 2015, are calculated for single life benefits accrued to the date of termination of employment, but must be reduced by fixed rate of eight percent per year to account for benefit payments beginning before the normal retirement date. A retiree, other than a supreme or district court judge, is eligible for early retirement benefits only after having completed three years of eligible employment. A supreme or district

court judge retiree is eligible for early retirement benefits only after having completed five years of eligible employment.

- e. Except for supreme and district court judges, disability retirement benefits are twenty-five percent of the member's final average salary. Disability retirement benefits for supreme and district court judges are seventy percent of final average salary reduced by the member's primary social security benefits and by any workforce safety and insurance benefits paid. The minimum monthly disability retirement benefit under this section is one hundred dollars.
5. Upon termination of employment after completing three years of eligible employment, except for supreme and district court judges, who must complete five years of eligible employment, but before normal retirement date, a member who does not elect to receive early retirement benefits is eligible to receive deferred vested retirement benefits payable commencing on the member's normal retirement date in one of the optional forms provided in subsection 9. Members who have delayed or inadvertently failed to apply for retirement benefits to commence on their normal retirement date may choose to receive either a lump sum payment equal to the amount of missed payments, or an actuarial increase to the form of benefit the member has selected, which increase must reflect the missed payments.
6. If before retiring a member dies after completing three years of eligible employment, except for supreme and district court judges, who must have completed five years of eligible employment, the boardoffice shall pay the member's account balance to the member's designated beneficiary as provided in this subsection. If the member has designated an alternate beneficiary with the surviving spouse's written consent, the boardoffice shall pay the member's account balance to the named beneficiary. If the member has named more than one primary beneficiary, the boardoffice shall pay the member's account balance to the named primary beneficiaries in the percentages designated by the member or, if the member has not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the member, the boardoffice shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If any beneficiary survives the member, yet dies before distribution of the beneficiary's share, the beneficiary must be treated as if the beneficiary predeceased the member. If there are no remaining primary beneficiaries, the boardoffice shall pay the member's account balance to the contingent beneficiaries in the same manner. If there are no remaining designated beneficiaries, the boardoffice shall pay the member's account balance to the member's estate. If the member has not designated an alternate beneficiary or the surviving spouse is the beneficiary, the surviving spouse of the member may select a form of payment as follows:
  - a. If the member was a supreme or district court judge, the surviving spouse may select one of the following optional forms of payment:
    - (1) A lump sum payment of the member's retirement account as of the date of death.

- (2) Payments as calculated for the deceased member as if the member was of normal retirement age at the date of death, payable until the spouse dies.
- b. The surviving spouse of all other members may select one of the following options:
  - (1) A lump sum payment of the member's retirement account as of the date of death.
  - (2) Payment of a monthly retirement benefit equal to fifty percent of the deceased member's accrued single life retirement benefits until the spouse dies.
  - (3) If the member dies on or after the member's normal retirement date, the payment of a monthly retirement benefit equal to an amount that would have been paid to the surviving spouse if the member had retired on the day of the member's death and had selected a one hundred percent joint and survivor annuity, payable until the spouse dies. A surviving spouse who received a benefit under this subsection as of July 31, 1995, is entitled to the higher of that person's existing benefit or the equivalent of the accrued benefit available under the one hundred percent joint and survivor provision as if the deceased member were of normal retirement age, with the increase payable beginning August 1, 1995.
7. If a member not coming under the provisions of subsection 6 terminates employment because of death, permanent and total disability, or any voluntary or involuntary reason prior to retirement, the member or the member's designated beneficiary is entitled to the member's account balance at termination. The boardoffice automatically shall refund a member's account balance if the member has completed less than three years of eligible employment, has an account balance of less than one thousand dollars, and was not a supreme or district court judge. If the member was a supreme or district court judge, the boardoffice automatically shall refund a member's account balance if the member completed less than five years of eligible employment. A member may waive the refund if the member submits a written statement to the boardoffice, within thirty days after termination, requesting that the member's account balance remain in the fund.
8. The surviving spouse of a member receiving retirement benefits must be the member's primary beneficiary unless there is no surviving spouse or the surviving spouse designates an alternate beneficiary in writing. If a member receiving retirement benefits or the member's surviving spouse receiving retirement benefits dies before the total amount of benefits paid to either or both equals the amount of the member's account balance at retirement, the difference must be paid to the named beneficiary of the recipient or, if there is no named beneficiary, to the recipient's estate.
9. The boardoffice shall adopt rules providing for the receipt of retirement benefits in the following optional forms:
  - a. Single life.

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

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

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

**SECTION 45. AMENDMENT.** Section 54-52-17.2 of the North Dakota Century Code is 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 ~~board~~office, 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 ~~board~~office 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 retirement system is required, then, for purposes of current participation, the employee is a member of each applicable retirement system. The employer shall pay over to each retirement system the member assessment and employer contributions at the rates currently existing for that retirement system.
- b. If an employee described in subdivision a was employed prior to August 1, 2003, and has dual membership rights, the employee may elect to begin participation in the alternate plan pursuant to the plan provisions on August 1, 2003, or may continue participation according to the plan provisions in effect on July 31, 2003. An employee's election under this subdivision is ineffective unless delivered to the public employees retirement system administrative offices by five p.m. on October 31, 2003. If an election is not received by the public employees retirement system, the participation and benefit calculation requirements in effect on July 31, 2003, apply to that employee.

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

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

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

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

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

1. A participating member may elect to purchase credit for years of service and prior service for which the participating member is not presently receiving credit. A participating member is entitled to purchase additional credit under this section for the following service or prior service, except this service is not eligible for credit if the years claimed also qualify for retirement benefits from another retirement system:
  - a. Active prior employment in the armed forces of the United States, except as provided in section 54-52-17.14, for up to four years of credit.
  - b. Employment as a permanent employee by a public employer either within or outside the state of North Dakota.
  - c. Employment as a permanent employee by a political subdivision participating in the public employees retirement system which did not pay the cost of past service benefits under section 54-52-02.1.
  - d. Service the participating member did not elect to repurchase upon re-employment under section 54-52-02.6.
  - e. Service of an eligible employee, who exercised the privilege to withdraw from the predecessor plan to the public employees retirement system under subsection 10 of section 54-52-17 as created by section 13 of chapter 499 of the 1977 Session Laws.
  - f. Employment as a permanent employee by the federal government.
2. A participating member may elect to purchase credit for the following absences for which the participating member is not receiving service credit:
  - a. Employer-approved leave of absence; or
  - b. Months away from work while participating as a seasonal employee.
3. Supreme and district court judges under the public employees retirement system may elect to purchase credit for the following years of service:
  - a. Except as provided in section 54-52-17.14, for up to four years of credit for active employment in the armed forces of the United States.

- b. As a county judge in a county or counties that did not participate in the public employees retirement system under this chapter.
  - c. Participation in the public employees retirement system as a county judge may be converted to credit in the judges' retirement system.
4. The participating member may purchase credit under this section, or the participating member's employer may purchase for the participating member, by paying to the ~~board~~office an amount equal to the actuarial cost to the fund of providing the credit. If the participating member purchases credit pursuant to subdivision d of subsection 1, the participating member must pay to the ~~board~~office an amount equal to the greater of the actuarial cost to the fund of providing the credit, or the amount the participating member received upon taking a refund of the participating member's account balance, plus interest at the actuarial rate of return from the time the participating member was issued the refund. If the participating member is not repurchasing all of the credit originally refunded, the participating member must pay a pro rata amount of the refunded amount determined by dividing the refunded amount by the number of months of credit refunded, multiplying that amount times the number of months of credit the participating member seeks to repurchase, and adding interest at the actuarial rate of return. The participating member or the participating member's employer shall also pay to the retiree health benefits fund established under section 54-52.1-03.2 an amount equal to the actuarial cost to that fund for the additional credit. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. The ~~board~~office shall adopt rules governing the purchase of additional credit under this section.
5. Pursuant to rules adopted by the ~~board~~office, the ~~board~~office may allow a participating member to purchase service credit with either pretax or aftertax moneys, at the ~~board~~'s discretion of the office. If the participating member elects to purchase service credit using pretax moneys, the requirements and restrictions in subsection 3 of section 54-52-05 apply to the purchase arrangement.
6. In addition to service credit identified in this section, a vested participating member may purchase up to five years of service credit unrelated to any other eligible service.

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

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

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

named alternate payee of its receipt of the qualified domestic relations order.

2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of a participating member, is made pursuant to a North Dakota domestic relations law, and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of the benefits payable to the participating member. A qualified domestic relations order may not require the ~~board~~office to provide any type or form of benefit, or any option, not otherwise provided under the public employees retirement system, or to provide increased benefits as determined on the basis of actuarial value. However, a qualified domestic relations order may require the payment of benefits at the early retirement date notwithstanding that the participating member has not terminated eligible employment. A qualified domestic relations order must specify:
  - a. The name and the last-known mailing address of the participating member and the name and mailing address of each alternate payee covered by the order;
  - b. The amount or percentage of the participating member's benefits to be paid by the plan 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 49. AMENDMENT.** Section 54-52-17.11 of the North Dakota Century Code is amended and reenacted as follows:

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

A supreme or district court judge or that person's beneficiary who, on December 31, 2007, is receiving retirement benefits under subdivision b of subsection 4 of section 54-52-17, is entitled to receive an increase in benefits equal to two percent of the individual's present benefits with the increase payable beginning January 1, 2008. A supreme or district court judge or that person's beneficiary who, on December 31, 2008, is receiving retirement benefits under subdivision b of subsection 4 of section 54-52-17, is entitled to receive an increase in benefits equal to two percent of the individual's present benefits with the increase payable beginning January 1, 2009. The increases allowed by this section may only be given if the ~~public employees retirement~~ boardoffice determines there is actuarial margin sufficient to pay the increases.

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

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

If the ~~board~~office determines that the fund has obtained a total return on investments of nine and six hundredths percent or higher for the fiscal year ending June 30, 2007, or June 30, 2008, the ~~board~~office shall authorize an additional payment

equal to seventy-five percent of the January retirement allowance following the fiscal yearend to each eligible retiree in pay status as of that January, excluding judicial retirees and beneficiaries, but including joint and survivor and term certain beneficiaries, under this chapter. The boardoffice may only make one payment to each retiree under this section.

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

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

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

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

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

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

1. A person to whom the member has given written consent to have the information disclosed.
2. A person legally representing the member, upon proper proof of representation, and unless the member specifically withdraws consent.
3. A person authorized by a court order.
4. A member's participating employer, limited to information concerning the member's years of service credit and years of age. The boardoffice may share other types of information as needed by the employer to validate the employer's compliance with existing state or federal laws. Any information provided to the member's participating employer under this subsection must remain confidential except as provided under subsection 6.
5. The administrative staff of the retirement and investment office for purposes relating to membership and benefits determination.
6. State or federal agencies for purposes of reporting on a service provider's provision of services or when the employer must supply information to an agency to validate the employer's compliance with existing state or federal laws.

7. Member interest groups approved by the ~~board~~office on a third-party blind list basis, limited to information concerning the member's participation, name, and address.
8. The member's spouse or former spouse, that individual's legal representative, and the judge presiding over the member's dissolution proceeding for purposes of aiding the parties in drafting a qualified domestic relations order under section 54-52-17.6. The information disclosed under this subsection must be limited to information necessary for drafting the order.
9. Beneficiaries designated by a participating member or a former participating member to receive benefits after the member's death, but only after the member's death. Information relating to beneficiaries may be disclosed to other beneficiaries of the same member.
10. The general public, but only after the ~~board~~office has been unable to locate the member for a period in excess of two years, and limited to the member's name and the fact that the ~~board~~office has been unable to locate the member.
11. Any person if the ~~board~~office 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 ~~board~~office 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 benefits from all the plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. If the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. The reduction must be made pro rata between the plans, in proportion to the participating member's service in each plan.
2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirements under section 401(a)(9)(G), and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. A member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.
  3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
  4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
  5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.

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

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

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

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

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

**54-52.1-01. Definitions.**

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

1. "~~Board~~" means the ~~public employees retirement board~~.
2. "Carrier" means:
  - a. For the hospital benefits coverage, an insurance company authorized to do business in the state, or a nonprofit hospital service association, or a prepaid group practice hospital care plan authorized to do business in the state, or the state if a self-insurance plan is used for providing hospital benefits coverage.
  - b. For the medical benefits coverage, an insurance company authorized to do business in the state, or a nonprofit medical service association, or a prepaid group practice medical care plan authorized to do business in the state, or the state if a self-insurance plan is used for providing medical benefits coverage.
  - c. For the life insurance benefits coverage, an insurance company authorized to do business in the state.
- 3.2. "Department, board, or agency" means the departments, boards, agencies, or associations of this state, and includes the state's charitable, penal, and higher educational institutions; the Bank of North Dakota; the state mill and elevator association; and counties, cities, district health units, and school districts.

3. "Director" means the executive director of the public employees retirement system office.
4. "Eligible employee" means every permanent employee who is employed by a governmental unit, as that term is defined in section 54-52-01. "Eligible employee" includes members of the legislative assembly, judges of the supreme court, paid members of state or political subdivision boards, commissions, or associations, full-time employees of political subdivisions, elective state officers as defined by subsection 2 of section 54-06-01, and disabled permanent employees who are receiving compensation from the North Dakota workforce safety and insurance fund. As used in this subsection, "permanent employee" means one whose services are not limited in duration, who is filling an approved and regularly funded position in a governmental unit, and who is employed at least seventeen and one-half hours per week and at least five months each year or for those first employed after August 1, 2003, is employed at least twenty hours per week and at least twenty weeks each year of employment. For purposes of sections 54-52.1-04.1, 54-52.1-04.7, 54-52.1-04.8, and 54-52.1-11, "eligible employee" includes retired and terminated employees who remain eligible to participate in the uniform group insurance program pursuant to applicable state or federal law.
5. "Health maintenance organization" means an organization certified to establish and operate a health maintenance organization in compliance with chapter 26.1-18.1.
6. "Hospital benefits coverage" means a plan which either provides coverage for, or pays, or reimburses expenses for hospital services incurred in accordance with the uniform contract.
7. "Life insurance benefits coverage" means a plan which provides both term life insurance and accidental death and dismemberment insurance in amounts determined by the boardoffice, with a minimum of one thousand dollars provided for the term life insurance portion of the coverage.
8. "Medical benefits coverage" means a plan which either provides coverage for, or pays, or reimburses expenses for medical services in accordance with the uniform contract.
9. "Member contribution" means the payment by the member into the retiree health benefits fund pursuant to sections 54-52-02.9 and 54-52-17.4.
10. "Member's account balance" means the member's contributions plus interest at the rate set by the boardoffice.
11. "Office" means the public employees retirement system office.
12. "Temporary employee" means a governmental unit employee who is not filling an approved and regularly funded position in an eligible governmental unit and whose services may or may not be limited in duration.

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

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

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

1. Medical and hospital benefits coverage group consisting of active eligible employees and retired employees not eligible for medicare, except for employees who first retire after the effective date of this section and are not eligible for medicare on their retirement. In determining premiums for coverage under this subsection for retired employees not eligible for medicare, the rate for a non-medicare retiree single plan is one hundred fifty percent of the active member single plan rate, the rate for a non-medicare retiree family plan of two people is twice the non-medicare retiree single plan rate, and the rate for a non-medicare retiree family plan of three or more persons is two and one-half times the non-medicare retiree single plan rate.
2. In addition to the coverage provided in subsection 1, another coverage option may be provided for retired employees not eligible for medicare, except for employees who first retire after the effective date of this section and are not eligible for medicare on their retirement, provided the option does not increase the implicit subsidy as determined by the governmental accounting standards board's other postemployment benefit reporting procedure. In offering this additional option, the boardoffice may have an open enrollment but thereafter enrollment for this option must be as specified in section 54-52.1-03.
3. Retired medicare-eligible employee group medical and hospital benefits coverage.
4. Active eligible employee life insurance benefits coverage.
5. Retired employee life insurance benefits coverage.
6. Terminated employee continuation group medical and hospital benefits coverage.
7. Terminated employee conversion group medical and hospital benefits coverage.
8. Dental benefits coverage.
9. Vision benefits coverage.
10. Long-term care benefits coverage.
11. Employee assistance benefits coverage.

12. Prescription drug coverage.

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

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

1. Any eligible employee may be enrolled in the uniform group insurance program created by this chapter by requesting enrollment with the employing department. If an eligible employee does not enroll in the uniform group insurance program at the time of beginning employment, in order to enroll at a later time the eligible employee must meet minimum requirements established by the boardoffice. An employing department may not require an active eligible employee to request coverage under the uniform group insurance program as a prerequisite to receive the minimum employer-paid life insurance benefits coverage or employee assistance program benefits coverage.
2. Within five days after the expiration of the payroll period during which enrollment was requested, the employing department shall enroll the employee with the boardoffice. The employee's insurance coverage becomes effective on the date of enrollment.
3. A retiree who has accepted a periodic distribution from the defined contribution retirement plan pursuant to section 54-52.6-13 who the boardoffice determines is eligible for participation in the uniform group insurance program or has accepted a retirement allowance from the public employees retirement system, the highway patrolmen's retirement system, the teachers' insurance and annuity association of America - college retirement equities fund for service credit earned while employed by North Dakota institutions of higher education, the retirement system established by job service North Dakota under section 52-11-01, the judges' retirement system established under chapter 27-17, or the teachers' fund for retirement may elect to participate in the uniform group under this chapter without meeting minimum requirements at age sixty-five, when the member's spouse reaches age sixty-five, upon the receipt of a benefit, or when the spouse terminates employment. If a retiree or surviving spouse does not elect to participate at the times specified in this subsection, the retiree or surviving spouse must meet the minimum requirements established by the boardoffice. Subject to sections 54-52.1-03.2 and 54-52.1-03.3, each retiree or surviving spouse shall pay directly to the boardoffice the premiums in effect for the coverage then being provided. A retiree or surviving spouse who has met the initial eligibility requirements of this subsection to begin participation in the uniform group insurance program remains eligible as long as the retiree maintains the retiree's participation in the program by paying the required premium pursuant to rules adopted by the boardoffice.
4. Upon the termination of employment when the employee is not eligible to participate under subsection 3 or 5 or applicable federal law, that employee cannot continue as a member of the uniform group.

5. A member or former member of the legislative assembly or that person's surviving spouse may elect to continue membership in the uniform group within the applicable time limitations after either termination of eligible employment as a member of the legislative assembly or termination of other eligible employment or, for a surviving spouse, upon the death of the member or former member of the legislative assembly. The member or former member of the legislative assembly or that person's surviving spouse shall pay the premiums in effect for the coverage provided directly to the boardoffice.
6. Each eligible employee requesting enrollment shall furnish the appropriate person in the employing department, board, or agency with such information and in such form as prescribed by the boardoffice to enable the enrollment of the employee, or employee and dependents, in the uniform group insurance program created by this chapter.
7. If the participating employee is a faculty member in a state charitable, penal, or educational institution who receives a salary or wages on less than a twelve-month basis and has signed a contract to teach for the next ensuing school year, the agency shall make arrangements to include that employee in the insurance program on a twelve-month basis and make the contribution authorized by this section for each month of the twelve-month period.

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

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

If eligible under federal law, a political subdivision may extend the benefits of the uniform group insurance program under this chapter to its permanent employees, subject to minimum requirements established by the boardoffice and a minimum period of participation of sixty months. If the political subdivision withdraws from participation in the uniform group insurance program, before completing sixty months of participation, unless federal or state laws or rules are modified or interpreted in a way that makes participation by the political subdivision in the uniform group insurance program no longer allowable or appropriate, the political subdivision shall make payment to the boardoffice in an amount equal to any expenses incurred in the uniform group insurance program that exceed income received on behalf of the political subdivision's employees as determined under rules adopted by the boardoffice. The Garrison Diversion Conservancy District, and district health units required to participate in the public employees retirement system under section 54-52-02, shall participate in the uniform group insurance program under the same terms and conditions as state agencies. A retiree who has accepted a retirement allowance from a participating political subdivision's retirement plan may elect to participate in the uniform group under this chapter without meeting minimum requirements at age sixty-five, when the employee's spouse reaches age sixty-five, upon the receipt of a benefit, when the political subdivision joins the uniform group insurance plan if the retiree was a member of the former plan, or when the spouse terminates employment. If a retiree or surviving spouse does not elect to participate at the times specified in this section, the retiree or surviving spouse must meet the minimum requirements established by the boardoffice. Each retiree or surviving spouse shall pay directly to the boardoffice the premiums in effect for the coverage then being provided. The boardoffice may require

documentation that the retiree has accepted a retirement allowance from an eligible retirement plan other than the public employees retirement system.

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

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

1. The boardoffice shall establish a retiree health benefits fund account with the Bank of North Dakota for the purpose of prefunding and providing hospital benefits coverage and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program for retired eligible employees or surviving spouses of retired eligible employees and their dependents as provided in this chapter. The state shall contribute monthly to the retiree health benefits fund an amount equal to one and fourteen hundredths percent of the monthly salaries and wages of all participating members of the highway patrolmen's retirement system under chapter 39-03.1, and one and fourteen hundredths percent of the monthly salaries of all supreme or district court judges who are participating members of the public employees retirement system under chapter 54-52. Each governmental unit that contributes to the public employees retirement system fund under section 54-52-06 or the retirement plan under chapter 54-52.6 shall contribute monthly to the retiree health benefits fund an amount equal to one and fourteen hundredths percent of the monthly salaries or wages of all participating members of the public employees retirement system under chapter 54-52 or chapter 54-52.6, except for nonteaching employees of the superintendent of public instruction who elect to participate in the public employees retirement system pursuant to section 54-52-02.13 and employees of the state board for career and technical education who elect to participate in the public employees retirement system pursuant to section 54-52-02.14. For nonteaching employees of the superintendent of public instruction who elect to participate in the public employees retirement system pursuant to section 54-52-02.13, the superintendent of public instruction shall contribute monthly to the retiree health benefits fund an amount equal to three and twenty-four hundredths percent of the monthly salaries or wages of those nonteaching employee members, beginning on the first of the month following the transfer under section 54-52-02.13 and continuing thereafter for a period of eight years, after which time the superintendent of public instruction shall contribute one and fourteen hundredths percent of the monthly salary or wages of those nonteaching employee members. For employees of the state board for career and technical education who elect to participate in the public employees retirement system pursuant to section 54-52-02.14, the state board for career and technical education shall contribute monthly to the retiree health benefits fund an amount equal to two and ninety-nine hundredths percent of the monthly salary or wages of those employee members, beginning on the first of the month following the transfer under section 54-52-02.14 and continuing thereafter for a period of eight years, after which time the state board for career and technical education shall contribute one and fourteen hundredths percent of the monthly salary or wages of those employee members. The employer of a national guard security officer or firefighter shall contribute monthly to the retiree health

benefits fund an amount equal to one and fourteen hundredths percent of the monthly salaries or wages of all national guard security officers or firefighters participating in the public employees retirement system under chapter 54-52. Job service North Dakota shall reimburse monthly the retiree health benefits fund for credit received under section 54-52.1-03.3 by members of the retirement program established by job service North Dakota under section 52-11-01. The ~~board~~office, as trustee of the fund and in exclusive control of its administration, shall:

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

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

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

1. The following persons are entitled to receive credit for hospital and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program under subsection 2:
  - a. A member or surviving spouse of the highway patrolmen's retirement system is eligible for the credit beginning on the date retirement benefits are effective unless the premium is billed to the employer.
  - b. A member or surviving spouse of the public employees retirement system is eligible for the credit beginning on the date retirement benefits are effective unless the premium is billed to the employer.
  - c. A member or surviving spouse of the retirement program established by job service North Dakota under section 52-11-01 receiving retirement benefits is eligible for the credit beginning on the date

- retirement benefits are effective unless the premium is billed to the employer.
- d. A retired judge or surviving spouse receiving retirement benefits under the retirement program established under chapter 27-17 is eligible for the credit beginning on the date retirement benefits are effective unless the premium is billed to the employer.
  - e. A former participating member of the defined contribution retirement plan receiving retirement benefits, or the surviving spouse of a former participating member of that retirement plan who was eligible to receive or was receiving benefits, under section 54-52.6-13, is eligible as determined by the boardoffice pursuant to its rules.
2. The boardoffice shall calculate the allowable monthly credit toward hospital and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program for a person eligible under subsection 1 in an amount equal to five dollars multiplied by the member's or deceased member's number of years of credited service under the highway patrolmen's retirement system, the public employees retirement system, the retirement program established by job service North Dakota under section 52-11-01, or the judges' retirement program established under chapter 27-17. For a member of the public employees retirement system receiving an early retirement benefit or the surviving spouse of that member, or a former participating member of the defined contribution retirement plan who is receiving a periodic distribution and would not meet the normal retirement provisions of the public employees retirement system, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of sixty-five and an additional reduction factor of six percent shall apply for each year the member terminates employment prior to attaining the age of sixty-four. For a member of the highway patrolmen's retirement system receiving an early retirement benefit or the surviving spouse of that member, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of fifty-five and an additional reduction factor of six percent shall apply for each year the member terminates employment prior to attaining the age of fifty-four. For a member of the retirement program established by job service North Dakota under section 52-11-01 receiving an early retirement benefit or a discontinued service annuity under the plan provisions of that retirement program or the surviving spouse of that member, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of sixty-five and an additional reduction factor of six percent applies for each year the member terminates employment prior to attaining the age of sixty-four.
  3. The boardoffice shall apply the credit allowable under subsection 2 as elected by the eligible participant to the payment of monthly premiums required of each person eligible under subsection 1 for hospital benefits coverage and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program. The boardoffice shall allow spouses who each have credit under subsection 2

to combine their credits and shall apply the combined credit to the required monthly premiums as elected pursuant to this subsection. However, if the allowable credit under any circumstance exceeds the monthly premium in effect for selected coverage, that amount of the credit which exceeds the premium is forfeited and may not be used for any other purpose.

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

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

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

A temporary employee employed before August 1, 2007, may elect to participate in the uniform group insurance program by completing the necessary enrollment forms and qualifying under the medical underwriting requirements of the program if such election is made before January 1, 2015, and if the temporary employee is participating in the uniform group insurance program on January 1, 2015. In order for a temporary employee employed after July 31, 2007, to qualify to participate in the uniform group insurance program, the employee must be employed at least twenty hours per week; must be employed at least twenty weeks each year of employment; must make the election to participate before January 1, 2015; and must be participating in the uniform group insurance program as of January 1, 2015. To be eligible to participate in the uniform group insurance program, a temporary employee first employed after December 31, 2014, or any temporary employee not participating in the uniform group insurance program as of January 1, 2015, must meet the definition of a full-time employee under section 4980H(c)(4) of the Internal Revenue Code [26 U.S.C. 4980H(c)(4)]. Monthly, the temporary employee or the temporary employee's employer shall pay to the ~~board~~office the premiums in effect for the coverage being provided. In the case of a temporary employee who is an applicable taxpayer as defined in section 36B(c)(1)(A) of the Internal Revenue Code [26 U.S.C. 36B(c)(1)(A)], the temporary employee's required contribution for medical and hospital benefits self-only coverage may not exceed the maximum employee required contribution specified under section 36B(c)(2)(C) of the Internal Revenue Code [26 U.S.C. 36B(c)(2)(C)], and the employer shall pay any difference between the maximum employee required contribution for medical and hospital benefits self-only coverage and the cost of the premiums in effect for this coverage. An employer may pay health or life insurance premiums for a permanent employee on an unpaid leave of absence. A political subdivision, department, board, or agency may make a contribution for coverage under this section.

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

**54-52.1-04. ~~Board~~Office to contract for insurance.**

The ~~board~~office shall receive bids for the providing of hospital benefits coverage, medical benefits coverage, life insurance benefits coverage for a specified term, and employee assistance program services; may receive bids separately for

prescription drug coverage; and shall accept one or more bids of and contract with the carriers that in the judgment of the boardoffice best serves the interests of the state and its eligible employees. Solicitations must be made not later than ninety days before the expiration of an existing uniform group insurance contract. Bids must be solicited by advertisement in a manner selected by the boardoffice that will provide reasonable notice to prospective bidders. In preparing bid proposals and evaluating bids, the boardoffice may utilize the services of consultants on a contract basis in order that the bids received may be uniformly compared and properly evaluated. In determining which bid, if any, will best serve the interests of eligible employees and the state, the boardoffice shall give adequate consideration to the following factors:

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

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

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

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

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

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

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

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

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

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

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

The ~~board~~office shall establish under a self-insurance plan a contingency reserve fund to provide for adverse fluctuations in future charges, claims, costs, or expenses of the uniform group insurance program. The ~~board~~office shall determine the amount necessary to provide a balance in the contingency reserve fund between one and one-half months and three months of claims paid based on the average monthly claims paid during the twelve-month period immediately preceding March first of each year. The ~~board~~office also shall determine the amount necessary to provide an additional balance in the contingency reserve fund between one month and one and one-half months for claims incurred but not yet reported. The ~~board~~office may arrange for the services of an actuarial consultant to assist the ~~board~~office in making these determinations. Upon the initial changeover from a contract for insurance pursuant to section 54-52.1-04 to a self-insurance plan pursuant to section 54-52.1-04.2, the ~~board~~office must have a plan in place which is reasonably calculated to meet the funding requirements of this chapter within sixty months. All moneys in the contingency reserve fund, not otherwise appropriated, are appropriated for the payment of claims and other costs of the uniform group insurance program during periods of adverse claims or cost fluctuations.

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

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

The ~~board~~office shall provide medical benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 for:

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

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

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

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

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

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

The ~~board~~office may establish a dental plan, a vision plan, or both, for eligible employees. The ~~board~~office shall receive bids for the plan or plans pursuant to section 54-52.1-04. The ~~board~~office may reject any or all bids and provide a plan of self-insurance. Premiums for this coverage must be paid by the eligible employee. Any refund, rebate, dividend, experience rating allowance, discount, or other reduction of premium must be credited as provided by section 54-52.1-06.

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

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

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

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

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

The ~~board~~office shall establish an employee assistance program available to persons in the medical and hospital benefits coverage group. The premium for this coverage must be paid as provided by section 54-52.1-06. The ~~board~~office shall receive bids for this program under section 54-52.1-04. Each department, board, or agency shall obtain employee assistance program services through the ~~board~~office for

eligible employees and may not enter into any agreement to obtain employee assistance program services with a third-party provider except that a department, board, or agency may use its own employee assistance program services to the extent such services are provided by personnel of that department, board, or agency. As used in this section, "employee assistance program" means an employer-sponsored service for employees under which a professional employee assistance program staff assists employees and their families in finding help for emotional, drug, alcohol, family, health, and other personal or job-related problems that may be affecting their work performance.

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

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

The ~~board~~office shall provide medical benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 for dental anesthesia and hospitalization in the same manner as provided under section 26.1-36-09.9.

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

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

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

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

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

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

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

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

1. As used in this section:

- a. "Distant site" means a site at which a health care provider or health care facility is located while providing medical services by means of telehealth.
- b. "Health care facility" means any office or institution at which health services are provided. The term includes hospitals; clinics; ambulatory

surgery centers; outpatient care facilities; nursing homes; nursing, basic, long-term, or assisted living facilities; laboratories; and offices of any health care provider.

- c. "Health care provider" includes an individual licensed under chapter 43-05, 43-06, 43-12.1 as a registered nurse or as an advanced practice registered nurse, 43-13, 43-15, 43-17, 43-26.1, 43-28, 43-32, 43-37, 43-40, 43-41, 43-42, 43-44, 43-45, 43-47, 43-58, or 43-60.
  - d. "Originating site" means a site at which a patient is located at the time health services are provided to the patient by means of telehealth.
  - e. "Policy" means health benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2.
  - f. "Store-and-forward technology" means electronic information, imaging, and communication that is transferred, recorded, or otherwise stored in order to be reviewed at a distant site at a later date by a health care provider or health care facility without the patient present in real time. The term includes telehome monitoring and interactive audio, video, and data communication.
  - g. "Telehealth":
    - (1) Means the use of interactive audio, video, or other telecommunications technology that is used by a health care provider or health care facility at a distant site to deliver health services at an originating site; and that is delivered over a secure connection that complies with the requirements of state and federal laws.
    - (2) Includes the use of electronic media for consultation relating to the health care diagnosis or treatment of a patient in real time or through the use of store-and-forward technology.
    - (3) Does not include the use of audio-only telephone, electronic mail, or facsimile transmissions.
2. For all policies that become effective after June 30, 2015, and which do not extend past June 30, 2017, the boardoffice shall provide health benefits coverage under a policy that provides coverage for health services delivered by means of telehealth which is the same as the coverage for health services delivered by in-person means.
  3. Payment or reimbursement of expenses for covered health services delivered by means of telehealth under this section may be established through negotiations conducted by the boardoffice or the board'soffice's contractor with the health services providers in the same manner as the boardoffice establishes payment or reimbursement of expenses for covered health services that are delivered by in-person means.
  4. Coverage under this section may be subject to deductible, coinsurance, and copayment provisions.
  5. This section does not require:

- a. A policy to provide coverage for health services that are not medically necessary, subject to the terms and conditions of the policy;
- b. A policy to provide coverage for health services delivered by means of telehealth if the policy would not provide coverage for the health services if delivered by in-person means;
- c. A policy to reimburse a health care provider or health care facility for expenses for health services delivered by means of telehealth if the policy would not reimburse that health care provider or health care facility if the health services had been delivered by in-person means; or
- d. A health care provider to be physically present with a patient at the originating site unless the health care provider who is delivering health services by means of telehealth determines the presence of a health care provider is necessary.

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

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

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

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

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

1. Each uniform group insurance contract entered by the ~~board~~office must be consistent with the provisions of this chapter, must be signed for the state of North Dakota by the ~~chairman of the board~~director, and must include the following:
  - a. As many optional coverages as deemed feasible and advantageous by the ~~board~~office.
  - b. A detailed statement of benefits offered, including maximum limitations and exclusions, and such other provisions as the ~~board~~office may deem necessary or desirable.
2. The initial term or the renewal term of a fully insured uniform group insurance contract for hospital benefits coverage, medical benefits coverage, or prescription drug coverage may not exceed two years.
  - a. The ~~board~~office may renew a contract subject to this subsection without soliciting a bid under section 54-52.1-04 if the ~~board~~office determines the carrier's performance under the existing contract meets the ~~board's~~ expectations of the office and the proposed premium renewal amount does not exceed the ~~board's~~ expectations of the office.
  - b. In making a determination under this subsection, the ~~board~~office shall:

- (1) Use the services of a consultant to concurrently and independently prepare a renewal estimate the boardoffice shall consider in determining the reasonableness of the proposed premium renewal amount.
  - (2) Review the carrier's performance measures, including payment accuracy, claim processing time, member service center metrics, wellness or other special program participation levels, and any other measures the boardoffice determines relevant to making the determination and shall consider these measures in determining the board's satisfaction of the office with the carrier's performance.
  - (3) Consider any additional information the boardoffice determines relevant to making the determination.
- c. If the boardoffice determines the carrier's performance under the existing contract does not meet the board's expectations of the office or the proposed premium renewal amount exceeds the board's expectations of the board and the boardoffice determines to solicit a bid under section 54-52.1-04, the boardoffice shall specify its reasons for the determination to solicit a bid.

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

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

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

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

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

Each department, board, or agency shall pay to the boardoffice each month from its funds appropriated for payroll and salary amounts a state contribution in the amount as determined by the primary carrier of the group contract for the full single rate monthly premium for each of its eligible employees enrolled in the uniform group insurance program and the full rate monthly premium, in an amount equal to that contributed under the alternate family contract, including major medical coverage, for hospital and medical benefits coverage for spouses and dependent children of its eligible employees enrolled in the uniform group insurance program pursuant to section 54-52.1-07. The boardoffice shall then pay the necessary and proper premium amount for the uniform group insurance program to the proper carrier or carriers on a monthly basis. Any refund, rebate, dividend, experience rating allowance, discount, or other reduction of premium amount must be credited at least annually to a separate fund of

the uniform group insurance program to be used by the ~~board~~office to reimburse the administrative expense and benefit fund of the public employees retirement program for the costs of administration of the uniform group insurance program. In the event an enrolled eligible employee is not entitled to receive salary, wages, or other compensation for a particular calendar month, that employee may make direct payment of the required premium to the ~~board~~office to continue the employee's coverage, and the employing department, board, or agency shall provide for the giving of a timely notice to the employee of that person's right to make such payment at the time the right arises.

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

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

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

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

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

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

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

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

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

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

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

If the ~~board~~office determines that any section or the phraseology of any section of this chapter does not comply with applicable federal statutes or rules, the ~~board~~office shall adopt appropriate terminology with respect to that section to comply with the federal statutes or rules, subject to the approval of the legislative

management's employee benefits programs committee. The boardoffice may assume responsibility for group purchasing arrangements as provided by federal law. Any plan modifications made by the boardoffice under this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

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

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

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

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

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

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

1. A person to whom the eligible employee has given written authorization to have the information disclosed.
2. A person legally representing the eligible employee, upon proper proof of representation, and unless the eligible employee specifically withdraws authorization.
3. A person authorized by a court order.
4. A person or entity to which the boardoffice is required to disclose information pursuant to federal or state statutes or regulations.
5. Any person or entity if the purpose of the disclosure is for treatment, payment, or health care operations.

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

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

The medical records and related data of the employees, retirees, and dependents, obtained as the result of enrollment in the uniform group insurance program, are the property of the public employees retirement system. The records and

data are confidential and are not public records. However, the boardoffice may allow administrators of administrative services only contracts or third-party administrators contracts access to the records and data where it is required in the performance of the administrator's duties pursuant to the contract. No administrator may be held liable for furnishing to the boardoffice information with respect to any patient, or any physician, hospital, or other health care provider.

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

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

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

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

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

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

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

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

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

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

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

1. The boardoffice may establish a collaborative drug therapy program available to individuals in the medical and hospital benefits coverage group. The purpose of the collaborative drug therapy program is to improve the health of individuals in identified health populations and to manage health care expenditures.
2. Under the program, the boardoffice may involve physicians, pharmacists, and other health professionals to coordinate health care for individuals in identified health populations in order to improve health outcomes and reduce spending on care for the identified health problem. Under the

program, pharmacists and other health professionals may be reimbursed for providing face-to-face collaborative drug therapy services to covered individuals in the identified health population. To encourage enrollment in the plan, the boardoffice may provide incentives to covered individuals in the identified health population which may include waived or reduced copayment for related treatment drugs and supplies.

3. The boardoffice may request the assistance of the North Dakota pharmacists association or a specified delegate to implement a formalized disease management program with the approval of the prescriptive practices committee established in section 43-15-31.4, which must serve to standardize chronic disease care and improve patient outcomes. This program must facilitate enrollment procedures, provide standards of care, enable consistent documentation of clinical and economic outcomes, and structure an outcomes reporting system.
4. The boardoffice may seek and accept private contributions, gifts, and grants-in-aid from the federal government, private industry, and other sources for a collaborative drug therapy program for identified health populations. Any funds that may become available through contributions, gifts, grants-in-aid, or other sources to the boardoffice for a collaborative drug therapy program are appropriated to the boardoffice on a continuing basis.

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

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

1. The boardoffice shall establish a collaborative drug therapy program that is to be available to individuals in the medical and hospital benefits coverage group. The purpose of the collaborative drug therapy program is to improve the health of individuals with diabetes and to manage health care expenditures.
2. The boardoffice shall involve physicians, pharmacists, and certified diabetes educators to coordinate health care for covered individuals with diabetes in order to improve health outcomes and reduce spending on diabetes care. Under the program, pharmacists and certified diabetes educators may be reimbursed for providing face-to-face collaborative drug therapy services to covered individuals with diabetes. To encourage enrollment in the plan, the boardoffice shall provide incentives to covered individuals who have diabetes which may include waived or reduced copayment for diabetes treatment drugs and supplies.
3. The North Dakota pharmacists association or a specified delegate shall implement a formalized diabetes management program with the approval of the prescriptive practices committee established in section 43-15-31.4, which must serve to standardize diabetes care and improve patient outcomes. This program must facilitate enrollment procedures, provide standards of diabetes care, enable consistent documentation of clinical and economic outcomes, and structure an outcomes reporting system.

4. The ~~board~~office shall fund the program from any available funds in the uniform group insurance program and if necessary the fund may add up to a two dollar per month charge on the policy premium for medical and hospital benefits coverage. A state agency shall pay any additional premium from the agency's existing appropriation.

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

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

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

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

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

The state or any county, city, or other political subdivision may, by contract, agree with any employee to defer, in whole or in part, any portion of that employee's compensation and may subsequently, with the consent of the employee,

fund a deferred compensation program for the employee. The deferred compensation program may consist of a contract, purchase, or investment in a fixed or variable life insurance or annuity contract from any life underwriter duly licensed by this state who represents an insurance company licensed to contract business in this state, a savings account at a federally insured financial institution or the Bank of North Dakota, an account with or managed by a dealer registered under chapter 10-04, or any combination of contracts or accounts authorized by this section, as specified by the employee. The ~~public employees retirement board~~office shall specify methods of payment of deferred compensation funds to be selected by individual employees. That ~~board~~The office shall determine the number of employees participating in a deferred compensation program necessary to qualify for automatic payroll deduction.

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

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

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

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

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

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

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

**54-52.2-03.2. Deferred compensation program - Board authority - Provider information.**

1. The ~~board~~public employees retirement system office shall adopt rules necessary to implement this chapter and to manage the deferred compensation plan subject to the limitations of this chapter.
2. The ~~board~~office shall do all things necessary to preserve the tax-exempt status of the plan.
3. All providers must be authorized to do business in this state and all agents of providers must be licensed by the appropriate licensing authority or authorities in this state.
4. To continue to participate in the program, each provider must report annually, in a form and manner specified by the ~~board~~office, information related to their products, administrative and management fees, contract and maintenance charges, withdrawal penalties, market rating, and such other information the ~~board~~office may require.
5. The ~~board~~office may suspend participation of any provider that does not meet the requirements of this chapter or the rules adopted by the ~~board~~office.
6. The ~~board has the authority to~~public employees retirement system office executive director may establish a deferred compensation advisory committee, which ~~shall~~must include active providers who have signed a provider administrative agreement with the state of North Dakota deferred compensation plan.

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

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

1. The ~~board~~public employees retirement system office or a vendor contracted for by the ~~board~~office shall apportion a participating member's account in the deferred compensation plan under this chapter in accordance with the applicable requirements of any qualified domestic relations order. The ~~board~~office shall review a domestic relations order submitted to the ~~board~~office to determine if the domestic relations order is qualified under this section and pursuant to the plan document established by the ~~board~~office for determining the qualified status of domestic relations orders and administering distributions under the qualified orders.
2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of a participating member, is made pursuant to a North Dakota domestic relations law, and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of the benefits payable to the participating member. A qualified domestic relations order may not require the ~~board~~office to

provide any type or form of benefit, or any option, not otherwise provided under this chapter, or to provide increased benefits. A qualified domestic relations order must specify:

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

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

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

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

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

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

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

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

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

The office of management and budget shall transfer funds from the savings accruing to the agencies' salaries and wages line item, as a result of the diminution of the state's employer contribution for the Federal Insurance Contribution Act tax, to a payroll clearing account. The office of management and budget shall transfer funds from the payroll clearing account to the ~~board~~public employees retirement system office as necessary to defray the reasonable expenses of administering the pretax benefits program established under this chapter, including expenses associated with the program's medical spending account. Any revenue collected by the ~~board~~office from participating district health units must be used, and is hereby appropriated, to defray the expenses of administering the program. The amount

necessary to pay consultants retained by the ~~board~~office, vendors retained by the ~~board~~office to provide claims administration services, any insurance costs associated with the medical spending account, and medical reimbursements for the medical spending account if funds are insufficient to pay claims are hereby appropriated from the savings and revenue generated by the program. All other expenses of administering the program must be paid in accordance with the agency's appropriation authority as established by the legislative assembly. The director of the office of management and budget may decrease or suspend the transfer of the savings accruing to the agencies' salaries and wages line item to the payroll clearing account upon determination that the funds deposited under this section are sufficient to offset anticipated obligations. Notwithstanding other provisions in this section, the public employees retirement system ~~board~~office, or any successor state agency, may not establish, enroll, or administer any pretax benefits program for a political subdivision or any other public or private business or entity, except for any program established specifically for employees of the state and employees of district health units.

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

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

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

1. A person to whom the employee has given written authorization to have the information disclosed.
2. A person legally representing the employee, upon proper proof of representation.
3. A person authorized by a court order.
4. A person or entity to which the ~~board~~office is required to disclose information pursuant to federal or state statutes or regulations.
5. Any person or entity if the purpose of the disclosure is for health care treatment, payment, or operations.

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

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

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

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

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

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

1. "~~Board~~" means the public employees retirement system board.
2. "Deferred member" means a person who elected to receive deferred vested retirement benefits under chapter 54-52.
- 3.2. "Eligible employee" means a permanent state employee who elects to participate in the retirement plan under this chapter.
- 4.3. "Employee" means any person employed by the state, whose compensation is paid out of state funds, or funds controlled or administered by the state or paid by the federal government through any of its executive or administrative officials.
- 5.4. "Employer" means the state of North Dakota.
5. "Office" means the public employees retirement system office.
6. "Participating member" means an eligible employee who elects to participate in the defined contribution retirement plan established under this chapter.
7. "Permanent employee" means a state employee whose services are not limited in duration and who is filling an approved and regularly funded position and is employed twenty hours or more per week and at least five months each year.
8. "Wages" and "salaries" means earnings in eligible employment under this chapter reported as salary on a federal income tax withholding statement plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement, incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between an employee and a participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the ~~board~~office.

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

1. "~~Board~~" means the public employees retirement system board.
2. "Deferred member" means a person who elected to receive deferred vested retirement benefits under chapter 54-52.

- 3.2. "Eligible employee" means a permanent state employee, except an employee of the judicial branch or an employee of the board of higher education and state institutions under the jurisdiction of the board, who is eighteen years or more of age and who is in a position not classified by North Dakota human resource management services. If a participating member loses permanent employee status and becomes a temporary employee, the member may still participate in the defined contribution retirement plan.
- 4.3. "Employee" means any person employed by the state, whose compensation is paid out of state funds, or funds controlled or administered by the state or paid by the federal government through any of its executive or administrative officials.
- 5.4. "Employer" means the state of North Dakota.
- 5. "Office" means the public employees retirement system office.
- 6. "Participating member" means an eligible employee who elects to participate in the defined contribution retirement plan established under this chapter.
- 7. "Permanent employee" means a state employee whose services are not limited in duration and who is filling an approved and regularly funded position and is employed twenty hours or more per week and at least five months each year.
- 8. "Wages" and "salaries" means earnings in eligible employment under this chapter reported as salary on a federal income tax withholding statement plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement, incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between an employee and a participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the boardoffice.

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

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

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

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

2. If the boardoffice receives notification from the internal revenue service that this section or any portion of this section will cause the public employees retirement system or the retirement plan established under this chapter to be disqualified for tax purposes under the Internal Revenue Code, then the portion that will cause the disqualification does not apply.
3. A participating member who becomes a temporary employee may still participate in the defined contribution retirement plan upon filing an election with the boardoffice within one hundred eighty days of transferring to temporary employee status. The participating member may not become a member of the defined benefit plan as a temporary employee. The temporary employee electing to participate in the defined contribution retirement plan shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by two percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of two percent, beginning with the monthly reporting period of January 2013, and with an additional increase of two percent, beginning with the monthly reporting period of January 2014. The temporary employee shall also pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee until termination of employment or reclassification of the temporary employee as a permanent employee.
4. A former participating member who has accepted a retirement distribution pursuant to section 54-52.6-13 and who subsequently becomes employed by an entity different from the employer with which the member was employed at the time the member retired but which does participate in any state-sponsored retirement plan may, before re-enrolling in the defined contribution retirement plan, elect to permanently waive future participation in the defined contribution retirement plan, whatever plan in which the new employing entity participates, and the retiree health program and maintain that member's retirement status. Neither the member nor the employer are required to make any future retirement contributions on behalf of that employee.

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

1. The boardoffice shall provide an opportunity for each eligible employee who is a member of the public employees retirement system on

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

2. If an individual who is a deferred member of the public employees retirement system on September 30, 2001, is re-employed and by virtue of that employment is again eligible for membership in the public employees retirement system under chapter 54-52, the individual may elect in writing to remain a member of the public employees retirement system or if eligible to participate in the defined contribution retirement plan established under this chapter to terminate membership in the public employees retirement system and become a participating member in the defined contribution retirement plan established under this chapter. An election made by a deferred member under this section is irrevocable. The boardoffice shall accept written elections under this section from a deferred member during the period beginning on the date of the individual's re-employment and ending upon the expiration of six months after the date of that re-employment. If the boardoffice, in its sole discretion, determines that the employee was not adequately notified of the employee's option to participate in the defined contribution retirement plan, the boardoffice may provide the employee a reasonable time within which to make that election, which may extend beyond the original six-month decision window. A deferred member who makes and files a written election to remain a member of the public employees retirement system retains all rights and is subject to all conditions as a member of that retirement system. A deferred member who does not make a written election or who does not file the election during the period specified in this section continues to be a member of the public employees retirement system. A deferred member

who makes and files a written election to terminate membership in the public employees retirement system ceases to be a member of the public employees retirement system effective on the last day of the payroll period that includes the date of the election; becomes a participating member in the defined contribution retirement plan under this chapter effective the first day of the payroll immediately following the date of the election; and waives all of that person's rights to a pension, an annuity, a retirement allowance, insurance benefit, or any other benefit under the public employees retirement system effective the last day of the payroll that includes the date of the election. This section does not affect any right to health benefits or retiree health benefits to which the deferred member may otherwise be entitled.

3. An eligible employee who elects to participate in the retirement plan established under this chapter must remain a participant even if that employee returns to the classified service or becomes employed by a political subdivision that participates in the public employees retirement system. The contribution amount must be as provided in this chapter, regardless of the position in which the employee is employed.  
Notwithstanding the irrevocability provisions of this chapter, if a member who elects to participate in the retirement plan established under this chapter becomes a supreme or district court judge, becomes a member of the highway patrol, becomes employed in a position subject to teachers' fund for retirement membership, or becomes an employee of the board of higher education or state institution under the jurisdiction of the board who is eligible to participate in an alternative retirement program established under subsection 6 of section 15-10-17, the member's status as a member of the defined contribution retirement plan is suspended, and the member becomes a new member of the retirement plan for which that member's new position is eligible. The member's account balance remains in the defined contribution retirement plan, but no new contributions may be made to that account. The member's service credit and salary history that were forfeited as a result of the member's transfer to the defined contribution retirement plan remain forfeited, and service credit accumulation in the new retirement plan begins from the first day of employment in the new position. If the member later returns to employment that is eligible for the defined contribution plan, the member's suspension must be terminated, the member again becomes a member of the defined contribution retirement plan, and the member's account resumes accepting contributions. At the member's option, and pursuant to rules adopted by the boardoffice, the member may transfer any available balance as determined by the provisions of the alternate retirement plan into the member's account under this chapter.
4. After consultation with its actuary, the boardoffice shall determine the method by which a participating member or deferred member may make a written election under this section. If the participating member or deferred member is married at the time of the election, the election is not effective unless the election is signed by the individual's spouse. However, the boardoffice may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.
5. If the boardoffice receives notification from the internal revenue service that this section or any portion of this section will cause the public

employees retirement system or the retirement plan established under this chapter to be disqualified for tax purposes under the Internal Revenue Code, then the portion that will cause the disqualification does not apply.

6. A participating member who becomes a temporary employee may still participate in the defined contribution retirement plan upon filing an election with the ~~board~~office within one hundred eighty days of transferring to temporary employee status. The participating member may not become a member of the defined benefit plan as a temporary employee. The temporary employee electing to participate in the defined contribution retirement plan shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by two percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of two percent, beginning with the monthly reporting period of January 2013, and with an additional increase of two percent, beginning with the monthly reporting period of January 2014. The temporary employee shall also pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee until termination of employment or reclassification of the temporary employee as a permanent employee.
7. A former participating member who has accepted a retirement distribution pursuant to section 54-52.6-13 and who subsequently becomes employed by an entity different from the employer with which the member was employed at the time the member retired but which does participate in any state-sponsored retirement plan may, before re-enrolling in the defined contribution retirement plan, elect to permanently waive future participation in the defined contribution retirement plan, whatever plan in which the new employing entity participates, and the retiree health program and maintain that member's retirement status. Neither the member nor the employer are required to make any future retirement contributions on behalf of that employee.

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

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

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

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

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

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

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

1. In this section the term "participating member" is limited in application to a participating member who elected to participate in the defined contribution retirement plan established under this chapter as an active employee of a participating employer, is an actively participating member of the defined contribution plan as of July 1, 2015, and is an active employee with a participating employer on the date an election is made under this section. The term does not include a participant who is not actively employed with a participating employer on the date of transfer of the funds under this section, has taken a distribution from the defined contribution plan, is retired, is no longer actively employed with a participating employer, or who is a member who has a qualified domestic relations order or other court order on the member's account.
2. Notwithstanding any other provision of law, the boardoffice shall provide an opportunity for each participating member to elect in writing to terminate membership in the defined contribution retirement plan under this chapter and to elect to become a participating member in the public employees retirement system under chapter 54-52.
3. The boardoffice shall establish a three-calendar-month election period beginning not later than February 1, 2016. A participating member who does not make a written election or who does not file the election with the North Dakota public employees retirement system office during the period specified in this section continues to be a member of the defined contribution plan. A participating member who makes and files a written election with the North Dakota public employees retirement system office under this section ceases to be a member of the defined contribution plan upon receipt by the public employees retirement system of the accumulated fund balance of the member's defined contribution plan under this chapter and waives all rights to that employee's accumulated fund balance under the defined contribution plan. If the executive director of the North Dakota public employees retirement system determines a participating member was not adequately notified of the option to make an election under this section, the executive director may provide that

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

one hundred percent of the account, the nomination is not effective unless the nomination is signed by the participant's spouse. However, the ~~board~~office may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.

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

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

1. The ~~board~~office or a vendor contracted for by the ~~board~~office shall apportion a participating member's account in the defined contribution retirement plan under this chapter in accordance with the applicable requirements of any qualified domestic relations order. The ~~board~~office shall review a domestic relations order submitted to it to determine if the domestic relations order is qualified under this section and under rules adopted by the ~~board~~office for determining the qualified status of domestic relations orders, administering distributions, and apportioning accounts under the qualified orders. Upon determination of the domestic relations order as qualified, the ~~board~~office shall notify the participating member, the named alternate payee, and the vendor, if applicable, of its receipt of the qualified domestic relations order.
2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of a participating member, is made pursuant to a North Dakota domestic relations law, which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of a participating member's account in the defined contribution retirement plan under this chapter. A qualified domestic relations order may not require the ~~board~~office to provide any type or form of benefit, or any option, not otherwise allowed under this chapter. However, a qualified domestic relations order may require distribution from an account in the defined contribution retirement plan under this chapter notwithstanding that the participating member has not terminated eligible employment. A qualified domestic relations order must specify:
  - a. The name and last-known mailing address of the participating member and the 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 ~~board~~office 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 ~~board~~office 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 ~~board~~office 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 ~~board~~office 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 ~~board~~office 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 ~~board~~office 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.
3. A former participating member may elect one or a combination of several of the following methods of distribution of the accumulated balance:
  - a. A lump sum distribution to the recipient.
  - b. A lump sum direct rollover to another qualified plan, to the extent allowed by federal law.
  - c. Periodic distributions, as authorized by the ~~board~~office.
  - d. No current distribution, in which case the accumulated balance must remain in the plan until the former participating member or refund beneficiary elects a method or methods of distribution under this section, to the extent allowed by federal law.
4. If the former participating member's vested account balance is less than one thousand dollars, the ~~board~~office shall automatically refund the

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

member's vested account balance upon termination of employment. The member may waive the refund if the member submits a written statement to the boardoffice, within one hundred twenty days after termination, requesting that the member's vested account balance remain in the plan.

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

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

The boardoffice shall allow distribution of the participating member's vested account balance if the boardoffice determines that the participating member has become totally and permanently disabled. If approved, the disabled member has the same distribution options as provided in subdivisions a and c of subsection 3 of section 54-52.6-13. However, if the member chooses the periodic distribution option, the member may only receive distributions for as long as the disability continues and the member submits the necessary documentation and undergoes medical testing required by the boardoffice, or for as long as the member participates in a rehabilitation program required by the boardoffice, or both. If the boardoffice determines that a member no longer meets the eligibility definition, the boardoffice shall discontinue the disability retirement benefit.

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

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

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

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

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

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

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

#### **54-52.6-19. Overpayments.**

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

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

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

The boardoffice shall correct errors in the records and actions in plans under this chapter and shall seek to recover overpayments and shall seek to collect underpayments.

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

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

The boardoffice shall administer the plan in compliance with the following sections of the Internal Revenue Code, as amended, as they apply to governmental plans:

1. Section 415, including the defined contribution limitations under section 415(c)(1)(A) and (B) of the Internal Revenue Code and the Treasury Regulations thereunder, which are incorporated herein by reference.
  - a. In accordance with the defined contribution limitations under section 415(c) of the Internal Revenue Code, annual additions (as defined in section 415(c)(2) of the Internal Revenue Code) under this plan may not exceed the limitations set forth in section 415(c)(1)(A) and (B), as adjusted under section 415(d) of the Internal Revenue Code, effective January first of each year following a regular legislative session.
    - b. If a participating member's aggregate annual additions exceed the defined contribution limitations under section 415(c) of the Internal Revenue Code, the member's annual additions must be reduced to the extent necessary to comply with section 415(c) of the Internal Revenue Code and the Treasury Regulations thereunder.
2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. A member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.

3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.

**SECTION 121. LEGISLATIVE INTENT - ELECTRONIC DISTRIBUTION OF MATERIALS.** It is the intent of the sixty-fifth legislative assembly that the public employees retirement system office create operating efficiencies when feasible by discontinuing the distribution of paper materials, including newsletters and benefit statements. It is further the intent of the sixty-fifth legislative assembly that the public employees retirement system office develop procedures to electronically distribute materials or provide access to materials through member self-service website applications."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1023 - Public Employees Retirement System - House Action**

	Base Budget	House Changes	House Version
Salaries and wages	\$6,315,360	\$8,263	\$6,323,623
Operating expenses	2,753,643	(132,844)	2,620,799
Contingencies	250,000		250,000
Total all funds	\$9,319,003		\$9,194,422
Less estimated income	9,319,003	(124,581)	9,194,422
General fund	\$0	\$0	\$0
FTE	34.50	(1.00)	33.50

**Department No. 192 - Public Employees Retirement System - Detail of House Changes**

	Adjusts Funding for Base Payroll Changes <sup>1</sup>	Adds Funding for Health Insurance Increases <sup>2</sup>	Removes FTE Position <sup>3</sup>	Adjusts Funding for Operating Expenses <sup>4</sup>	Total House Changes
Salaries and wages	\$55,378	\$102,885	(\$150,000)	(132,844)	\$8,263 (132,844)
Operating expenses					
Contingencies					
Total all funds	\$55,378	\$102,885	(\$150,000)	(\$132,844)	(\$124,581) (124,581)
Less estimated income	55,378	102,885	(150,000)	(132,844)	
General fund	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	(1.00)	0.00	(1.00)

<sup>1</sup> Funding is added for cost-to-continue 2015-17 biennium salaries and benefit increases and for other

base payroll changes.

<sup>2</sup> Funding is added for increases in employee health insurance premiums from \$1,130 to \$1,249 per month.

<sup>3</sup> One FTE position and related funding is removed.

<sup>4</sup> Funding for operating expenses is adjusted as follows:

	Other Funds
Printing and postage costs for newsletters	(\$59,504)
Printing and postage costs for annual benefit statements	(66,440)
Other postage, printing, and supplies	(16,900)
Mobile app hosting costs	(43,000)
Office remodeling	30,000
Other operating adjustments	23,000
Total	<hr/> (\$132,844)

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This amendment also:

- Adds a section detailing the amount of funding provided to the agency for health insurance premium increases.
- Adds a section to limit the use of funding in the health insurance reserve fund for reducing health insurance premium amounts.
- Amends various sections of North Dakota Century Code to provide for the Director of the Public Employees Retirement System to be appointed by the Governor, to remove the Public Employees Retirement System Board, and to adjust the membership of the Employee Benefits Programs Committee.
- Adds a section of legislative intent regarding the electronic distribution of materials by the Public Employees Retirement System office.

## PROPOSED AMENDMENTS TO HOUSE BILL NO. 1023

Page 1, line 2, remove "and"

Page 1, line 2, after "transfer" insert "; and to amend and reenact section 54-35-02.4 of the North Dakota Century Code, relating to the duties of the employee benefits programs committee"

Page 2, after line 2, insert:

**"SECTION 4. AMENDMENT.** Section 54-35-02.4 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-02.4. Employee benefits programs committee - Powers and duties.**

1. The employee benefits programs committee shall meet at least quarterly at the discretion of the chairman.
  - a. The employee benefits programs committee shall consider and report on those legislative measures and proposals over which it takes jurisdiction and which affect, actuarially or otherwise, the retirement programs of state employees or employees of any political subdivision, and health and retiree health plans of state employees or employees of any political subdivision. The committee shall make a thorough review of any measure or proposal which it takes under its jurisdiction, including an actuarial review.
  - b. The committee shall take jurisdiction over any measure or proposal that authorizes an automatic increase or other change in benefits beyond the ensuing biennium which would not require legislative approval. The committee must include in the report of the committee a statement that the proposal would allow future changes without legislative involvement.
  - c. Quarterly, the public employees retirement system office shall report to the committee on the activities of the office, including the status of and any proposed changes to retirement plans and uniform group insurance plans administered by the office. Before each regular legislative session, the office shall present to the committee the executive budget proposals, including any anticipated changes, relating to retirement plans and uniform group insurance plans administered by the office. The committee shall consider and report on these office activities and executive budget proposals.
  - d. The committee shall report its findings and recommendations, along with any necessary legislation, to the legislative management and to the legislative assembly.
2. To carry out its responsibilities, the committee, or its designee, may:
  - a. Enter contracts, including retainer agreements, with an actuary or actuarial firm for expert assistance and consultation. Each retirement,

- insurance, or retiree insurance program shall pay, from its retirement, insurance, or retiree health benefits fund, as appropriate, and without the need for a prior appropriation, the cost of any actuarial report required by the committee which relates to that program.
- b. Call on personnel from state agencies or political subdivisions to furnish such information and render such assistance as the committee may from time to time request.
  - c. Establish rules for its operation, including the submission and review of proposals and the establishing of standards for actuarial review.
3. The committee may solicit draft measures and proposals from interested persons during the interim between legislative sessions, and may also study measures and proposals referred to it by the legislative assembly or the legislative management.
  4. A copy of the committee's report concerning any legislative measure shall, if that measure is introduced for consideration by a legislative assembly, be appended to the copy of that measure which is referred to a standing committee.
  5. A legislative measure affecting a public employees retirement program, public employees health insurance program, or public employee retiree health insurance program may not be introduced in either house unless it is accompanied by a report from the committee. A majority of the members of the committee, acting through the chairman, has sole authority to determine whether any legislative measure affects a program.
  6. Any amendment made during a legislative session to a legislative measure affecting a public employees retirement program, public employees health insurance program, or public employee retiree health insurance program may not be considered by a standing committee unless it is accompanied by a report from the employee benefits programs committee.
  7. Any legislation enacted in contravention of this section is invalid and of no force and effect, and any benefits provided under such legislation must be reduced to the level current prior to enactment."

Renumber accordingly

## PROPOSED AMENDMENTS TO HOUSE BILL NO. 1023

Page 1, line 2, after the semicolon insert "to amend an reenact sections 54-52.1-06 and 54-52.1-18 of the North Dakota Century Code, relating to state and employee contributions for the uniform group insurance program; to provide for application;"

Page 2, after line 2, insert:

**"SECTION 4. AMENDMENT.** Section 54-52.1-06 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Each~~For its eligible employees who first became employed by the state before July 1, 2017, and who are participating in the uniform group insurance program, each department, board, or agency shall pay to the board each month from its funds appropriated for payroll and salary amounts a state contribution in the amount as determined by the primary carrier of the group contract for. The state contribution must be the full single rate monthly premium for each of its eligible employees enrolled in the uniform group insurance program and the full rate monthly premium, in an amount equal to that contributed under the alternate family contract, including major medical coverage, for hospital and medical benefits coverage for spouses and dependent children of its eligible employees enrolled in the uniform group insurance program pursuant to section 54-52.1-07. The board shall then pay the necessary and proper premium amount for the uniform group insurance program to the proper carrier or carriers on a monthly basis.~~
2. For its eligible employees who first became employed by the state after June 30, 2017, and who are participating in the uniform group insurance program, each department, board, or agency shall pay to the board each month from its funds appropriated for payroll and salary amounts a state contribution in the amount as determined by the primary carrier of the group contract less employee contributions as required by this subsection. The state contribution must be the full single rate monthly premium for each of its eligible employees enrolled in the uniform group insurance program and the full rate monthly premium, in an amount equal to that contributed under the alternate family contract less employee contributions as required by this subsection, including major medical coverage, for hospital and medical benefits coverage for spouses and dependent children of its eligible employees enrolled in the uniform group insurance program pursuant to section 54-52.1-07. An eligible employee under this subsection for whom that eligible employee's employer is paying a premium must be assessed and required to pay monthly five percent of the total single or family plan premium applicable to the employee for uniform group insurance program coverage. The assessment must be deducted and retained out of the eligible employee's salary. The board shall pay the necessary and proper premium amount for the uniform group insurance program to the proper carrier or carriers on a monthly basis.

3. Any refund, rebate, dividend, experience rating allowance, discount, or other reduction of premium amount must be credited at least annually to a separate fund of the uniform group insurance program to be used by the board to reimburse the administrative expense and benefit fund of the public employees retirement program for the costs of administration of the uniform group insurance program.
4. ~~In the event~~~~If~~ an enrolled eligible employee is not entitled to receive salary, wages, or other compensation for a particular calendar month, that employee may make direct payment of the required premium to the board to continue the employee's coverage, and the employing department, board, or agency shall provide for the giving of a timely notice to the employee of that person's~~employee's~~ right to make such payment at the time the right arises.

**SECTION 5. AMENDMENT.** Section 54-52.1-18 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 6. APPLICATION.** This Act applies to health insurance premiums paid under the uniform group insurance program for health insurance coverage after June 30, 2017."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

This amendment adds sections requiring state employees hired after June 30, 2017, to pay 5 percent of the cost of their health insurance premiums.

### PROPOSED AMENDMENTS TO HOUSE BILL NO. 1023

Page 1, line 2, replace "and" with "to provide a continuing appropriation; to limit the use of health insurance program reserves;"

Page 1, line 2, after "transfer" insert "; and to amend and reenact subdivision j of subsection 2 of section 12-60-24, paragraph 4 of subdivision a of subsection 4 of section 15-10-17, sections 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, subsection 2 of section 39-03.1-09, sections 39-03.1-10.1, 39-03.1-10.2, 39-03.1-11, 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, 52-11-01, 54-35-02.3, 54-35-02.4, 54-52-01, 54-52-02.1, 54-52-02.6, 54-52-03, and 54-52-04, subsection 3 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, 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, 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, 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, 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, 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, 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, 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, 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, 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, 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, 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, 54-52.6-18, 54-52.6-19, 54-52.6-20, and 54-52.6-21 of the North Dakota Century Code, relating to the public employees retirement board, the public employees retirement system, and the membership of the employee benefits programs committee"

Page 1, replace lines 11 through 15 with:

"Salaries and wages	\$6,315,360	\$8,263	\$6,323,623
Operating expenses	2,753,643	(132,844)	2,620,799
Contingencies	<u>250.000</u>	0	<u>250.000</u>
Total special funds	\$9,319,003	(\$124,581)	\$9,194,422
Full-time equivalent positions	34.50	(1.00)	33.50

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

Page 1, line 22, remove "Upon approval of the retirement"

Page 1, line 23, replace "board, the" with "The"

Page 1, line 23, after "system" insert "office"

Page 2, after line 2, insert:

**"SECTION 5. HEALTH INSURANCE RESERVE FUND - LIMITATIONS.**  
Notwithstanding any other provision of law, the public employees retirement system

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office may not spend any moneys in the fund created under section 54-52.1-06 or from any other source for the purpose of reducing uniform group insurance premium amounts for the biennium beginning July 1, 2017, and ending June 30, 2019.

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

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

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

- (4) Employees of the university system who are members of the public employees retirement system under chapter 54-52 or 54-52.6 and who become entitled to participate in the alternate retirement program are entitled to a special annuity purchase in the alternate retirement program in accordance with this subdivision. An eligible employee who consents to have that employee's contribution included is entitled to have that employee's contribution and employer's contribution, with interest, in the public employees retirement system fund, used by the ~~retirement board of the~~ public employees retirement system office to purchase for that employee an annuity in the alternate retirement program in lieu of any other rights under the public employees retirement fund. However, before the employer's contribution may be used for an annuity purchase, the employee's combined years of service with the public employees retirement system and the alternate retirement program must equal or exceed the years of service necessary to be eligible for retirement benefits under the public employees retirement system. An employee who transferred from the public employees retirement system before March 30, 1987, and who received a refund of that employee's contribution is entitled to have the employer's contribution, with interest, used to purchase an annuity even if that employee did not purchase an annuity in the alternate employee program with the employee's contribution. If an employee makes the election allowed under this subdivision, that employee relinquishes all rights the employee or any of the employee's beneficiaries may have had to benefits provided under chapters 54-52 and 54-52.6.

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

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

1. The North Dakota state investment board consists of the governor, the state treasurer, the commissioner of university and school lands, the director of workforce safety and insurance, the insurance commissioner,

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three members of the teachers' fund for retirement board or the board's designees who need not be members of the fund as selected by that board, two of the elected members of the public employees retirement system advisory board as selected by that board, and one member of the public employees retirement system ~~board as selected by that board~~office executive director or the director's designee. The director of workforce safety and insurance may appoint a designee, subject to approval by the workforce safety and insurance board of directors, to attend the meetings, participate, and vote when the director is unable to attend. The teachers' fund for retirement board may appoint an alternate designee with full voting privileges to attend meetings of the state investment board when a selected member is unable to attend. The public employees retirement system advisory board may appoint an alternate designee with full voting privileges from the public employees retirement system advisory board to attend meetings of the state investment board when a selected member is unable to attend. The members of the state investment board, except elected and appointed officials and the director of workforce safety and insurance or the director's designee and the public employees retirement system executive director or executive director's designee, are entitled to receive as compensation one hundred forty-eight dollars per day and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09 for attending meetings of the state investment board.

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

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

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

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

1. "Accumulated deductions" means the total of the amounts deducted from the salary of a contributor and paid into the fund, and standing to the contributor's credit in the fund, and interest credited on those amounts at a rate established by the ~~board~~office.
2. "~~Board~~" means the North Dakota public employees retirement board.
3. "Contributor" means any person who is a member of the North Dakota highway patrol, is subject to salary deductions to support the fund, and is employed on or after July 1, 1981.
4. "Fund" means the North Dakota highway patrolmen's retirement fund.
4. "Office" means the public employees retirement system office.
5. "Patrol" means the North Dakota highway patrol.

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6. "Salary" means the actual dollar compensation, excluding any bonus, overtime, or expense allowance, paid to or for a contributor for the contributor's services.
  7. "Surviving spouse" means that person lawfully married to the contributor at the time of the contributor's death.

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

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

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

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

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

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

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

**39-03.1-07. Membership.**

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

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

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

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

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

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

1. The fund may accept rollovers from other eligible plans under rules adopted by the board for the purchase of additional service credit, but only to the extent the transfer is a rollover contribution that meets the requirement of section 408 of the Internal Revenue Code [26 U.S.C. 408].
2. The boardoffice may accept trustee-to-trustee transfers as permitted by Internal Revenue Code section 403(b)(13) and section 457(e)(17) from an Internal Revenue Code section 403(b) annuity or Internal Revenue Code section 457 deferred compensation plan for the purchase of permissive service credit, as defined in Internal Revenue Code section 415(n)(3)(A), or as repayment of a cashout from a governmental plan under Internal Revenue Code section 415(k)(3).
3. A contributor may elect to purchase credit for years of service and prior service for which the contributor is not presently receiving credit. A contributor is entitled to purchase additional credit under this section for the following service or prior service, except this service is not eligible for credit if the years claimed also qualify for retirement benefits from another retirement system:
  - a. Except as provided in subsection 3 of section 39-03.1-10.1, up to four years of credit for active employment in the armed forces of the United States.
  - b. Employment as a permanent employee by a public employer either within or outside the state.
  - c. Employment as a permanent employee by the federal government.
4. A contributor may elect to purchase credit for the following absences for which the participating contributor is not receiving service credit:
  - a. Employer-approved leave of absence; and
  - b. Months away from work while participating as a seasonal employee.
5. The contributor may purchase credit under this section by paying to the boardoffice an amount equal to the actuarial cost to the fund of providing the credit. The boardoffice shall adopt rules governing the purchase of additional credit under this section.
6. The boardoffice may establish individual retirement accounts and individual retirement annuities as permitted under section 408(q) of the Internal Revenue Code to allow employees to make voluntary employee contributions. The boardoffice may adopt appropriate rules as may be necessary to implement and administer the accounts and annuities under this section.
7. In addition to service credit identified in this section, a contributor may purchase up to five years of service credit.
8. Pursuant to rules adopted by the boardoffice, the boardoffice may allow a contributor to purchase service credit with either pretax or aftertax moneys, at the board's discretion of the office. If a contributor elects to purchase

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service credit using pretax moneys, the requirements and restrictions in subsection 2 of section 39-03.1-09 apply to the purchase arrangement.

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

2. The state of North Dakota, at its option, may pay the member contributions required by subsection 1 for all compensation earned after June 30, 1983, and may pay the member contributions required to purchase service credit on a pretax basis pursuant to subsection 8 of section 39-03.1-08.2. The amount paid must be paid by the state in lieu of contributions by the member. A member may not receive the contributed amounts directly once the employer has elected to pay the member contributions. If the state decides not to pay the contributions, the amount that would have been paid will continue to be deducted from compensation. If contributions are paid by the state, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the state, they must not be included as gross income of the member in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The state shall pay these member contributions from the same source of funds used in paying compensation to the members. The state shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a combination of a reduction in gross salary and offset against future salary increases. If member contributions are paid by the state, they must be treated for the purposes of this chapter in the same manner and to the same extent as member contributions made prior to the date the contributions were assumed by the state. The option given employers by this subsection must be exercised in accordance with rules adopted by the boardoffice.

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

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

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

1. a. If the contributor has less than ten years of service at termination of employment, the refund is payable either on application of the contributor or is automatically payable if within thirty days after termination the contributor has not provided a written statement to the boardoffice waiving the refund and requesting the contributor's account remain in the fund and the contributor has an account balance of less than one thousand dollars.  
  
b. If the contributor has at least ten years of service at the date of termination, the contributor may apply for a refund of accumulated deductions instead of retirement benefits. By receiving the refund of accumulated deductions under this subdivision, the contributor forfeits

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all months of service to the date of refund and cannot use those months for any future benefit calculations.

2. A contributor who was paid a refund under subdivision a of subsection 1 may, upon re-employment, elect to repurchase the forfeited past service for the retirement program and the retiree health benefits program in accordance with the rules adopted by the boardoffice.

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

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

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

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

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

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

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

1. A contributor is entitled to credit for permanent employment or its equivalent from the date eligibility is attained until normal or postponed retirement date, as described in subsection 3.
2. Retirement benefits are based on the contributor's final average salary. Final average salary is the average of the highest salary received by the contributor for any thirty-six months employed during the last one hundred

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twenty months of employment. For contributors who terminate employment on or after August 1, 2010, final average salary is the average of the highest salary received by the contributor for any thirty-six months employed during the last one hundred eighty months of employment. For contributors who terminate employment between July 31, 2005, and August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the period for which the boardoffice has appropriate and accurate salary records on its electronic database, but that period may not be more than the last one hundred eighty months of employment. Months not employed or months in which employment was not as a permanent employee are excluded in arriving at the thirty-six months to be used for the purpose of computing an average. If the contributor has worked for less than thirty-six months at the postponed retirement date, the final average salary is the average salary for all months of employment.

3. Retirement dates are as follows:
  - a. Early retirement date is the first day of the month next following the month in which the contributor attains the age of fifty years and has completed at least ten years of eligible employment.
  - b. Normal retirement date is:
    - (1) The first day of the month next following the month in which the contributor attains the age of fifty-five years and has completed at least ten years of eligible employment; or
    - (2) When the contributor has a combined total of years of service credit and years of age equal to eighty and has not received a retirement benefit under this chapter.
      - c. Postponed retirement date is the first day of the month next following the month in which the contributor attains the age of sixty years.
  - d. Disability retirement date is the first day of the month after a contributor becomes permanently and totally disabled, according to medical evidence called for under the rules of the boardoffice, and has completed at least one hundred eighty days of employment.
4. The boardoffice shall calculate retirement benefits as follows:
  - a. Normal retirement benefits for all contributors reaching the normal retirement date are payable monthly, and are:
    - (1) The first twenty-five years of credited service multiplied by three and sixty hundredths percent of final average salary.
    - (2) All years in excess of twenty-five years of credited service multiplied by one and three-fourths percent of final average salary.
    - (3) All contributors who retired before August 1, 2001, or their beneficiaries, are entitled to receive benefits equal to three and sixty hundredths percent of final average salary multiplied by the first twenty-five years of credited service, plus one and

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three-fourths percent of final average salary multiplied by credited service in excess of twenty-five years, with the increased benefits payable beginning August 1, 2001.

- b. Early retirement benefits are normal retirement benefits accrued to the date of termination of employment, but actuarially reduced to account for benefit payments beginning before the normal retirement date.
  - c. Postponed retirement benefits, for all contributors reaching the postponed retirement date, are calculated in the same manner as normal retirement benefits.
  - d. Disability retirement benefits are payable monthly and are:
    - (1) Seventy percent of the contributor's final average salary, reduced by any workforce safety and insurance benefits paid. The minimum monthly disability retirement benefit under this subsection is one hundred dollars.
    - (2) An individual or that person's beneficiary who, on July 31, 2001, is receiving a disability retirement benefit is entitled to receive an increase in benefits equal to six percent of the individual's present benefits, with the increase payable beginning August 1, 2001.
5. On termination of employment after completing ten years of eligible employment but before the normal retirement date, a contributor who does not elect to receive early retirement benefits is eligible to receive deferred vested retirement benefits. The deferred benefits are payable beginning on the contributor's normal retirement date in one of the forms provided in this section. Contributors who have delayed or inadvertently failed to apply for retirement benefits to commence on their normal retirement date may choose to receive either a lump sum payment equal to the amount of missed payments, or an actuarial increase to the form of benefit the member has selected, which increase must reflect the missed payments. The final average salary used for calculating deferred vested retirement benefits must be increased annually, from the later of the date of termination of employment or July 1, 1991, until the date the contributor begins to receive retirement benefits from the fund, at a rate as determined by the boardoffice not to exceed a rate that would be approximately equal to annual salary increases provided state employees pursuant to action by the legislative assembly.
6. If before retiring a contributor dies after completing ten years of eligible employment, the boardoffice shall pay the contributor's accumulated deductions to the contributor's designated beneficiary as provided in this subsection. If the contributor has designated an alternate beneficiary with the surviving spouse's written consent, the boardoffice shall pay the contributor's account balance to the named beneficiary. If the contributor has named more than one primary beneficiary, the boardoffice shall pay the contributor's account balance to the named primary beneficiaries in the percentages designated by the contributor or, if the contributor has not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the contributor, the boardoffice shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If there are no remaining primary beneficiaries, the

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boardoffice shall pay the contributor's account balance to the contingent beneficiaries in the same manner. If there are no remaining designated beneficiaries, the boardoffice shall pay the contributor's account balance to the contributor's estate. If the contributor has not designated an alternate beneficiary under this section or the surviving spouse is the beneficiary, the surviving spouse of the contributor may select one of the following optional forms of payment:

- a. A lump sum payment of the contributor's accumulated deductions as of the date of death.
- b. Payment of a monthly retirement benefit equal to fifty percent of the deceased contributor's accrued normal retirement benefits until the spouse dies.
7. If a contributor not eligible for the benefits of subsection 6 terminates employment for any reason before retirement, the contributor or the contributor's designated beneficiary is entitled to the contributor's accumulated deductions at termination.
8. The surviving spouse of a member receiving retirement benefits must be the member's primary beneficiary unless there is no surviving spouse or the surviving spouse designates an alternate beneficiary in writing. If a contributor receiving retirement benefits, or a contributor's surviving spouse receiving retirement benefits, dies before the total amount of benefits paid to them equals the amount of the contributor's accumulated deductions at retirement, the difference must be paid to the named beneficiary of the recipient or, if there is no named beneficiary, to the recipient's estate.
9. The boardoffice shall adopt rules providing for the receipt of retirement benefits in the following optional forms:
  - a. An actuarially equivalent joint and survivor one hundred percent option.
  - b. An actuarially equivalent life with ten-year or twenty-year certain options.
  - c. An actuarially equivalent partial lump sum distribution option with a twelve-month maximum lump sum distribution.
  - d. An actuarially equivalent graduated benefit option with either a one percent or two percent increase to be applied the first day of January of each year.

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

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

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### **39-03.1-11.2. 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 benefits from all the plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. If the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. This reduction must be made pro rata between the plans, in proportion to the participating member's service in each plan.
2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirements under section 401(a)(9)(G), and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. A member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.
3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a

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direct rollover to an eligible retirement plan, as defined in section 402(c)(8) (B) of the Internal Revenue Code, specified by the distributee.

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

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

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

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

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

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

1. For the purpose of determining eligibility for benefits under this chapter, a member's years of service is the total of the years of service earned under this chapter and the years of service employment or years of service credit earned in any number of the following, the total of which may not exceed twelve months of credit per year:
  - a. The public employees retirement system.
  - b. The teachers' fund for retirement.
  - c. 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.
2. If a member terminates eligible employment under this chapter, if that member has not received a refund of the member's accumulated deductions, and if that member begins eligible employment in a plan described in subdivision a or b of subsection 1, that member may elect to remain an inactive member of the system without refund of the member's accumulated deductions. The election must be made within ninety days after beginning the eligible employment. The boardoffice shall terminate the inactive status of a member under this subsection if the member gains eligible employment under this chapter or if the member terminates eligible employment under a plan described in subdivision a or b of subsection 1.
3. Pursuant to rules adopted by the boardoffice, a member who has service credit in the system and in any of the alternate plans described in subdivision a or b of subsection 1 is entitled to benefits under this chapter.

The employee may elect to have benefits calculated using the benefit formula in section 39-03.1-11 under either of the following calculation methods:

- a. By using the final average salary as calculated in section 39-03.1-11. 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.
- b. Using the final average salary as calculated in section 39-03.1-11, with service credit not to exceed one month in any month when combined with the service credit earned in the alternate retirement system.

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

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

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

1. The boardoffice shall pay retirement benefits in accordance with the applicable requirements of any qualified domestic relations order. The boardoffice shall review a domestic relations order submitted to it to determine if the domestic relations order is qualified under this section and under rules established by the boardoffice for determining the qualified status of domestic relations orders and administering distributions under the qualified orders. Upon determination that a domestic relations order is qualified, the boardoffice shall notify the contributor and the named alternate payee of its receipt of the qualified domestic relations order.
2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of a contributor, is made pursuant to a North Dakota domestic relations law, and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of the benefits payable to the contributor. A qualified domestic relations order may not require the boardoffice to provide any type or form of benefit, or any option, not otherwise provided under the retirement system, or to provide increased benefits as determined on the basis of actuarial value. However, a qualified domestic relations order may require the payment of benefits at the early retirement date notwithstanding that the contributor has not terminated eligible employment. A qualified domestic relations order must specify:
  - a. The name and the last-known mailing address of the contributor and the name and mailing address of each alternate payee covered by the order;

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- b. The amount or percentage of the contributor's benefits to be paid by the plan 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 23. AMENDMENT.** Section 39-03.1-25 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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

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

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

- 1. A person to whom the member has given written consent to have the information disclosed.
- 2. A person legally representing the member, upon proper proof of representation, and unless the member specifically withdraws consent.
- 3. A person authorized by a court order.
- 4. A member's participating employer, limited to information concerning the member's years of service credit and years of age. The boardoffice may share other types of information as needed by the employer to validate the employer's compliance with existing state or federal laws. Any information provided to the member's participating employer under this subsection must remain confidential except as provided under subsection 6.
- 5. The administrative staff of the retirement and investment office for purposes relating to membership and benefits determination.
- 6. State or federal agencies for purposes of reporting on a service provider's provision of services or when the employer must supply information to an agency to validate the employer's compliance with existing state or federal laws.
- 7. Member interest groups approved by the boardoffice on a third-party blind list basis, limited to information concerning the member's participation, name, and address.

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8. The member's spouse or former spouse, that individual's legal representative, and the judge presiding over the member's dissolution proceeding for purposes of aiding the parties in drafting a qualified domestic relations order under section 39-03.1-14.2. The information disclosed under this subsection must be limited to information necessary for drafting the order.
  9. Beneficiaries designated by a participating member or a former participating member to receive benefits after the member's death, but only after the member's death. Information relating to beneficiaries may be disclosed to other beneficiaries of the same member.
  10. Any person if the boardoffice determines disclosure is necessary for treatment, operational, or payment purposes, including the completion of necessary documents.
  11. The general public, but only after the boardoffice has been unable to locate the member for a period in excess of two years, and limited to the member's name and the fact that the boardoffice has been unable to locate the member.
  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 under section 39-03.1-10.2, 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 25. AMENDMENT.** Section 39-03.1-29 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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

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

1. The North Dakota national guard is authorized to establish an employee retirement program by contract with an insurance company, state or national bank and trust company, or an investment company, authorized

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

2. The employing agency shall be authorized to withhold the employee's share of the contributions required under such retirement program from the salary paid each employee of such agency. The amount of such withholding must be an adjustable percentage rate of the employee's salary sufficient to provide financing of the required employee's contributions to such retirement plan as such plan was originally contracted and as it has been or will be amended, provided that such percentage rate may not exceed the percentage rate which may be fixed for withholding from federal employees for employee contributions to the federal retirement program under civil service. The employing agency shall be authorized to pay a sum as prescribed in the program contract toward the cost of such retirement program, which sum may not be in excess of the amount approved by the appropriate federal agency supervising the payment or reimbursement of salary and retirement program costs. The amount withheld from the wages due an employee and the amount to be paid by the employing agency must be paid to the company holding such retirement program contract in accordance with the terms of such contract.
3. The employing agency's share of the costs of such retirement program must be paid from any funds made available to it for this purpose by the United States government, and in the case of employees of such agencies for whom the state does not receive federal payments for salary costs, such employer's share may be made from any appropriations made available for the purpose of paying such salaries. Payments may be made for prior service of employees in accordance with the terms of the retirement program contract and in accordance with the availability of funds. The contract must specify the terms and conditions under which employee contributions may be withdrawn from the program and for the crediting of the employer's contributions to future payments due from the employing agency. Provision may be made in the contract for optional payment of benefits to survivors of covered employees. Each agency participating in the retirement program shall be authorized to do all things necessary for the proper administration of the program, but no benefits payable under the terms of the retirement program contract shall ever become an obligation of the state.

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

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

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

**SECTION 28. AMENDMENT.** Section 54-35-02.4 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-02.4. Employee benefits programs committee - Powers and duties.**

1. The employee benefits programs committee shall meet at least quarterly at the discretion of the chairman.
  - a. The employee benefits programs committee shall consider and report on those legislative measures and proposals over which it takes jurisdiction and which affect, actuarially or otherwise, the retirement programs of state employees or employees of any political subdivision, and health and retiree health plans of state employees or employees of any political subdivision. The committee shall make a thorough review of any measure or proposal which it takes under its jurisdiction, including an actuarial review.
  - b. The committee shall take jurisdiction over any measure or proposal that authorizes an automatic increase or other change in benefits beyond the ensuing biennium which would not require legislative approval. The committee must include in the report of the committee a statement that the proposal would allow future changes without legislative involvement.
  - c. Quarterly, the public employees retirement system office shall report to the committee on the activities of the office, including the status of and any proposed changes to retirement plans and uniform group insurance plans administered by the office. Before each regular legislative session, the office shall present to the committee the executive budget proposals, including any anticipated changes, relating to retirement plans and uniform group insurance plans administered by the office. The committee shall consider and report on these activities and executive budget proposals.
  - d. The committee shall report its findings and recommendations, along with any necessary legislation, to the legislative management and to the legislative assembly.
2. To carry out its responsibilities, the committee, or its designee, may:

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- a. Enter contracts, including retainer agreements, with an actuary or actuarial firm for expert assistance and consultation. Each retirement, insurance, or retiree insurance program shall pay, from its retirement, insurance, or retiree health benefits fund, as appropriate, and without the need for a prior appropriation, the cost of any actuarial report required by the committee which relates to that program.
  - b. Call on personnel from state agencies or political subdivisions to furnish such information and render such assistance as the committee may from time to time request.
  - c. Establish rules for its operation, including the submission and review of proposals and the establishing of standards for actuarial review.
3. The committee may solicit draft measures and proposals from interested persons during the interim between legislative sessions, and may also study measures and proposals referred to it by the legislative assembly or the legislative management.
  4. A copy of the committee's report concerning any legislative measure shall, if that measure is introduced for consideration by a legislative assembly, be appended to the copy of that measure which is referred to a standing committee.
  5. A legislative measure affecting a public employees retirement program, public employees health insurance program, or public employee retiree health insurance program may not be introduced in either house unless it is accompanied by a report from the committee. A majority of the members of the committee, acting through the chairman, has sole authority to determine whether any legislative measure affects a program.
  6. Any amendment made during a legislative session to a legislative measure affecting a public employees retirement program, public employees health insurance program, or public employee retiree health insurance program may not be considered by a standing committee unless it is accompanied by a report from the employee benefits programs committee.
  7. Any legislation enacted in contravention of this section is invalid and of no force and effect, and any benefits provided under such legislation must be reduced to the level current prior to enactment.

**SECTION 29. AMENDMENT.** Section 54-52-01 of the North Dakota Century Code is amended and reenacted as follows:

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

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

1. "Account balance" means the total contributions made by the employee, vested employer contributions under section 54-52-11.1, the vested portion of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the boardoffice.
2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.

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3. "Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.
  4. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. Eligible employee does not include state employees who elect to become members of the retirement plan established under chapter 54-52.6.
  5. "Employee" means any person employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.
  6. "Employer" means a governmental unit.
  7. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution ~~which the retirement board office~~ may select to hold and invest the employers' and members' contributions.
  8. "Governmental unit" means the state of North Dakota, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision thereof.
  9. "National guard security officer or firefighter" means a participating member who is:
    - a. A security police employee of the North Dakota national guard; or
    - b. A firefighter employee of the North Dakota national guard.
  10. "Office" means the public employees retirement system office.
  11. "Participating member" means all eligible employees who through payment into the plan have established a claim against the plan.
  - 11.12. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the bureau of criminal investigation or by a political subdivision and, notwithstanding subsection 12, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. Participating members of the law enforcement retirement plan created by this chapter who begin employment after

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August 1, 2005, are ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.

- 12.13. "Permanent employee" means a governmental unit employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least twenty weeks each year of employment.
- 13.14. "Prior service" means service or employment prior to July 1, 1966.
- 14.15. "Prior service credit" means such credit toward a retirement benefit as the ~~retirement board~~ office may determine under the provisions of this chapter.
- 15.16. "Public employees retirement system" means the retirement plan and program established by this chapter.
- 16.17. "Retirement" means the acceptance of a retirement allowance under this chapter upon either termination of employment or termination of participation in the retirement plan and meeting the normal retirement date.
- 17.18. "Retirement board" or "board" means the ~~governing authority~~ retirement system advisory board created under section 54-52-03.
- 18.19. "Seasonal employee" means a participating member who does not work twelve months a year.
- 19.20. "Service" means employment on or after July 1, 1966.
- 20.21. "Service benefit" means the credit toward retirement benefits as determined by the ~~retirement board~~ office under the provisions of this chapter.
- 21.22. "Temporary employee" means a governmental unit employee who is not eligible to participate as a permanent employee, who is at least eighteen years old and not actively contributing to another employer-sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.
- 22.23. "Wages" and "salaries" means the member's earnings in eligible employment under this chapter reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between the member and participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the ~~board~~ office.

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

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1. "Account balance" means the total contributions made by the employee, vested employer contributions under section 54-52-11.1, the vested portion of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the boardoffice.
  2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
  3. "Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.
  4. "Director" means the executive director of the public employees retirement system office.
  5. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. Eligible employee does not include nonclassified state employees who elect to become members of the retirement plan established under chapter 54-52.6 but does include employees of the judicial branch and employees of the board of higher education and state institutions under the jurisdiction of the board.
- 5.6. "Employee" means any person employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.
- 6.7. "Employer" means a governmental unit.
- 7.8. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution ~~which the retirement board~~the office may select to hold and invest the employers' and members' contributions.
- 8.9. "Governmental unit" means the state of North Dakota, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision thereof.
- 9.10. "National guard security officer or firefighter" means a participating member who is:
  - a. A security police employee of the North Dakota national guard; or
  - b. A firefighter employee of the North Dakota national guard.

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11. "Office" means the public employees retirement system office.
- 10.12. "Participating member" means all eligible employees who through payment into the plan have established a claim against the plan.
- 11.13. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the bureau of criminal investigation or by a political subdivision and, notwithstanding subsection 12, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. Participating members of the law enforcement retirement plan created by this chapter who begin employment after August 1, 2005, are ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.
- 12.14. "Permanent employee" means a governmental unit employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least twenty weeks each year of employment.
- 13.15. "Prior service" means service or employment prior to July 1, 1966.
- 14.16. "Prior service credit" means such credit toward a retirement benefit as the ~~retirement board~~office may determine under the provisions of this chapter.
- 15.17. "Public employees retirement system" means the retirement plan and program established by this chapter.
- 16.18. "Retirement" means the acceptance of a retirement allowance under this chapter upon either termination of employment or termination of participation in the retirement plan and meeting the normal retirement date.
- 17.19. "Retirement board" or "board" means the ~~seven persons designated by this chapter as the governing authority for the retirement system~~ ~~created~~retirement system advisory board established under section 54-52-03.
- 18.20. "Seasonal employee" means a participating member who does not work twelve months a year.
- 19.21. "Service" means employment on or after July 1, 1966.
- 20.22. "Service benefit" means the credit toward retirement benefits as determined by the ~~retirement board~~office under the provisions of this chapter.
- 21.23. "Temporary employee" means a governmental unit employee who is not eligible to participate as a permanent employee, who is at least eighteen years old and not actively contributing to another employer-sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.
- 22.24. "Wages" and "salaries" means the member's earnings in eligible employment under this chapter reported as salary on the member's federal

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income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between the member and participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the boardoffice.

**SECTION 30. AMENDMENT.** Section 54-52-02.1 of the North Dakota Century Code is amended and reenacted as follows:

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

1. A political subdivision may, on behalf of its permanent employees, on behalf of its peace officers and correctional officers separately from its other employees, and permanent noncertified employees only in the case of school districts, enter into agreements with the ~~retirement~~ boardoffice for the purpose of extending the benefits of the public employees retirement system, as provided in this chapter, to those employees. The agreement may, in accordance with this chapter, contain provisions relating to benefits, contributions, effective date, modification, administration, and other appropriate provisions as the ~~retirement~~ boardoffice and the political subdivision agree upon, but the agreement must provide that:
  - a. The political subdivision will contribute on behalf of each eligible employee an amount equal to that provided in section 54-52-06 or 54-52-06.3 for peace officers and correctional officers participating separately from other political subdivision employees.
  - b. A portion of the moneys paid by the political subdivision may be used to pay administrative expenses of the ~~retirement~~ boardoffice.
2. Notwithstanding any other provision of law, a political subdivision having an existing police pension plan may merge that plan into the public employees retirement system under rules adopted by and in a manner determined by the boardoffice.
3. Notwithstanding any other provision of this chapter, a political subdivision of this state not currently participating in the public employees retirement system may not become a participant in the retirement system until an actuarial study is performed under the direction of the boardoffice to calculate the required employer contribution for any past service liability and the required employer contribution must be an amount determined sufficient to amortize and fund any past service liability over a period not to exceed thirty years as determined by the boardoffice. Any fees incurred in performing the actuarial study must be paid for by the political subdivision in a manner determined by the boardoffice.

**SECTION 31. AMENDMENT.** Section 54-52-02.6 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 32. AMENDMENT.** Section 54-52-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-03. Governing authorityPublic employees retirement system office - Retirement system advisory board.**

1. A state agencyThe public employees retirement system office is hereby created to constitute the governing authority of the public employees retirement system to consist of a board of nine individuals known as the retirement board.
2. A seven-member retirement system advisory board shall advise the director, the governor, and the legislative management in the administration of the public employees retirement system. No more than one elected member of the board may be in the employ of a single department, institution, or agency of the state or in the employ of a political subdivision. An employee of the public employees retirement system office or the state retirement and investment office may not serve on the board.
4.
  - a. Two members of the legislative assembly must be appointed by the chairman of the legislative management to serve on the board.
    - a. (1) If the same political party has the greatest number of members in both the house and senate, one member must be from that majority party and one member from the political party with the next greatest number of members in the house and senate.
    - b. (2) If the same political party does not have the greatest number of members in both the house and senate, one member must be from the majority party in the house and one member must be from the majority party in the senate.
  - b. One member of the board must be appointed by the governor to serve a term of five years. The appointee must be a North Dakota citizen who is not a state or political subdivision employee and who by experience is familiar with money management. The citizen member is chairman of the board.
  - c. One member of the board must be appointed by the attorney general from the attorney general's legal staff and shall serve a term of five years.
  - d. The state health officer appointed under section 23-01-05 or the state health officer's designee is a member of the board.
  - e. Three board members must be elected by and from among the active participating members, members of the retirement plan established under chapter 54-52.6, members of the retirement plan established under chapter 39-03.1, and members of the job service North Dakota

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retirement plan. Employees who have terminated their employment for whatever reason are not eligible to serve as elected members of the board under this subsection. Board members must be elected to a five-year term pursuant to an election called by the board. Notice of board elections must be given to all active participating members. The time spent in performing duties as a board member may not be charged against any employee's accumulated annual or any other type of leave.

6. d. One board member must be elected by and from among those individuals who are receiving retirement benefits under this chapter. The board shall call the election and must give prior notice of the election to the individuals eligible to participate in the election pursuant to this subsection. The board member shall serve a term of five years.
7. e. The members of the board are entitled to receive one hundred forty-eight dollars per day compensation and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09. This is in addition to any other pay or allowance due the chairman or a member, plus an allowance for expenses they may incur through service on the board.
8. f. A board member shall serve a five-year term and until the board member's successor qualifies. Each board member is entitled to one vote, and fivefour of the nineseven board members constitute a quorum. FiveFour votes are necessary for resolution or action by the board at any meeting.

**SECTION 33. AMENDMENT.** Section 54-52-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-04. Board authorityAuthority - Continuing appropriation.**

1. The boardpublic employees retirement system office shall adopt rules necessary to implement this chapter, and to manage the system, subject to the limitations of this chapter. ~~The board has the powers and privileges of a corporation, including the right to sue and be sued in its own name as the board. The venue of all actions in which the board is a party must be Burleigh County, North Dakota.~~
2. The boardgovernor shall appoint an executive director to serve at ~~its~~the governor's discretion. ~~The executive director shall perform such duties as assigned by the board.~~
3. The boardoffice shall authorize the creation of ~~whatever~~employ staff it deems ~~as~~ necessary for sound and economical administration of the system. ~~The executive director shall hire the staff, subject to the approval of the board.~~
4. The boardoffice shall arrange for actuarial and medical advisers for the system. The boardoffice shall ~~cause~~contract with a qualified, competent actuary to be retained on a consulting basis. The actuary shall make an annual valuation of the liabilities and reserves of the system and a determination of the contributions required by the system to discharge its

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liabilities and pay the administrative costs under this chapter, and to recommend to the boardoffice rates of employer and employee contributions required, based upon the entry age normal cost method, to maintain the system on an actuarial reserve basis; once every five years make a general investigation of the actuarial experience under the system including mortality, retirement, employment turnover, and other items required by the boardoffice, and recommend actuarial tables for use in valuations and in calculating actuarial equivalent values based on such investigation; and perform other duties as may be assigned by the boardoffice.

5. The state shall provide the boardoffice with the retirement systems office or offices to be used for the meetings of the board and for the general purposes of the administrative personnel office.
6. The funds necessary for paying prior service and service benefits, consultant fees, and making withdrawal payments and refunds are hereby appropriated from the retirement fund for those purposes. The amount necessary to pay the consulting fees and insurance benefits related to the uniform group insurance program is hereby appropriated from the insurance premiums received by the boardoffice.
7. The boardoffice shall administer chapters 39-03.1, 54-52.1, and 54-52.2, and may administer other optional employee benefit programs, including a flexible benefits plan, an optional employee short-term disability plan, a long-term care plan, or other optional employee benefit programs as the boardoffice deems appropriate. The boardoffice shall also administer the retirement plan established in 1961 and frozen to new entrants in 1980 for employees of job service North Dakota under chapter 52-11.
8. The board shall annuallyAnnually, the office shall report the investment performance of the fund and distribute a copy to each participant.
9. The boardoffice may distribute the employer contribution and applicable interest for any employee of any development foundation associated with a public institution of higher education in this state who may previously have been included in the public employees retirement system while employed by such foundation. Such employee is entitled to have that employee's contribution and the contribution of the development foundation, with interest.
10. The boardoffice may audit any books, papers, accounts, bills, vouchers, and other documents or property of any and all departments, boards, commissions, political subdivisions, financial institutions, contractors, health care organizations, and consultants relating to their participation in services provided to programs administered by the boardoffice.
11. The boardoffice shall fund the administrative expenses of chapter 54-52.2 from funds collected under chapters 54-52, 54-52.1, and 54-52.3 and from fines and fees collected from deferred compensation services providers, including any fees paid for by participant funds, subject to appropriation by the legislative assembly.

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12. Except as provided by section 54-52-17.7, the ~~board~~office may adjust service and make any correction of member, retiree, or beneficiary records and benefits after an error or inequity has been determined.
  13. The ~~board~~Subject to appropriation, the office may use any amount credited to the separate uniform group insurance program fund created by section 54-52.1-06 in excess of the costs of administration of the uniform group insurance program to reduce the amount of premium amounts paid monthly by enrolled members of the uniform group insurance program, to reduce any increase in premium amounts paid monthly by enrolled members, or to provide increased insurance coverage to the members, as the ~~board~~office may determine.
  14. The ~~board~~office may create and implement an Internal Revenue Code section 115 trust health care savings plan for all supreme and district court judges participating in the public employees retirement system if seventy-five percent of the total active participating supreme and district court judges vote to approve the program. If approved, the contribution level specified in the vote applies to all current and future participating supreme and district court judges and must be paid pursuant to the plan document developed by the ~~board~~office. The contribution level may only be changed by a vote of seventy-five percent of the total active participating supreme and district court judges at that time.
  15. The office shall establish policies and implement procedures to make and collect payments in the most cost-effective manner, including the use of electronic transfer of funds.

**SECTION 34. AMENDMENT.** Subsection 3 of section 54-52-05 of the North Dakota Century Code is amended and reenacted as follows:

3. Each employer, at its option, may pay all or a portion of the employee contributions required by subsection 2 and sections 54-52-06.1, 54-52-06.2, 54-52-06.3, and 54-52-06.4 or the employee contributions required to purchase service credit on a pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not receive the contributed amounts directly once the employer has elected to pay the employee contributions. The amount paid must be paid by the employer in lieu of contributions by the employee. If the state determines not to pay the contributions, the amount that would have been paid must continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the employer, they may not be included as gross income of the employee in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee or from the levy authorized by subsection 5 of section 57-15-28.1. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a contribution of a reduction in gross salary and offset against future salary increases. If employee contributions are paid by the employer, they must be treated for the purposes of this chapter in the

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same manner and to the same extent as employee contributions made prior to the date on which employee contributions were assumed by the employer. An employer exercising its option under this subsection shall report its choice to the boardoffice in writing.

**SECTION 35. AMENDMENT.** Section 54-52-06 of the North Dakota Century Code is amended and reenacted as follows:

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

Each governmental unit shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Governmental unit contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. 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 boarddirector 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 36. AMENDMENT.** Section 54-52-06.2 of the North Dakota Century Code is amended and reenacted as follows:

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

Each national guard security officer or firefighter who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Member contributions increase by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2014. Effective August 1, 2015, each national guard security officer or firefighter who is a participating member of the plan under this section becomes a participating member

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of the plan under section 54-52-06.4 and the ~~board~~office shall thereafter manage any account balance associated with those participating members under section 54-52-06.4. After July 31, 2015, a new eligible employee may not become a participating member of the plan under this section. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The national guard security officer's or firefighter's employer shall contribute an amount determined by the ~~board~~office to be actuarially required to support the level of benefits specified in section 54-52-17. The employer's contribution must be paid from funds appropriated for salary or from any other funds available for such purposes. If the security officer's or firefighter's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required national guard security officer's or firefighter's assessment.

**SECTION 37. AMENDMENT.** Section 54-52-06.3 of the North Dakota Century Code is amended and reenacted as follows:

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

Each peace officer or correctional officer employed by a political subdivision that enters ~~into~~ an agreement with the ~~retirement~~ ~~board~~office on behalf of its peace officers and correctional officers separately from its other employees and who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Peace officer or correctional officer contributions increase by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2014. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's or correctional officer's employer shall contribute an amount determined by the ~~board~~office to be actuarially required to support the level of benefits specified in section 54-52-17. If the peace officer's or correctional officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace officer's or correctional officer's assessment.

**SECTION 38. AMENDMENT.** Section 54-52-06.4 of the North Dakota Century Code is amended and reenacted as follows:

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

Each peace officer employed by the bureau of criminal investigation who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Peace officer contributions increase by one percent of the member's monthly salary 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. Effective August 1, 2015, each national guard security officer who is a member of the public employee's retirement system is assessed and monthly shall pay six percent of the employee's monthly salary. National guard security officer contributions decrease by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2016.

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

**SECTION 39. AMENDMENT.** Section 54-52-10 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 40. AMENDMENT.** Section 54-52-10.1 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 41. AMENDMENT.** Section 54-52-11.1 of the North Dakota Century Code is amended and reenacted as follows:

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

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

1. For months one through twelve of service credit, twenty-five dollars or one percent of the member's monthly salary, whichever is greater.
2. For months thirteen through twenty-four of service credit, twenty-five dollars or two percent of the member's monthly salary, whichever is greater.
3. For months twenty-five through thirty-six of service credit, twenty-five dollars or three percent of the member's monthly salary, whichever is greater.
4. For service exceeding thirty-six months, twenty-five dollars or four percent of the member's monthly salary, whichever is greater.

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5. The vested employer contribution may not exceed four percent of the member's monthly salary.

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

**SECTION 42. AMENDMENT.** Section 54-52-14 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 43. AMENDMENT.** Section 54-52-14.2 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 44. AMENDMENT.** Section 54-52-16 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 45. AMENDMENT.** Section 54-52-17 of the North Dakota Century Code is amended and reenacted as follows:

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

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

1. Participating members shall receive credit for full-time employment or its equivalent from the date they attain eligibility until their normal retirement date, postponed retirement date, or early retirement date, as defined in this section. Part-time employment will be recognized as full-time employment on a prorated basis as the boardoffice may prescribe.
2. Retirement benefits are calculated from the participating member's final average salary, which is the average of the highest salary received by the

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member for any thirty-six months employed during the last one hundred twenty months of employment. For members who terminate employment on or after August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred eighty months of employment. For members who terminate employment between July 31, 2005, and August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the period for which the ~~board~~office has appropriate and accurate salary records on its electronic database, but that period may not be more than the last one hundred eighty months of employment. Months not employed are excluded in arriving at the thirty-six months to be used for the purpose of computing an average. If the participating member has worked for less than thirty-six months at the normal retirement date, the final average salary is the average salary for the total months of employment.

3. Retirement dates are defined as follows:
  - a. Normal retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is:
    - (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
    - (2) When the member has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
  - b. Normal retirement date for members first enrolled after December 31, 2015, except for a national guard security officer or firefighter, a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, or a supreme court or district court judge, is:
    - (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
    - (2) When the member has a combined total of years of service credit and years of age equal to ninety and the member attains a minimum age of sixty and has not received a retirement benefit under this chapter.
  - c. Normal retirement date for a national guard security officer or firefighter is:
    - (1) The first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty-five years and has completed at least three eligible years of employment; or
    - (2) When the national guard security officer or firefighter has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.

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- d. Normal retirement date for a peace officer or correctional officer employed by a political subdivision is:
    - (1) The first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty-five years and has completed at least three eligible years of employment; or
    - (2) When the peace officer or correctional officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
  - e. Normal retirement date for a peace officer employed by the bureau of criminal investigation is:
    - (1) The first day of the month next following the month in which the peace officer attains the age of fifty-five years and has completed at least three eligible years of employment; or
    - (2) When the peace officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
  - f. Postponed retirement date is the first day of the month next following the month in which the member, on or after July 1, 1977, actually severs or has severed the member's employment after reaching the normal retirement date.
  - g. Early retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed three years of eligible employment. For a national guard security officer or firefighter, early retirement date is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty years and has completed at least three years of eligible employment. For a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, early retirement date is the first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty years and has completed at least three years of eligible employment.
  - h. Disability retirement date is the first day of the month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules of the boardoffice, and has completed at least one hundred eighty days of eligible employment. For supreme and district court judges, permanent and total disability is based solely on a judge's inability to perform judicial duties arising out of physical or mental impairment, as determined pursuant to rules adopted by the boardoffice or as provided by subdivision a of subsection 3 of section 27-23-03. A member is eligible to receive disability retirement benefits only if the member:
    - (1) Became disabled during the period of eligible employment; and

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- (2) Applies for disability retirement benefits within twelve months of the date the member terminates employment.

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

4. The boardoffice shall calculate retirement benefits as follows:

- a. Normal retirement benefits for all retirees, except supreme and district court judges, reaching normal retirement date equal an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which is determined as follows:
  - (1) Service benefit equals two percent of final average salary multiplied by the number of years of service employment.
  - (2) Prior service benefit equals two percent of final average salary multiplied by the number of years of prior service employment.
- b. Normal retirement benefits for all supreme and district court judges under the public employees retirement system reaching normal retirement date equal an annual amount, payable monthly, comprised of a benefit as defined in this chapter, determined as follows:
  - (1) Benefits must be calculated from the time of appointment or election to the bench and must equal three and one-half percent of final average salary multiplied by the first ten years of judicial service, two and eighty hundredths percent of final average salary multiplied by the second ten years of judicial service, and one and one-fourth percent of final average salary multiplied by the number of years of judicial service exceeding twenty years.
  - (2) Service benefits must include, in addition, an amount equal to the percent specified in subdivision a of final average salary multiplied by the number of years of nonjudicial employee service and employment.
- c. Postponed retirement benefits are calculated as for single life benefits for those members who retired on or after July 1, 1977.
- d. Early retirement benefits are calculated as for single life benefits accrued to the date of termination of employment, but must be actuarially reduced to account for benefit payments beginning prior to the normal retirement date, which is the earlier of age sixty-five or the age at which current service plus age equals eighty-five. Except for a national guard security officer or firefighter, a peace officer or correctional officer employed by the bureau of criminal investigation or

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

- e. Except for supreme and district court judges, disability retirement benefits are twenty-five percent of the member's final average salary. Disability retirement benefits for supreme and district court judges are seventy percent of final average salary reduced by the member's primary social security benefits and by any workforce safety and insurance benefits paid. The minimum monthly disability retirement benefit under this section is one hundred dollars.
5. Upon termination of employment after completing three years of eligible employment, except for supreme and district court judges, who must complete five years of eligible employment, but before normal retirement date, a member who does not elect to receive early retirement benefits is eligible to receive deferred vested retirement benefits payable commencing on the member's normal retirement date in one of the optional forms provided in subsection 9. Members who have delayed or inadvertently failed to apply for retirement benefits to commence on their normal retirement date may choose to receive either a lump sum payment equal to the amount of missed payments, or an actuarial increase to the form of benefit the member has selected, which increase must reflect the missed payments.
6. If before retiring a member dies after completing three years of eligible employment, except for supreme and district court judges, who must have completed five years of eligible employment, the boardoffice shall pay the member's account balance to the member's designated beneficiary as provided in this subsection. If the member has designated an alternate beneficiary with the surviving spouse's written consent, the boardoffice shall pay the member's account balance to the named beneficiary. If the member has named more than one primary beneficiary, the boardoffice shall pay the member's account balance to the named primary beneficiaries in the percentages designated by the member or, if the member has not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the member, the boardoffice shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If any beneficiary survives the member, yet dies before distribution of the beneficiary's share, the beneficiary must be treated as if the beneficiary predeceased the member. If there are no remaining primary beneficiaries, the boardoffice shall pay the member's account balance to the contingent beneficiaries in the same manner. If there are no remaining designated beneficiaries, the boardoffice shall pay the member's account balance to the member's estate. If the member has not designated an alternate beneficiary or the surviving

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spouse is the beneficiary, the surviving spouse of the member may select a form of payment as follows:

- a. If the member was a supreme or district court judge, the surviving spouse may select one of the following optional forms of payment:
    - (1) A lump sum payment of the member's retirement account as of the date of death.
    - (2) Payments as calculated for the deceased member as if the member was of normal retirement age at the date of death, payable until the spouse dies.
  - b. The surviving spouse of all other members may select one of the following options:
    - (1) A lump sum payment of the member's retirement account as of the date of death.
    - (2) Payment of a monthly retirement benefit equal to fifty percent of the deceased member's accrued single life retirement benefits until the spouse dies.
    - (3) If the member dies on or after the member's normal retirement date, the payment of a monthly retirement benefit equal to an amount that would have been paid to the surviving spouse if the member had retired on the day of the member's death and had selected a one hundred percent joint and survivor annuity, payable until the spouse dies. A surviving spouse who received a benefit under this subsection as of July 31, 1995, is entitled to the higher of that person's existing benefit or the equivalent of the accrued benefit available under the one hundred percent joint and survivor provision as if the deceased member were of normal retirement age, with the increase payable beginning August 1, 1995.
7. If a member not coming under the provisions of subsection 6 terminates employment because of death, permanent and total disability, or any voluntary or involuntary reason prior to retirement, the member or the member's designated beneficiary is entitled to the member's account balance at termination. The boardoffice automatically shall refund a member's account balance if the member has completed less than three years of eligible employment, has an account balance of less than one thousand dollars, and was not a supreme or district court judge. If the member was a supreme or district court judge, the boardoffice automatically shall refund a member's account balance if the member completed less than five years of eligible employment. A member may waive the refund if the member submits a written statement to the boardoffice, within thirty days after termination, requesting that the member's account balance remain in the fund.
  8. The surviving spouse of a member receiving retirement benefits must be the member's primary beneficiary unless there is no surviving spouse or the surviving spouse designates an alternate beneficiary in writing. If a member receiving retirement benefits or the member's surviving spouse receiving retirement benefits dies before the total amount of benefits paid

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to either or both equals the amount of the member's account balance at retirement, the difference must be paid to the named beneficiary of the recipient or, if there is no named beneficiary, to the recipient's estate.

9. The boardoffice shall adopt rules providing for the receipt of retirement benefits in the following optional forms:
  - a. Single life.
  - b. An actuarially equivalent joint and survivor option, with fifty percent or one hundred percent options.
  - c. Actuarially equivalent life with ten-year or twenty-year certain options.
  - d. An actuarially equivalent partial lump sum distribution option with a twelve-month maximum lump sum distribution.
  - e. An actuarially equivalent graduated benefit option with either a one percent or two percent increase to be applied the first day of January of each year.

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

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

**SECTION 46. AMENDMENT.** Section 54-52-17.2 of the North Dakota Century Code is amended and reenacted as follows:

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**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 retirement system is required, then, for purposes of current participation, the employee is a member of each applicable retirement system. The employer shall pay over to each retirement system the member assessment and employer contributions at the rates currently existing for that retirement system.
- b. If an employee described in subdivision a was employed prior to August 1, 2003, and has dual membership rights, the employee may elect to begin participation in the alternate plan pursuant to the plan provisions on August 1, 2003, or may continue participation according to the plan provisions in effect on July 31, 2003. An employee's

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election under this subdivision is ineffective unless delivered to the public employees retirement system administrative offices by five p.m. on October 31, 2003. If an election is not received by the public employees retirement system, the participation and benefit calculation requirements in effect on July 31, 2003, apply to that employee.

**SECTION 47. AMENDMENT.** Section 54-52-17.3 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 48. AMENDMENT.** Section 54-52-17.4 of the North Dakota Century Code is amended and reenacted as follows:

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

1. A participating member may elect to purchase credit for years of service and prior service for which the participating member is not presently receiving credit. A participating member is entitled to purchase additional credit under this section for the following service or prior service, except this service is not eligible for credit if the years claimed also qualify for retirement benefits from another retirement system:
  - a. Active prior employment in the armed forces of the United States, except as provided in section 54-52-17.14, for up to four years of credit.
  - b. Employment as a permanent employee by a public employer either within or outside the state of North Dakota.
  - c. Employment as a permanent employee by a political subdivision participating in the public employees retirement system which did not pay the cost of past service benefits under section 54-52-02.1.
  - d. Service the participating member did not elect to repurchase upon re-employment under section 54-52-02.6.
  - e. Service of an eligible employee, who exercised the privilege to withdraw from the predecessor plan to the public employees retirement system under subsection 10 of section 54-52-17 as created by section 13 of chapter 499 of the 1977 Session Laws.
  - f. Employment as a permanent employee by the federal government.
2. A participating member may elect to purchase credit for the following absences for which the participating member is not receiving service credit:

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- a. Employer-approved leave of absence; or
  - b. Months away from work while participating as a seasonal employee.
  3. Supreme and district court judges under the public employees retirement system may elect to purchase credit for the following years of service:
    - a. Except as provided in section 54-52-17.14, for up to four years of credit for active employment in the armed forces of the United States.
    - b. As a county judge in a county or counties that did not participate in the public employees retirement system under this chapter.
    - c. Participation in the public employees retirement system as a county judge may be converted to credit in the judges' retirement system.
  4. The participating member may purchase credit under this section, or the participating member's employer may purchase for the participating member, by paying to the boardoffice an amount equal to the actuarial cost to the fund of providing the credit. If the participating member purchases credit pursuant to subdivision d of subsection 1, the participating member must pay to the boardoffice an amount equal to the greater of the actuarial cost to the fund of providing the credit, or the amount the participating member received upon taking a refund of the participating member's account balance, plus interest at the actuarial rate of return from the time the participating member was issued the refund. If the participating member is not repurchasing all of the credit originally refunded, the participating member must pay a pro rata amount of the refunded amount determined by dividing the refunded amount by the number of months of credit refunded, multiplying that amount times the number of months of credit the participating member seeks to repurchase, and adding interest at the actuarial rate of return. The participating member or the participating member's employer shall also pay to the retiree health benefits fund established under section 54-52.1-03.2 an amount equal to the actuarial cost to that fund for the additional credit. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. The boardoffice shall adopt rules governing the purchase of additional credit under this section.
  5. Pursuant to rules adopted by the boardoffice, the boardoffice may allow a participating member to purchase service credit with either pretax or aftertax moneys, at the board's discretion of the office. If the participating member elects to purchase service credit using pretax moneys, the requirements and restrictions in subsection 3 of section 54-52-05 apply to the purchase arrangement.
  6. In addition to service credit identified in this section, a vested participating member may purchase up to five years of service credit unrelated to any other eligible service.

**SECTION 49. AMENDMENT.** Section 54-52-17.6 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The ~~board~~office shall pay retirement benefits in accordance with the applicable requirements of any qualified domestic relations order. The ~~board~~office shall review a domestic relations order submitted to it to determine if the domestic relations order is qualified under this section and under rules established by the ~~board~~office for determining the qualified status of domestic relations orders and administering distributions under the qualified orders. Upon determination that a domestic relations order is qualified, the ~~board~~office shall notify the participating member and the named alternate payee of its receipt of the qualified domestic relations order.
2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of a participating member, is made pursuant to a North Dakota domestic relations law, and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of the benefits payable to the participating member. A qualified domestic relations order may not require the ~~board~~office to provide any type or form of benefit, or any option, not otherwise provided under the public employees retirement system, or to provide increased benefits as determined on the basis of actuarial value. However, a qualified domestic relations order may require the payment of benefits at the early retirement date notwithstanding that the participating member has not terminated eligible employment. A qualified domestic relations order must specify:
  - a. The name and the last-known mailing address of the participating member and the name and mailing address of each alternate payee covered by the order;
  - b. The amount or percentage of the participating member's benefits to be paid by the plan 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 50. AMENDMENT.** Section 54-52-17.11 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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January 1, 2009. The increases allowed by this section may only be given if the ~~public employees retirement board~~ office determines there is actuarial margin sufficient to pay the increases.

**SECTION 51. AMENDMENT.** Section 54-52-17.13 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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

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

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

**SECTION 53. AMENDMENT.** Section 54-52-26 of the North Dakota Century Code is amended and reenacted as follows:

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

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

1. A person to whom the member has given written consent to have the information disclosed.
2. A person legally representing the member, upon proper proof of representation, and unless the member specifically withdraws consent.
3. A person authorized by a court order.
4. A member's participating employer, limited to information concerning the member's years of service credit and years of age. The ~~board~~ office may share other types of information as needed by the employer to validate the employer's compliance with existing state or federal laws. Any information

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provided to the member's participating employer under this subsection must remain confidential except as provided under subsection 6.

5. The administrative staff of the retirement and investment office for purposes relating to membership and benefits determination.
6. State or federal agencies for purposes of reporting on a service provider's provision of services or when the employer must supply information to an agency to validate the employer's compliance with existing state or federal laws.
7. Member interest groups approved by the boardoffice on a third-party blind list basis, limited to information concerning the member's participation, name, and address.
8. The member's spouse or former spouse, that individual's legal representative, and the judge presiding over the member's dissolution proceeding for purposes of aiding the parties in drafting a qualified domestic relations order under section 54-52-17.6. The information disclosed under this subsection must be limited to information necessary for drafting the order.
9. Beneficiaries designated by a participating member or a former participating member to receive benefits after the member's death, but only after the member's death. Information relating to beneficiaries may be disclosed to other beneficiaries of the same member.
10. The general public, but only after the boardoffice has been unable to locate the member for a period in excess of two years, and limited to the member's name and 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 54. 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.

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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 benefits from all the plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. If the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. The reduction must be made pro rata between the plans, in proportion to the participating member's service in each plan.
  2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirements under section 401(a)(9)(G), and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. A member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.
  3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
  4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
  5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued

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retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.

**SECTION 55. AMENDMENT.** Section 54-52-29 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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

**SECTION 56. AMENDMENT.** Section 54-52.1-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-01. Definitions.**

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

1. "~~Board~~" means the public employees retirement board.
2. "Carrier" means:
  - a. For the hospital benefits coverage, an insurance company authorized to do business in the state, or a nonprofit hospital service association, or a prepaid group practice hospital care plan authorized to do business in the state, or the state if a self-insurance plan is used for providing hospital benefits coverage.
  - b. For the medical benefits coverage, an insurance company authorized to do business in the state, or a nonprofit medical service association, or a prepaid group practice medical care plan authorized to do

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business in the state, or the state if a self-insurance plan is used for providing medical benefits coverage.

- c. For the life insurance benefits coverage, an insurance company authorized to do business in the state.
- 3.2. "Department, board, or agency" means the departments, boards, agencies, or associations of this state, and includes the state's charitable, penal, and higher educational institutions; the Bank of North Dakota; the state mill and elevator association; and counties, cities, district health units, and school districts.
- 3. "Director" means the executive director of the public employees retirement system office.
- 4. "Eligible employee" means every permanent employee who is employed by a governmental unit, as that term is defined in section 54-52-01. "Eligible employee" includes members of the legislative assembly, judges of the supreme court, paid members of state or political subdivision boards, commissions, or associations, full-time employees of political subdivisions, elective state officers as defined by subsection 2 of section 54-06-01, and disabled permanent employees who are receiving compensation from the North Dakota workforce safety and insurance fund. As used in this subsection, "permanent employee" means one whose services are not limited in duration, who is filling an approved and regularly funded position in a governmental unit, and who is employed at least seventeen and one-half hours per week and at least five months each year or for those first employed after August 1, 2003, is employed at least twenty hours per week and at least twenty weeks each year of employment. For purposes of sections 54-52.1-04.1, 54-52.1-04.7, 54-52.1-04.8, and 54-52.1-11, "eligible employee" includes retired and terminated employees who remain eligible to participate in the uniform group insurance program pursuant to applicable state or federal law.
- 5. "Health maintenance organization" means an organization certified to establish and operate a health maintenance organization in compliance with chapter 26.1-18.1.
- 6. "Hospital benefits coverage" means a plan which either provides coverage for, or pays, or reimburses expenses for hospital services incurred in accordance with the uniform contract.
- 7. "Life insurance benefits coverage" means a plan which provides both term life insurance and accidental death and dismemberment insurance in amounts determined by the ~~board~~office, with a minimum of one thousand dollars provided for the term life insurance portion of the coverage.
- 8. "Medical benefits coverage" means a plan which either provides coverage for, or pays, or reimburses expenses for medical services in accordance with the uniform contract.
- 9. "Member contribution" means the payment by the member into the retiree health benefits fund pursuant to sections 54-52-02.9 and 54-52-17.4.

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10. "Member's account balance" means the member's contributions plus interest at the rate set by the boardoffice.
  11. "Office" means the public employees retirement system office.
  12. "Temporary employee" means a governmental unit employee who is not filling an approved and regularly funded position in an eligible governmental unit and whose services may or may not be limited in duration.

**SECTION 57. AMENDMENT.** Section 54-52.1-02 of the North Dakota Century Code is amended and reenacted as follows:

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

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

1. Medical and hospital benefits coverage group consisting of active eligible employees and retired employees not eligible for medicare, except for employees who first retire after the effective date of this section and are not eligible for medicare on their retirement. In determining premiums for coverage under this subsection for retired employees not eligible for medicare, the rate for a non-medicare retiree single plan is one hundred fifty percent of the active member single plan rate, the rate for a non-medicare retiree family plan of two people is twice the non-medicare retiree single plan rate, and the rate for a non-medicare retiree family plan of three or more persons is two and one-half times the non-medicare retiree single plan rate.
2. In addition to the coverage provided in subsection 1, another coverage option may be provided for retired employees not eligible for medicare, except for employees who first retire after the effective date of this section and are not eligible for medicare on their retirement, provided the option does not increase the implicit subsidy as determined by the governmental accounting standards board's other postemployment benefit reporting procedure. In offering this additional option, the boardoffice may have an open enrollment but thereafter enrollment for this option must be as specified in section 54-52.1-03.
3. Retired medicare-eligible employee group medical and hospital benefits coverage.
4. Active eligible employee life insurance benefits coverage.
5. Retired employee life insurance benefits coverage.

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6. Terminated employee continuation group medical and hospital benefits coverage.
  7. Terminated employee conversion group medical and hospital benefits coverage.
  8. Dental benefits coverage.
  9. Vision benefits coverage.
  10. Long-term care benefits coverage.
  11. Employee assistance benefits coverage.
  12. Prescription drug coverage.

**SECTION 58. AMENDMENT.** Section 54-52.1-03 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Any eligible employee may be enrolled in the uniform group insurance program created by this chapter by requesting enrollment with the employing department. If an eligible employee does not enroll in the uniform group insurance program at the time of beginning employment, in order to enroll at a later time the eligible employee must meet minimum requirements established by the boardoffice. An employing department may not require an active eligible employee to request coverage under the uniform group insurance program as a prerequisite to receive the minimum employer-paid life insurance benefits coverage or employee assistance program benefits coverage.
2. Within five days after the expiration of the payroll period during which enrollment was requested, the employing department shall enroll the employee with the boardoffice. The employee's insurance coverage becomes effective on the date of enrollment.
3. A retiree who has accepted a periodic distribution from the defined contribution retirement plan pursuant to section 54-52.6-13 who the boardoffice determines is eligible for participation in the uniform group insurance program or has accepted a retirement allowance from the public employees retirement system, the highway patrolmen's retirement system, the teachers' insurance and annuity association of America - college retirement equities fund for service credit earned while employed by North Dakota institutions of higher education, the retirement system established by job service North Dakota under section 52-11-01, the judges' retirement system established under chapter 27-17, or the teachers' fund for retirement may elect to participate in the uniform group under this chapter without meeting minimum requirements at age sixty-five, when the member's spouse reaches age sixty-five, upon the receipt of a benefit, or when the spouse terminates employment. If a retiree or surviving spouse does not elect to participate at the times specified in this subsection, the retiree or surviving spouse must meet the minimum requirements established by the boardoffice. Subject to sections 54-52.1-03.2 and

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54-52.1-03.3, each retiree or surviving spouse shall pay directly to the beardoffice the premiums in effect for the coverage then being provided. A retiree or surviving spouse who has met the initial eligibility requirements of this subsection to begin participation in the uniform group insurance program remains eligible as long as the retiree maintains the retiree's participation in the program by paying the required premium pursuant to rules adopted by the beardoffice.

4. Upon the termination of employment when the employee is not eligible to participate under subsection 3 or 5 or applicable federal law, that employee cannot continue as a member of the uniform group.
5. A member or former member of the legislative assembly or that person's surviving spouse may elect to continue membership in the uniform group within the applicable time limitations after either termination of eligible employment as a member of the legislative assembly or termination of other eligible employment or, for a surviving spouse, upon the death of the member or former member of the legislative assembly. The member or former member of the legislative assembly or that person's surviving spouse shall pay the premiums in effect for the coverage provided directly to the beardoffice.
6. Each eligible employee requesting enrollment shall furnish the appropriate person in the employing department, board, or agency with such information and in such form as prescribed by the beardoffice to enable the enrollment of the employee, or employee and dependents, in the uniform group insurance program created by this chapter.
7. If the participating employee is a faculty member in a state charitable, penal, or educational institution who receives a salary or wages on less than a twelve-month basis and has signed a contract to teach for the next ensuing school year, the agency shall make arrangements to include that employee in the insurance program on a twelve-month basis and make the contribution authorized by this section for each month of the twelve-month period.

**SECTION 59. AMENDMENT.** Section 54-52.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

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

If eligible under federal law, a political subdivision may extend the benefits of the uniform group insurance program under this chapter to its permanent employees, subject to minimum requirements established by the beardoffice and a minimum period of participation of sixty months. If the political subdivision withdraws from participation in the uniform group insurance program, before completing sixty months of participation, unless federal or state laws or rules are modified or interpreted in a way that makes participation by the political subdivision in the uniform group insurance program no longer allowable or appropriate, the political subdivision shall make payment to the beardoffice in an amount equal to any expenses incurred in the uniform group insurance program that exceed income received on behalf of the political subdivision's employees as determined under rules adopted by the beardoffice. The Garrison Diversion Conservancy District, and district health units required to participate

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in the public employees retirement system under section 54-52-02, shall participate in the uniform group insurance program under the same terms and conditions as state agencies. A retiree who has accepted a retirement allowance from a participating political subdivision's retirement plan may elect to participate in the uniform group under this chapter without meeting minimum requirements at age sixty-five, when the employee's spouse reaches age sixty-five, upon the receipt of a benefit, when the political subdivision joins the uniform group insurance plan if the retiree was a member of the former plan, or when the spouse terminates employment. If a retiree or surviving spouse does not elect to participate at the times specified in this section, the retiree or surviving spouse must meet the minimum requirements established by the boardoffice. Each retiree or surviving spouse shall pay directly to the boardoffice the premiums in effect for the coverage then being provided. The boardoffice may require documentation that the retiree has accepted a retirement allowance from an eligible retirement plan other than the public employees retirement system.

**SECTION 60. AMENDMENT.** Section 54-52.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The boardoffice shall establish a retiree health benefits fund account with the Bank of North Dakota for the purpose of prefunding and providing hospital benefits coverage and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program for retired eligible employees or surviving spouses of retired eligible employees and their dependents as provided in this chapter. The state shall contribute monthly to the retiree health benefits fund an amount equal to one and fourteen hundredths percent of the monthly salaries and wages of all participating members of the highway patrolmen's retirement system under chapter 39-03.1, and one and fourteen hundredths percent of the monthly salaries of all supreme or district court judges who are participating members of the public employees retirement system under chapter 54-52. Each governmental unit that contributes to the public employees retirement system fund under section 54-52-06 or the retirement plan under chapter 54-52.6 shall contribute monthly to the retiree health benefits fund an amount equal to one and fourteen hundredths percent of the monthly salaries or wages of all participating members of the public employees retirement system under chapter 54-52 or chapter 54-52.6, except for nonteaching employees of the superintendent of public instruction who elect to participate in the public employees retirement system pursuant to section 54-52-02.13 and employees of the state board for career and technical education who elect to participate in the public employees retirement system pursuant to section 54-52-02.14. For nonteaching employees of the superintendent of public instruction who elect to participate in the public employees retirement system pursuant to section 54-52-02.13, the superintendent of public instruction shall contribute monthly to the retiree health benefits fund an amount equal to three and twenty-four hundredths percent of the monthly salaries or wages of those nonteaching employee members, beginning on the first of the month following the transfer under section 54-52-02.13 and continuing thereafter for a period of eight years, after which time the superintendent of public instruction shall contribute one and fourteen hundredths percent of the monthly salary or wages of those

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nonteaching employee members. For employees of the state board for career and technical education who elect to participate in the public employees retirement system pursuant to section 54-52-02.14, the state board for career and technical education shall contribute monthly to the retiree health benefits fund an amount equal to two and ninety-nine hundredths percent of the monthly salary or wages of those employee members, beginning on the first of the month following the transfer under section 54-52-02.14 and continuing thereafter for a period of eight years, after which time the state board for career and technical education shall contribute one and fourteen hundredths percent of the monthly salary or wages of those employee members. The employer of a national guard security officer or firefighter shall contribute monthly to the retiree health benefits fund an amount equal to one and fourteen hundredths percent of the monthly salaries or wages of all national guard security officers or firefighters participating in the public employees retirement system under chapter 54-52. Job service North Dakota shall reimburse monthly the retiree health benefits fund for credit received under section 54-52.1-03.3 by members of the retirement program established by job service North Dakota under section 52-11-01. The boardoffice, as trustee of the fund and in exclusive control of its administration, shall:

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

**SECTION 61. AMENDMENT.** Section 54-52.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The following persons are entitled to receive credit for hospital and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program under subsection 2:

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- a. A member or surviving spouse of the highway patrolmen's retirement system is eligible for the credit beginning on the date retirement benefits are effective unless the premium is billed to the employer.
  - b. A member or surviving spouse of the public employees retirement system is eligible for the credit beginning on the date retirement benefits are effective unless the premium is billed to the employer.
  - c. A member or surviving spouse of the retirement program established by job service North Dakota under section 52-11-01 receiving retirement benefits is eligible for the credit beginning on the date retirement benefits are effective unless the premium is billed to the employer.
  - d. A retired judge or surviving spouse receiving retirement benefits under the retirement program established under chapter 27-17 is eligible for the credit beginning on the date retirement benefits are effective unless the premium is billed to the employer.
  - e. A former participating member of the defined contribution retirement plan receiving retirement benefits, or the surviving spouse of a former participating member of that retirement plan who was eligible to receive or was receiving benefits, under section 54-52.6-13, is eligible as determined by the boardoffice pursuant to its rules.
2. The boardoffice shall calculate the allowable monthly credit toward hospital and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program for a person eligible under subsection 1 in an amount equal to five dollars multiplied by the member's or deceased member's number of years of credited service under the highway patrolmen's retirement system, the public employees retirement system, the retirement program established by job service North Dakota under section 52-11-01, or the judges' retirement program established under chapter 27-17. For a member of the public employees retirement system receiving an early retirement benefit or the surviving spouse of that member, or a former participating member of the defined contribution retirement plan who is receiving a periodic distribution and would not meet the normal retirement provisions of the public employees retirement system, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of sixty-five and an additional reduction factor of six percent shall apply for each year the member terminates employment prior to attaining the age of sixty-four. For a member of the highway patrolmen's retirement system receiving an early retirement benefit or the surviving spouse of that member, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of fifty-five and an additional reduction factor of six percent shall apply for each year the member terminates employment prior to attaining the age of fifty-four. For a member of the retirement program established by job service North Dakota under section 52-11-01 receiving an early retirement benefit or a discontinued service annuity under the plan provisions of that retirement program or the surviving spouse of that member, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the

age of sixty-five and an additional reduction factor of six percent applies for each year the member terminates employment prior to attaining the age of sixty-four.

3. The ~~board~~office shall apply the credit allowable under subsection 2 as elected by the eligible participant to the payment of monthly premiums required of each person eligible under subsection 1 for hospital benefits coverage and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program. The ~~board~~office shall allow spouses who each have credit under subsection 2 to combine their credits and shall apply the combined credit to the required monthly premiums as elected pursuant to this subsection. However, if the allowable credit under any circumstance exceeds the monthly premium in effect for selected coverage, that amount of the credit which exceeds the premium is forfeited and may not be used for any other purpose.
4. The ~~board~~office may, as an alternative to the calculation of the allowable monthly credit under subsection 2, provide actuarially reduced benefit options for the member and the member's surviving spouse, including a one hundred percent joint and survivor option or a fifty percent joint and survivor option.

**SECTION 62. AMENDMENT.** Section 54-52.1-03.4 of the North Dakota Century Code is amended and reenacted as follows:

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

A temporary employee employed before August 1, 2007, may elect to participate in the uniform group insurance program by completing the necessary enrollment forms and qualifying under the medical underwriting requirements of the program if such election is made before January 1, 2015, and if the temporary employee is participating in the uniform group insurance program on January 1, 2015. In order for a temporary employee employed after July 31, 2007, to qualify to participate in the uniform group insurance program, the employee must be employed at least twenty hours per week; must be employed at least twenty weeks each year of employment; must make the election to participate before January 1, 2015; and must be participating in the uniform group insurance program as of January 1, 2015. To be eligible to participate in the uniform group insurance program, a temporary employee first employed after December 31, 2014, or any temporary employee not participating in the uniform group insurance program as of January 1, 2015, must meet the definition of a full-time employee under section 4980H(c)(4) of the Internal Revenue Code [26 U.S.C. 4980H(c)(4)]. Monthly, the temporary employee or the temporary employee's employer shall pay to the ~~board~~office the premiums in effect for the coverage being provided. In the case of a temporary employee who is an applicable taxpayer as defined in section 36B(c)(1)(A) of the Internal Revenue Code [26 U.S.C. 36B(c)(1)(A)], the temporary employee's required contribution for medical and hospital benefits self-only coverage may not exceed the maximum employee required contribution specified under section 36B(c)(2)(C) of the Internal Revenue Code [26 U.S.C. 36B(c)(2)(C)], and the employer shall pay any difference between the maximum employee required contribution for medical and hospital benefits self-only coverage and the cost of the premiums in effect for this coverage. An employer may pay health or life insurance premiums for a permanent employee on an unpaid leave of

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absence. A political subdivision, department, board, or agency may make a contribution for coverage under this section.

**SECTION 63. AMENDMENT.** Section 54-52.1-04 of the North Dakota Century Code is amended and reenacted as follows:

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

The boardoffice shall receive bids for the providing of hospital benefits coverage, medical benefits coverage, life insurance benefits coverage for a specified term, and employee assistance program services; may receive bids separately for prescription drug coverage; and shall accept one or more bids of and contract with the carriers that in the judgment of the boardoffice best serves the interests of the state and its eligible employees. Solicitations must be made not later than ninety days before the expiration of an existing uniform group insurance contract. Bids must be solicited by advertisement in a manner selected by the boardoffice that will provide reasonable notice to prospective bidders. In preparing bid proposals and evaluating bids, the boardoffice may utilize the services of consultants on a contract basis in order that the bids received may be uniformly compared and properly evaluated. In determining which bid, if any, will best serve the interests of eligible employees and the state, the boardoffice shall give adequate consideration to the following factors:

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

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

**SECTION 64. AMENDMENT.** Section 54-52.1-04.1 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 65. AMENDMENT.** Section 54-52.1-04.2 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 66. AMENDMENT.** Section 54-52.1-04.3 of the North Dakota Century Code is amended and reenacted as follows:

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

The ~~board~~office shall establish under a self-insurance plan a contingency reserve fund to provide for adverse fluctuations in future charges, claims, costs, or expenses of the uniform group insurance program. The ~~board~~office shall determine the amount necessary to provide a balance in the contingency reserve fund between one and one-half months and three months of claims paid based on the average monthly claims paid during the twelve-month period immediately preceding March first of each year. The ~~board~~office also shall determine the amount necessary to provide an additional balance in the contingency reserve fund between one month and one and one-half months for claims incurred but not yet reported. The ~~board~~office may arrange for the services of an actuarial consultant to assist the ~~board~~office in making these determinations. Upon the initial changeover from a contract for insurance pursuant to section 54-52.1-04 to a self-insurance plan pursuant to section 54-52.1-04.2, the ~~board~~office must have a plan in place which is reasonably calculated to meet the funding requirements of this chapter within sixty months. All moneys in the contingency reserve fund, not otherwise appropriated, are appropriated for the payment of claims and other costs of the uniform group insurance program during periods of adverse claims or cost fluctuations.

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**SECTION 67. AMENDMENT.** Section 54-52.1-04.4 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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

**SECTION 68. AMENDMENT.** Section 54-52.1-04.6 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 69. AMENDMENT.** Section 54-52.1-04.7 of the North Dakota Century Code is amended and reenacted as follows:

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

The boardoffice may establish a dental plan, a vision plan, or both, for eligible employees. The boardoffice shall receive bids for the plan or plans pursuant to section 54-52.1-04. The boardoffice may reject any or all bids and provide a plan of self-insurance. Premiums for this coverage must be paid by the eligible employee. Any refund, rebate, dividend, experience rating allowance, discount, or other reduction of premium must be credited as provided by section 54-52.1-06.

**SECTION 70. AMENDMENT.** Section 54-52.1-04.8 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 71. AMENDMENT.** Section 54-52.1-04.9 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 72. AMENDMENT.** Section 54-52.1-04.10 of the North Dakota Century Code is amended and reenacted as follows:

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

The boardoffice shall provide medical benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 for dental anesthesia and hospitalization in the same manner as provided under section 26.1-36-09.9.

**SECTION 73. AMENDMENT.** Section 54-52.1-04.11 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 74. AMENDMENT.** Section 54-52.1-04.12 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 75. AMENDMENT.** Section 54-52.1-04.13 of the North Dakota Century Code is amended and reenacted as follows:

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

1. As used in this section:
  - a. "Distant site" means a site at which a health care provider or health care facility is located while providing medical services by means of telehealth.
  - b. "Health care facility" means any office or institution at which health services are provided. The term includes hospitals; clinics; ambulatory surgery centers; outpatient care facilities; nursing homes; nursing, basic, long-term, or assisted living facilities; laboratories; and offices of any health care provider.
  - c. "Health care provider" includes an individual licensed under chapter 43-05, 43-06, 43-12.1 as a registered nurse or as an advanced practice registered nurse, 43-13, 43-15, 43-17, 43-26.1, 43-28, 43-32, 43-37, 43-40, 43-41, 43-42, 43-44, 43-45, 43-47, 43-58, or 43-60.
  - d. "Originating site" means a site at which a patient is located at the time health services are provided to the patient by means of telehealth.
  - e. "Policy" means health benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2.
  - f. "Store-and-forward technology" means electronic information, imaging, and communication that is transferred, recorded, or otherwise stored in order to be reviewed at a distant site at a later date by a health care provider or health care facility without the patient present in real time. The term includes telehome monitoring and interactive audio, video, and data communication.
  - g. "Telehealth":
    - (1) Means the use of interactive audio, video, or other telecommunications technology that is used by a health care provider or health care facility at a distant site to deliver health services at an originating site; and that is delivered over a secure connection that complies with the requirements of state and federal laws.
    - (2) Includes the use of electronic media for consultation relating to the health care diagnosis or treatment of a patient in real time or through the use of store-and-forward technology.
    - (3) Does not include the use of audio-only telephone, electronic mail, or facsimile transmissions.
2. For all policies that become effective after June 30, 2015, and which do not extend past June 30, 2017, the boardoffice shall provide health benefits coverage under a policy that provides coverage for health services delivered by means of telehealth which is the same as the coverage for health services delivered by in-person means.

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3. Payment or reimbursement of expenses for covered health services delivered by means of telehealth under this section may be established through negotiations conducted by the ~~board~~office or the ~~board~~office's contractor with the health services providers in the same manner as the ~~board~~office establishes payment or reimbursement of expenses for covered health services that are delivered by in-person means.
  4. Coverage under this section may be subject to deductible, coinsurance, and copayment provisions.
  5. This section does not require:
    - a. A policy to provide coverage for health services that are not medically necessary, subject to the terms and conditions of the policy;
    - b. A policy to provide coverage for health services delivered by means of telehealth if the policy would not provide coverage for the health services if delivered by in-person means;
    - c. A policy to reimburse a health care provider or health care facility for expenses for health services delivered by means of telehealth if the policy would not reimburse that health care provider or health care facility if the health services had been delivered by in-person means; or
    - d. A health care provider to be physically present with a patient at the originating site unless the health care provider who is delivering health services by means of telehealth determines the presence of a health care provider is necessary.

**SECTION 76. AMENDMENT.** Section 54-52.1-04.14 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 77. AMENDMENT.** Section 54-52.1-05 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Each uniform group insurance contract entered by the ~~board~~office must be consistent with the provisions of this chapter, must be signed for the state of North Dakota by the ~~chairman of the board~~director, and must include the following:
  - a. As many optional coverages as deemed feasible and advantageous by the ~~board~~office.
  - b. A detailed statement of benefits offered, including maximum limitations and exclusions, and such other provisions as the ~~board~~office may deem necessary or desirable.

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2. The initial term or the renewal term of a fully insured uniform group insurance contract for hospital benefits coverage, medical benefits coverage, or prescription drug coverage may not exceed two years.
    - a. The boardoffice may renew a contract subject to this subsection without soliciting a bid under section 54-52.1-04 if the boardoffice determines the carrier's performance under the existing contract meets the board's expectations of the office and the proposed premium renewal amount does not exceed the board's expectations of the office.
    - b. In making a determination under this subsection, the boardoffice shall:
      - (1) Use the services of a consultant to concurrently and independently prepare a renewal estimate the boardoffice shall consider in determining the reasonableness of the proposed premium renewal amount.
      - (2) Review the carrier's performance measures, including payment accuracy, claim processing time, member service center metrics, wellness or other special program participation levels, and any other measures the boardoffice determines relevant to making the determination and shall consider these measures in determining the board's satisfaction of the office with the carrier's performance.
      - (3) Consider any additional information the boardoffice determines relevant to making the determination.
    - c. If the boardoffice determines the carrier's performance under the existing contract does not meet the board's expectations of the office or the proposed premium renewal amount exceeds the board's expectations of the office and the boardoffice determines to solicit a bid under section 54-52.1-04, the boardoffice shall specify its reasons for the determination to solicit a bid.

**SECTION 78. AMENDMENT.** Section 54-52.1-05.1 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 79. AMENDMENT.** Section 54-52.1-06 of the North Dakota Century Code is amended and reenacted as follows:

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

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Each department, board, or agency shall pay to the boardoffice each month from its funds appropriated for payroll and salary amounts a state contribution in the amount as determined by the primary carrier of the group contract for the full single rate monthly premium for each of its eligible employees enrolled in the uniform group insurance program and the full rate monthly premium, in an amount equal to that contributed under the alternate family contract, including major medical coverage, for hospital and medical benefits coverage for spouses and dependent children of its eligible employees enrolled in the uniform group insurance program pursuant to section 54-52.1-07. The boardoffice shall then pay the necessary and proper premium amount for the uniform group insurance program to the proper carrier or carriers on a monthly basis. Any refund, rebate, dividend, experience rating allowance, discount, or other reduction of premium amount must be credited at least annually to a separate fund of the uniform group insurance program to be used by the boardoffice to reimburse the administrative expense and benefit fund of the public employees retirement program for the costs of administration of the uniform group insurance program. In the event an enrolled eligible employee is not entitled to receive salary, wages, or other compensation for a particular calendar month, that employee may make direct payment of the required premium to the boardoffice to continue the employee's coverage, and the employing department, board, or agency shall provide for the giving of a timely notice to the employee of that person's right to make such payment at the time the right arises.

**SECTION 80. AMENDMENT.** Section 54-52.1-06.1 of the North Dakota Century Code is amended and reenacted as follows:

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

The funds necessary to pay the consulting fees and health insurance benefits related to the uniform group insurance program are hereby appropriated from insurance premiums received by the boardoffice.

**SECTION 81. AMENDMENT.** Section 54-52.1-08 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 82. AMENDMENT.** Section 54-52.1-08.1 of the North Dakota Century Code is amended and reenacted as follows:

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

The board shall be office is responsible for the nondiscrimination testing required under section 89 of the Internal Revenue Code. The boardoffice may engage the services of a consultant to assist the boardoffice in its administration of this section.

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The various state departments, boards, agencies, and commissions shall provide the boardoffice with requested information so the boardoffice may carry out its duties under this section.

**SECTION 83. AMENDMENT.** Section 54-52.1-08.2 of the North Dakota Century Code is amended and reenacted as follows:

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

If the boardoffice determines that any section or the phraseology of any section of this chapter does not comply with applicable federal statutes or rules, the boardoffice shall adopt appropriate terminology with respect to that section to comply with the federal statutes or rules, subject to the approval of the legislative management's employee benefits programs committee. The boardoffice may assume responsibility for group purchasing arrangements as provided by federal law. Any plan modifications made by the boardoffice under this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

**SECTION 84. AMENDMENT.** Section 54-52.1-09 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 85. AMENDMENT.** Section 54-52.1-11 of the North Dakota Century Code is amended and reenacted as follows:

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

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

1. A person to whom the eligible employee has given written authorization to have the information disclosed.
2. A person legally representing the eligible employee, upon proper proof of representation, and unless the eligible employee specifically withdraws authorization.
3. A person authorized by a court order.

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4. A person or entity to which the boardoffice is required to disclose information pursuant to federal or state statutes or regulations.
  5. Any person or entity if the purpose of the disclosure is for treatment, payment, or health care operations.

**SECTION 86. AMENDMENT.** Section 54-52.1-12 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 87. AMENDMENT.** Section 54-52.1-13 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 88. AMENDMENT.** Section 54-52.1-14 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 89. AMENDMENT.** Section 54-52.1-15 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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**SECTION 90. AMENDMENT.** Section 54-52.1-16 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The boardoffice may establish a collaborative drug therapy program available to individuals in the medical and hospital benefits coverage group. The purpose of the collaborative drug therapy program is to improve the health of individuals in identified health populations and to manage health care expenditures.
2. Under the program, the boardoffice may involve physicians, pharmacists, and other health professionals to coordinate health care for individuals in identified health populations in order to improve health outcomes and reduce spending on care for the identified health problem. Under the program, pharmacists and other health professionals may be reimbursed for providing face-to-face collaborative drug therapy services to covered individuals in the identified health population. To encourage enrollment in the plan, the boardoffice may provide incentives to covered individuals in the identified health population which may include waived or reduced copayment for related treatment drugs and supplies.
3. The boardoffice may request the assistance of the North Dakota pharmacists association or a specified delegate to implement a formalized disease management program with the approval of the prescriptive practices committee established in section 43-15-31.4, which must serve to standardize chronic disease care and improve patient outcomes. This program must facilitate enrollment procedures, provide standards of care, enable consistent documentation of clinical and economic outcomes, and structure an outcomes reporting system.
4. The boardoffice may seek and accept private contributions, gifts, and grants-in-aid from the federal government, private industry, and other sources for a collaborative drug therapy program for identified health populations. Any funds that may become available through contributions, gifts, grants-in-aid, or other sources to the boardoffice for a collaborative drug therapy program are appropriated to the boardoffice on a continuing basis.

**SECTION 91. AMENDMENT.** Section 54-52.1-17 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The boardoffice shall establish a collaborative drug therapy program that is to be available to individuals in the medical and hospital benefits coverage group. The purpose of the collaborative drug therapy program is to improve the health of individuals with diabetes and to manage health care expenditures.
2. The boardoffice shall involve physicians, pharmacists, and certified diabetes educators to coordinate health care for covered individuals with

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diabetes in order to improve health outcomes and reduce spending on diabetes care. Under the program, pharmacists and certified diabetes educators may be reimbursed for providing face-to-face collaborative drug therapy services to covered individuals with diabetes. To encourage enrollment in the plan, the boardoffice shall provide incentives to covered individuals who have diabetes which may include waived or reduced copayment for diabetes treatment drugs and supplies.

3. The North Dakota pharmacists association or a specified delegate shall implement a formalized diabetes management program with the approval of the prescriptive practices committee established in section 43-15-31.4, which must serve to standardize diabetes care and improve patient outcomes. This program must facilitate enrollment procedures, provide standards of diabetes care, enable consistent documentation of clinical and economic outcomes, and structure an outcomes reporting system.
4. The boardoffice shall fund the program from any available funds in the uniform group insurance program and if necessary the fund may add up to a two dollar per month charge on the policy premium for medical and hospital benefits coverage. A state agency shall pay any additional premium from the agency's existing appropriation.

**SECTION 92. AMENDMENT.** Section 54-52.1-18 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The boardoffice shall develop and implement a high-deductible health plan as an alternative to the plan under section 54-52.1-02. The high-deductible health plan alternative with a health savings account must be made available to state employees by January 1, 2012. After June 30, 2015, at the board's discretion of the office, the high-deductible health plan alternative may be offered to political subdivisions for coverage of political subdivision employees. If a political subdivision elects this high-deductible option the political subdivision may not offer the plan under section 54-52.1-02.
2. Health savings account fees for participating state employees must be paid by the employer.
  - a. Except as provided in subdivision b, subject to the limits of section 223(b) of the Internal Revenue Code [26 U.S.C. 233(b)], the difference between the cost of the single and family premium for eligible state employees under section 54-52.1-06 and the premium for those employees electing to participate under the high-deductible health plan under this section must be deposited in a health savings account for the benefit of each participating employee.
  - b. If the public employees retirement system is unable to establish a health savings account due to the employee's ineligibility under federal or state law or due to failure of the employee to provide necessary information in order to establish the account, the system is not responsible for depositing the health savings account contribution.

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The member will remain a participant in the high-deductible health plan regardless of whether a health savings account is established.

3. Each new state employee must be provided the opportunity to elect the high-deductible health plan alternative. At least once each biennium, the ~~board~~office shall provide an open enrollment period allowing existing state employees or a political subdivision to change their coverage.

**SECTION 93. AMENDMENT.** Section 54-52.2-01 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 94. AMENDMENT.** Section 54-52.2-02 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 95. AMENDMENT.** Section 54-52.2-03 of the North Dakota Century Code is amended and reenacted as follows:

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

The administration of the deferred compensation program for each state agency, department, board, commission, or institution is under the direction of the public employees retirement ~~board~~system office. Each county, city, or other political subdivision shall designate an officer to administer the deferred compensation program or appoint the public employees retirement ~~board~~system office to administer the program on its behalf. Payroll reductions must be made in each instance by the appropriate payroll officer. The public employees retirement ~~board~~system office shall administer the deferred compensation program based on one or more plans in compliance with the appropriate provisions of the Internal Revenue Code and

regulations adopted under those provisions. Not later than January 1, 1999, all plan assets and income must be held in trust, custodial accounts, or contracts as described in section 401(f) of the Internal Revenue Code [26 U.S.C. 401(f)] for the exclusive benefit of participants and their beneficiaries as required by section 457 of the Internal Revenue Code [26 U.S.C. 457]. Once the trust, custodial account, or contract is established as required by this section, the ~~board~~office shall act as fiduciary of the plan to the extent required by section 457 of the Internal Revenue Code [26 U.S.C. 457] and the ~~board~~office is authorized to do all things necessary for the proper administration of the plan to ensure that the plan maintains its qualified status.

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**SECTION 96. AMENDMENT.** Section 54-52.2-03.2 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The ~~board~~public employees retirement system office shall adopt rules necessary to implement this chapter and to manage the deferred compensation plan subject to the limitations of this chapter.
2. The ~~board~~office shall do all things necessary to preserve the tax-exempt status of the plan.
3. All providers must be authorized to do business in this state and all agents of providers must be licensed by the appropriate licensing authority or authorities in this state.
4. To continue to participate in the program, each provider must report annually, in a form and manner specified by the ~~board~~office, information related to their products, administrative and management fees, contract and maintenance charges, withdrawal penalties, market rating, and such other information the ~~board~~office may require.
5. The ~~board~~office may suspend participation of any provider that does not meet the requirements of this chapter or the rules adopted by the ~~board~~office.
6. The ~~board has the authority to~~public employees retirement system office ~~executive director may~~ establish a deferred compensation advisory committee, which ~~shall~~must include active providers who have signed a provider administrative agreement with the state of North Dakota deferred compensation plan.

**SECTION 97. AMENDMENT.** Section 54-52.2-03.3 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The ~~board~~public employees retirement system office or a vendor contracted for by the ~~board~~office shall apportion a participating member's account in the deferred compensation plan under this chapter in accordance with the applicable requirements of any qualified domestic relations order. The ~~board~~office shall review a domestic relations order submitted to the ~~board~~office to determine if the domestic relations order is

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qualified under this section and pursuant to the plan document established by the ~~board~~office for determining the qualified status of domestic relations orders and administering distributions under the qualified orders.

2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of a participating member, is made pursuant to a North Dakota domestic relations law, and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of the benefits payable to the participating member. A qualified domestic relations order may not require the ~~board~~office to provide any type or form of benefit, or any option, not otherwise provided under this chapter, or to provide increased benefits. A qualified domestic relations order must specify:
  - a. The name and the last-known mailing address of the participating member and the name and mailing address of each alternate payee covered by the order;
  - b. The amount or percentage of the participating member's benefits to be paid by the plan to each alternate payee;
  - c. That the alternate payee must take a lump sum payment of the benefits allocated to the alternate payee within one hundred twenty days of the later of the ~~board~~office's acceptance of the qualified domestic relations order or the entry of the order by the court; and
  - d. Each plan to which the order applies.

**SECTION 98. AMENDMENT.** Section 54-52.3-01 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 99. AMENDMENT.** Section 54-52.3-02 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 100. AMENDMENT.** Section 54-52.3-03 of the North Dakota Century Code is amended and reenacted as follows:

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

The office of management and budget shall transfer funds from the savings accruing to the agencies' salaries and wages line item, as a result of the diminution of the state's employer contribution for the Federal Insurance Contribution Act tax, to a payroll clearing account. The office of management and budget shall transfer funds from the payroll clearing account to the ~~board~~public employees retirement system office as necessary to defray the reasonable expenses of administering the pretax benefits program established under this chapter, including expenses associated with the program's medical spending account. Any revenue collected by the ~~board~~office from participating district health units must be used, and is hereby appropriated, to defray the expenses of administering the program. The amount necessary to pay consultants retained by the ~~board~~office, vendors retained by the ~~board~~office to provide claims administration services, any insurance costs associated with the medical spending account, and medical reimbursements for the medical spending account if funds are insufficient to pay claims are hereby appropriated from the savings and revenue generated by the program. All other expenses of administering the program must be paid in accordance with the agency's appropriation authority as established by the legislative assembly. The director of the office of management and budget may decrease or suspend the transfer of the savings accruing to the agencies' salaries and wages line item to the payroll clearing account upon determination that the funds deposited under this section are sufficient to offset anticipated obligations. Notwithstanding other provisions in this section, the public employees retirement system ~~board~~office, or any successor state agency, may not establish, enroll, or administer any pretax benefits program for a political subdivision or any other public or private business or entity, except for any program established specifically for employees of the state and employees of district health units.

**SECTION 101. AMENDMENT.** Section 54-52.3-05 of the North Dakota Century Code is amended and reenacted as follows:

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

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

1. A person to whom the employee has given written authorization to have the information disclosed.
2. A person legally representing the employee, upon proper proof of representation.
3. A person authorized by a court order.
4. A person or entity to which the ~~board~~office is required to disclose information pursuant to federal or state statutes or regulations.
5. Any person or entity if the purpose of the disclosure is for health care treatment, payment, or operations.

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**SECTION 102. AMENDMENT.** Section 54-52.3-06 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 103. AMENDMENT.** Section 54-52.6-01 of the North Dakota Century Code is amended and reenacted as follows:

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

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

1. "~~Board~~" means the ~~public employees retirement system board~~.
2. "Deferred member" means a person who elected to receive deferred vested retirement benefits under chapter 54-52.
3. "Eligible employee" means a permanent state employee who elects to participate in the retirement plan under this chapter.
4. "Employee" means any person employed by the state, whose compensation is paid out of state funds, or funds controlled or administered by the state or paid by the federal government through any of its executive or administrative officials.
5. "Employer" means the state of North Dakota.
6. "Office" means the public employees retirement system office.
7. "Participating member" means an eligible employee who elects to participate in the defined contribution retirement plan established under this chapter.
8. "Permanent employee" means a state employee whose services are not limited in duration and who is filling an approved and regularly funded position and is employed twenty hours or more per week and at least five months each year.
8. "Wages" and "salaries" means earnings in eligible employment under this chapter reported as salary on a federal income tax withholding statement plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement, incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously

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employer-provided fringe benefits under an agreement between an employee and a participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the ~~board~~office.

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

1. "~~Board~~" means the public employees retirement system ~~board~~.
2. "Deferred member" means a person who elected to receive deferred vested retirement benefits under chapter 54-52.
- 3.2. "Eligible employee" means a permanent state employee, except an employee of the judicial branch or an employee of the board of higher education and state institutions under the jurisdiction of the board, who is eighteen years or more of age and who is in a position not classified by North Dakota human resource management services. If a participating member loses permanent employee status and becomes a temporary employee, the member may still participate in the defined contribution retirement plan.
- 4.3. "Employee" means any person employed by the state, whose compensation is paid out of state funds, or funds controlled or administered by the state or paid by the federal government through any of its executive or administrative officials.
- 5.4. "Employer" means the state of North Dakota.
5. "Office" means the public employees retirement system office.
6. "Participating member" means an eligible employee who elects to participate in the defined contribution retirement plan established under this chapter.
7. "Permanent employee" means a state employee whose services are not limited in duration and who is filling an approved and regularly funded position and is employed twenty hours or more per week and at least five months each year.
8. "Wages" and "salaries" means earnings in eligible employment under this chapter reported as salary on a federal income tax withholding statement plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement, incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between an employee and a participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the ~~board~~office.

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**SECTION 104. AMENDMENT.** Section 54-52.6-02 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The boardoffice shall provide an opportunity for eligible employees who are new members of the public employees retirement system under chapter 54-52 to transfer to the defined contribution plan under this chapter pursuant to the rules and policies adopted by the boardoffice. An election made by a member of the public employees retirement system under chapter 54-52 to transfer to the defined contribution retirement plan under this chapter is irrevocable. For an individual who elects to transfer membership from the public employees retirement system under chapter 54-52 to the defined contribution retirement plan under this chapter, the boardoffice shall transfer a lump sum amount from the public employees retirement system fund to the participating member's account in the defined contribution retirement plan under this chapter. However, if the individual terminates employment prior to receiving the lump sum transfer under this section, the election made is ineffective and the individual remains a member of the public employees retirement system under chapter 54-52 and retains all the rights and privileges under that chapter. This section does not affect an individual's right to health benefits or retiree health benefits under chapter 54-52.1.
2. If the boardoffice receives notification from the internal revenue service that this section or any portion of this section will cause the public employees retirement system or the retirement plan established under this chapter to be disqualified for tax purposes under the Internal Revenue Code, then the portion that will cause the disqualification does not apply.
3. A participating member who becomes a temporary employee may still participate in the defined contribution retirement plan upon filing an election with the boardoffice within one hundred eighty days of transferring to temporary employee status. The participating member may not become a member of the defined benefit plan as a temporary employee. The temporary employee electing to participate in the defined contribution retirement plan shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by two percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of two percent, beginning with the monthly reporting period of January 2013, and with an additional increase of two percent, beginning with the monthly reporting period of January 2014. The temporary employee shall also pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee until termination of employment or reclassification of the temporary employee as a permanent employee.
4. A former participating member who has accepted a retirement distribution pursuant to section 54-52.6-13 and who subsequently becomes employed

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

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

1. The boardoffice shall provide an opportunity for each eligible employee who is a member of the public employees retirement system on September 30, 2001, and who has not made a written election under this section to transfer to the defined contribution retirement plan before October 1, 2001, to elect in writing to terminate membership in the public employees retirement system and elect to become a participating member under this chapter. Except as provided in section 54-52.6-03, an election made by an eligible employee under this section is irrevocable. The boardoffice shall accept written elections under this section from eligible employees during the period beginning on July 1, 1999, and ending 12:01 a.m. December 14, 2001. An eligible employee who does not make a written election or who does not file the election during the period specified in this section continues to be a member of the public employees retirement system. An eligible employee who makes and files a written election under this section ceases to be a member of the public employees retirement system effective twelve midnight December 31, 2001; becomes a participating member in the defined contribution retirement plan under this chapter effective 12:01 a.m. January 1, 2002; and waives all of that person's rights to a pension, annuity, retirement allowance, insurance benefit, or any other benefit under the public employees retirement system effective December 31, 2001. This section does not affect a person's right to health benefits or retiree health benefits under chapter 54-52.1. An eligible employee who is first employed and entered upon the payroll of that person's employer after September 30, 2001, may make an election to participate in the defined contribution retirement plan established under this chapter at any time during the first six months after the date of employment. If the boardoffice, in its sole discretion, determines that the employee was not adequately notified of the employee's option to participate in the defined contribution retirement plan, the boardoffice may provide the employee a reasonable time within which to make that election, which may extend beyond the original six-month decision window.
2. If an individual who is a deferred member of the public employees retirement system on September 30, 2001, is re-employed and by virtue of that employment is again eligible for membership in the public employees retirement system under chapter 54-52, the individual may elect in writing to remain a member of the public employees retirement system or if eligible to participate in the defined contribution retirement plan established under this chapter to terminate membership in the public employees retirement system and become a participating member in the defined contribution retirement plan established under this chapter. An election made by a deferred member under this section is irrevocable. The

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boardoffice shall accept written elections under this section from a deferred member during the period beginning on the date of the individual's re-employment and ending upon the expiration of six months after the date of that re-employment. If the boardoffice, in its sole discretion, determines that the employee was not adequately notified of the employee's option to participate in the defined contribution retirement plan, the boardoffice may provide the employee a reasonable time within which to make that election, which may extend beyond the original six-month decision window. A deferred member who makes and files a written election to remain a member of the public employees retirement system retains all rights and is subject to all conditions as a member of that retirement system. A deferred member who does not make a written election or who does not file the election during the period specified in this section continues to be a member of the public employees retirement system. A deferred member who makes and files a written election to terminate membership in the public employees retirement system ceases to be a member of the public employees retirement system effective on the last day of the payroll period that includes the date of the election; becomes a participating member in the defined contribution retirement plan under this chapter effective the first day of the payroll immediately following the date of the election; and waives all of that person's rights to a pension, an annuity, a retirement allowance, insurance benefit, or any other benefit under the public employees retirement system effective the last day of the payroll that includes the date of the election. This section does not affect any right to health benefits or retiree health benefits to which the deferred member may otherwise be entitled.

3. An eligible employee who elects to participate in the retirement plan established under this chapter must remain a participant even if that employee returns to the classified service or becomes employed by a political subdivision that participates in the public employees retirement system. The contribution amount must be as provided in this chapter, regardless of the position in which the employee is employed. Notwithstanding the irrevocability provisions of this chapter, if a member who elects to participate in the retirement plan established under this chapter becomes a supreme or district court judge, becomes a member of the highway patrol, becomes employed in a position subject to teachers' fund for retirement membership, or becomes an employee of the board of higher education or state institution under the jurisdiction of the board who is eligible to participate in an alternative retirement program established under subsection 6 of section 15-10-17, the member's status as a member of the defined contribution retirement plan is suspended, and the member becomes a new member of the retirement plan for which that member's new position is eligible. The member's account balance remains in the defined contribution retirement plan, but no new contributions may be made to that account. The member's service credit and salary history that were forfeited as a result of the member's transfer to the defined contribution retirement plan remain forfeited, and service credit accumulation in the new retirement plan begins from the first day of employment in the new position. If the member later returns to employment that is eligible for the defined contribution plan, the member's suspension must be terminated, the member again becomes a member of the defined contribution retirement plan, and the member's account resumes accepting contributions. At the member's option, and pursuant to rules adopted by

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the boardoffice, the member may transfer any available balance as determined by the provisions of the alternate retirement plan into the member's account under this chapter.

4. After consultation with its actuary, the boardoffice shall determine the method by which a participating member or deferred member may make a written election under this section. If the participating member or deferred member is married at the time of the election, the election is not effective unless the election is signed by the individual's spouse. However, the boardoffice may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.
5. If the boardoffice receives notification from the internal revenue service that this section or any portion of this section will cause the public employees retirement system or the retirement plan established under this chapter to be disqualified for tax purposes under the Internal Revenue Code, then the portion that will cause the disqualification does not apply.
6. A participating member who becomes a temporary employee may still participate in the defined contribution retirement plan upon filing an election with the boardoffice within one hundred eighty days of transferring to temporary employee status. The participating member may not become a member of the defined benefit plan as a temporary employee. The temporary employee electing to participate in the defined contribution retirement plan shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by two percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of two percent, beginning with the monthly reporting period of January 2013, and with an additional increase of two percent, beginning with the monthly reporting period of January 2014. The temporary employee shall also pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee until termination of employment or reclassification of the temporary employee as a permanent employee.
7. A former participating member who has accepted a retirement distribution pursuant to section 54-52.6-13 and who subsequently becomes employed by an entity different from the employer with which the member was employed at the time the member retired but which does participate in any state-sponsored retirement plan may, before re-enrolling in the defined contribution retirement plan, elect to permanently waive future participation in the defined contribution retirement plan, whatever plan in which the new employing entity participates, and the retiree health program and maintain that member's retirement status. Neither the member nor the employer are required to make any future retirement contributions on behalf of that employee.

**SECTION 105. AMENDMENT.** Section 54-52.6-03 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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

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

**SECTION 106. AMENDMENT.** Section 54-52.6-03.1 of the North Dakota Century Code is amended and reenacted as follows:

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

1. In this section the term "participating member" is limited in application to a participating member who elected to participate in the defined contribution retirement plan established under this chapter as an active employee of a participating employer, is an actively participating member of the defined contribution plan as of July 1, 2015, and is an active employee with a participating employer on the date an election is made under this section. The term does not include a participant who is not actively employed with a participating employer on the date of transfer of the funds under this section, has taken a distribution from the defined contribution plan, is retired, is no longer actively employed with a participating employer, or who is a member who has a qualified domestic relations order or other court order on the member's account.
2. Notwithstanding any other provision of law, the boardoffice shall provide an opportunity for each participating member to elect in writing to terminate membership in the defined contribution retirement plan under this chapter and to elect to become a participating member in the public employees retirement system under chapter 54-52.

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3. The boardoffice shall establish a three-calendar-month election period beginning not later than February 1, 2016. A participating member who does not make a written election or who does not file the election with the North Dakota public employees retirement system office during the period specified in this section continues to be a member of the defined contribution plan. A participating member who makes and files a written election with the North Dakota public employees retirement system office under this section ceases to be a member of the defined contribution plan upon receipt by the public employees retirement system of the accumulated fund balance of the member's defined contribution plan under this chapter and waives all rights to that employee's accumulated fund balance under the defined contribution plan. If the executive director of the North Dakota public employees retirement system determines a participating member was not adequately notified of the option to make an election under this section, the executive director may provide that participating member a reasonable time, not to exceed three months, within which to make that election.
  4. The public employees retirement system shall credit the transferring employee with the service credit and salary history reflected on the public employees retirement system's electronic database.
  5. The boardoffice shall determine the method by which a participating member may make a written election under this section. If the participating member is married at the time of the election, the election is not effective unless the election is signed by the individual's spouse. However, the executive director of the North Dakota public employees retirement system may waive this spousal signature requirement if the spouse's signature cannot be obtained because of extenuating circumstances.
  6. For a participating member who elects to terminate membership in the defined contribution plan under this section, the boardoffice shall transfer that member's accumulated fund balance, less any rollovers from other plans made into the defined contribution plan, to the public employees retirement system under chapter 54-52. If funds are transferred from the defined contribution plan to the defined benefit plan under an election made under this section, the boardoffice shall record this transfer to the defined benefit plan as employee and employer contributions in the same manner as transferred by the defined contribution provider. If a participating member has a separate account attributable to rollover contributions to the defined contribution plan pursuant to section 54-52.6-09.1, the participating member shall make an election to receive a distribution of the entire amount held in the rollover account at the time of transfer.
  7. A participating member who elects a transfer under this section is entitled to vested employer contribution amounts under section 54-52-11.1 prospectively from the date of transfer. A participating member who elects a transfer under this section must be assessed and required to pay monthly to the defined benefit plan an additional employee contribution of an additional two percent of the monthly salary or wages paid to the member.

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**SECTION 107. AMENDMENT.** Section 54-52.6-04 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 108. AMENDMENT.** Section 54-52.6-05 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 109. AMENDMENT.** Section 54-52.6-06 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 110. AMENDMENT.** Section 54-52.6-08 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 111. AMENDMENT.** Section 54-52.6-09 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Each participating member shall contribute monthly four percent of the monthly salary or wage paid to the participant, and this assessment must be deducted from the participant's salary in equal monthly installments commencing with the first month of participation in the defined contribution retirement plan established under this chapter. Participating member contributions increase by one percent of the monthly salary or wage paid to the participant beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014.
2. The employer shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Employer contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. If the employee's contribution is paid by the employer under subsection 3, the employer shall contribute, in addition, an amount equal to the required employee's contribution. The employer shall pay monthly such contribution into the participating member's account from its funds appropriated for payroll and salary or any other funds available for such purposes. If the employer fails to pay the contributions monthly, it is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due.
3. Each employer, at its option, may pay the employee contributions required by this section for all compensation earned after December 31, 1999. The amount paid must be paid by the employer in lieu of contributions by the employee. If the employer decides not to pay the contributions, the amount that would have been paid will continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. Contributions paid by the employer may not be included as gross income of the employee in determining tax treatment under this code and the federal Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a combination of a reduction in gross salary and offset against future salary increases. Employee contributions paid by the employer must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made before the date on which employee contributions were assumed by the employer. An employer shall exercise its option under this subsection by reporting its choice to the board office in writing.

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**SECTION 112. AMENDMENT.** Section 54-52.6-09.1 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 113. AMENDMENT.** Section 54-52.6-11 of the North Dakota Century Code is amended and reenacted as follows:

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

A participating or former participating member may nominate one or more individuals as a refund beneficiary by filing written notice of nomination with the boardoffice. If the participating member or former participating member is married at the time of the nomination and the participant's spouse is not the refund beneficiary for one hundred percent of the account, the nomination is not effective unless the nomination is signed by the participant's spouse. However, the boardoffice may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.

**SECTION 114. AMENDMENT.** Section 54-52.6-12 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The boardoffice or a vendor contracted for by the boardoffice shall apportion a participating member's account in the defined contribution retirement plan under this chapter in accordance with the applicable requirements of any qualified domestic relations order. The boardoffice shall review a domestic relations order submitted to it to determine if the domestic relations order is qualified under this section and under rules adopted by the boardoffice for determining the qualified status of domestic relations orders, administering distributions, and apportioning accounts under the qualified orders. Upon determination of the domestic relations order as qualified, the boardoffice shall notify the participating member, the named alternate payee, and the vendor, if applicable, of its receipt of the qualified domestic relations order.
2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of a participating member, is made pursuant to a North Dakota domestic relations law, which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of a participating member's account in the defined contribution retirement plan under this chapter. A qualified domestic relations order may not require the boardoffice to provide any type or form of benefit, or any option, not otherwise allowed under this chapter. However, a qualified domestic relations order may require distribution from an account in the defined contribution retirement plan under this chapter

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notwithstanding that the participating member has not terminated eligible employment. A qualified domestic relations order must specify:

- a. The name and last-known mailing address of the participating member and the 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 115. 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.
3. A former participating member may elect one or a combination of several of the following methods of distribution of the accumulated balance:
  - a. A lump sum distribution to the recipient.

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- b. A lump sum direct rollover to another qualified plan, to the extent allowed by federal law.
- c. Periodic distributions, as authorized by the ~~board~~office.
- d. No current distribution, in which case the accumulated balance must remain in the plan until the former participating member or refund beneficiary elects a method or methods of distribution under this section, to the extent allowed by federal law.

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

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

**SECTION 116. AMENDMENT.** Section 54-52.6-14 of the North Dakota Century Code is amended and reenacted as follows:

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

The ~~board~~office shall allow distribution of the participating member's vested account balance if the ~~board~~office determines that the participating member has become totally and permanently disabled. If approved, the disabled member has the same distribution options as provided in subdivisions a and c of subsection 3 of section 54-52.6-13. However, if the member chooses the periodic distribution option, the member may only receive distributions for as long as the disability continues and the member submits the necessary documentation and undergoes medical testing required by the ~~board~~office, or for as long as the member participates in a rehabilitation program required by the ~~board~~office, or both. If the ~~board~~office determines that a member no longer meets the eligibility definition, the ~~board~~office shall discontinue the disability retirement benefit.

**SECTION 117. AMENDMENT.** Section 54-52.6-15 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 118. AMENDMENT.** Section 54-52.6-18 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 119. AMENDMENT.** Section 54-52.6-19 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 120. AMENDMENT.** Section 54-52.6-20 of the North Dakota Century Code is amended and reenacted as follows:

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

The boardoffice shall correct errors in the records and actions in plans under this chapter and shall seek to recover overpayments and shall seek to collect underpayments.

**SECTION 121. AMENDMENT.** Section 54-52.6-21 of the North Dakota Century Code is amended and reenacted as follows:

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

The boardoffice shall administer the plan in compliance with the following sections of the Internal Revenue Code, as amended, as they apply to governmental plans:

1. Section 415, including the defined contribution limitations under section 415(c)(1)(A) and (B) of the Internal Revenue Code and the Treasury Regulations thereunder, which are incorporated herein by reference.
  - a. In accordance with the defined contribution limitations under section 415(c) of the Internal Revenue Code, annual additions (as defined in section 415(c)(2) of the Internal Revenue Code) under this plan may not exceed the limitations set forth in section 415(c)(1)(A) and (B), as adjusted under section 415(d) of the Internal Revenue Code, effective January first of each year following a regular legislative session.
  - b. If a participating member's aggregate annual additions exceed the defined contribution limitations under section 415(c) of the Internal Revenue Code, the member's annual additions must be reduced to

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the extent necessary to comply with section 415(c) of the Internal Revenue Code and the Treasury Regulations thereunder.

2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. A member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.
3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.

**SECTION 122. LEGISLATIVE INTENT - ELECTRONIC DISTRIBUTION OF MATERIALS.** It is the intent of the sixty-fifth legislative assembly that the public employees retirement system office create operating efficiencies when feasible by discontinuing the distribution of paper materials, including newsletters and benefit statements. It is further the intent of the sixty-fifth legislative assembly that the public employees retirement system office develop procedures to electronically distribute materials or provide access to materials through member self-service website applications."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1023 - Public Employees Retirement System - House Action**

	Base Budget	House Changes	House Version
Salaries and wages	\$6,315,360	\$8,263	\$6,323,623
Operating expenses	2,753,643	(132,844)	2,620,799
Contingencies	250,000		250,000
Total all funds	\$9,319,003	(\$124,581)	\$9,194,422
Less estimated income	9,319,003	(124,581)	9,194,422
General fund	\$0	\$0	\$0
FTE	34.50	(1.00)	33.50

**Department No. 192 - Public Employees Retirement System - Detail of House Changes**

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	Adjusts Funding for Base Payroll Changes <sup>1</sup>	Adds Funding for Health Insurance Increases <sup>2</sup>	Removes FTE Position <sup>3</sup>	Adjusts Funding for Operating Expenses <sup>4</sup>	Total House Changes
Salaries and wages	\$55,378	\$102,885	(\$150,000)	(132,844)	\$8,263 (132,844)
Operating expenses					
Contingencies					
Total all funds	\$55,378	\$102,885	(\$150,000)	(\$132,844)	(\$124,581)
Less estimated income	55,378	102,885	(150,000)	(132,844)	(124,581)
General fund		\$0	\$0	\$0	\$0
FTE	0.00	0.00	(1.00)	0.00	(1.00)

<sup>1</sup> Funding is added for cost-to-continue 2015-17 biennium salaries and benefit increases and for other base payroll changes.

<sup>2</sup> Funding is added for increases in employee health insurance premiums from \$1,130 to \$1,249 per month.

<sup>3</sup> One FTE position and related funding is removed.

<sup>4</sup> Funding for operating expenses is adjusted as follows:

	Other Funds
Printing and postage costs for newsletters	(\$59,504)
Printing and postage costs for annual benefit statements	(66,440)
Other postage, printing, and supplies	(16,900)
Mobile app hosting costs	(43,000)
Office remodeling	30,000
Other operating adjustments	23,000
Total	(\$132,844)

This amendment also:

- Adds a section detailing the amount of funding provided to the agency for health insurance premium increases.
- Adds a section to limit the use of funding in the health insurance reserve fund for reducing health insurance premium amounts.
- Amends various sections of North Dakota Century Code to provide for the Director of the Public Employees Retirement System to be appointed by the Governor, to remove the Public Employees Retirement System Board, and to adjust the membership and duties of the Employee Benefits Programs Committee.
- Adds a section of legislative intent regarding the electronic distribution of materials by the Public Employees Retirement System office.

Date: 2-10-17  
Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1023**

## House Appropriations - Government Operations Division

Subcommittee

Amendment LC# or Description: 17.05-08.01002

Recommendation:	<input checked="" type="checkbox"/> Adopt Amendment	<input type="checkbox"/> Do Pass <input type="checkbox"/> Do Not Pass	<input type="checkbox"/> Without Committee Recommendation
	<input type="checkbox"/> As Amended	<input type="checkbox"/> Rerefer to Appropriations	
	<input type="checkbox"/> Place on Consent Calendar		
Other Actions:	<input type="checkbox"/> Reconsider	<input type="checkbox"/>	

Motion Made By Vice Chairman Boekse Seconded By Lep Nather

Total      (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

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

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

## Proceedings Adopted

Date: 2-10-17  
Roll Call Vote #: 2

**2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1023**

## **House Appropriations - Government Operations Division**

Subcommittee

Amendment LC# or Description: 17.05-08.01001

Recommendation:	<input checked="" type="checkbox"/> Adopt Amendment	<input type="checkbox"/> Do Pass <input type="checkbox"/> Do Not Pass	<input type="checkbox"/> Without Committee Recommendation
	<input type="checkbox"/> As Amended	<input type="checkbox"/> Rerefer to Appropriations	
	<input type="checkbox"/> Place on Consent Calendar		
Other Actions:	<input type="checkbox"/> Reconsider	<input type="checkbox"/>	

Motion Made By Vice Chairman Beck Seconded By Rep. Brauwoldt

Absent

## Floor Assignment

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

If the vote is on an amendment, briefly:

Proresoluton Adopted

**2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB1023**

House Appropriations - Government Operations Division Committee

Subcommittee

Amendment LC# or Description:

Recommendation:	<input type="checkbox"/> Adopt Amendment	<input checked="" type="checkbox"/> Do Pass <input type="checkbox"/> Do Not Pass	<input type="checkbox"/> Without Committee Recommendation
	<input checked="" type="checkbox"/> As Amended	<input type="checkbox"/> Rerefer to Appropriations	
	<input type="checkbox"/> Place on Consent Calendar		
Other Actions:	<input type="checkbox"/> Reconsider	<input type="checkbox"/>	

Other Actions:  Reconsider

Motion Made By Vice Chairman Boehning Seconded By Representative Vigesaa

Total (Yes) 6 No 1

Absent 0

## Floor Assignment Vice Chairman Boehning

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



**2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB1023**

**House Appropriations - Government Operations Division** **Committee**

Subcommittee

Amendment LC# or Description:

Recommendation:	<input type="checkbox"/> Adopt Amendment	<input checked="" type="checkbox"/> Do Pass <input type="checkbox"/> Do Not Pass	<input type="checkbox"/> Without Committee Recommendation
	<input checked="" type="checkbox"/> As Amended	<input type="checkbox"/> Place on Consent Calendar	<input type="checkbox"/> Rerrefer to Appropriations
Other Actions:	<input type="checkbox"/> Reconsider	<input type="checkbox"/>	

Other Actions:  Reconsider

Motion Made By Vice Chairman Boehning Seconded By Representative Vigesaa

Absent 0

## Floor Assignment Vice Chairman Boehning

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

Date: 2/15/2017  
Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1023**

House Appropriations Committee

Subcommittee

Amendment LC# or Description: 17.0508.01006

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

Motion Made By Rep. Boehning Seconded By Rep. Brandenburg

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X				
Representative Kempenich	X		Representative Streyle	X	
Representative: Boehning	X		Representative Vigesaa	X	
Representative: Brabandt	X				
Representative Brandenburg	X				
Representative Kading	X		Representative Boe	X	
Representative Kreidt	AB		Representative Delmore		X
Representative Martinson	X		Representative Holman		X
Representative Meier	X				
Representative Monson	AB				
Representative Nathe	X				
Representative J. Nelson		X			
Representative Pollert	X				
Representative Sanford	X				
Representative Schatz	AB				
Representative Schmidt	X				

Total (Yes) 15 No 3

Absent 3

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

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

Motion Carried.

Date: 2/15/2017  
Roll Call Vote #: 2

**2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1023**

House Appropriations Committee

Subcommittee

Amendment LC# or Description: 17.0508.01007

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

Motion Made By Rep. Boehning Seconded By Rep. Brandenburg

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer					
Representative Kempenich			Representative Streyle		
Representative: Boehning			Representative Vigesaa		
Representative: Brabandt					
Representative Brandenburg					
Representative Kading			Representative Boe		
Representative Kreidt			Representative Delmore		
Representative Martinson			Representative Holman		
Representative Meier					
Representative Monson					
Representative Nathe					
Representative J. Nelson					
Representative Pollert					
Representative Sanford					
Representative Schatz					
Representative Schmidt					

Total    (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

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

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

Motion Carried.

Date: 2/15/2017  
Roll Call Vote #: 3

2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1023

House Appropriations Committee

Subcommittee

Amendment LC# or Description: 17.0508.01003

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

Motion Made By Rep. Boehning Seconded By Rep. Brandenburg

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer					
Representative Kempenich			Representative Streyle		
Representative: Boehning			Representative Vigesaa		
Representative: Brabandt					
Representative Brandenburg					
Representative Kading			Representative Boe		
Representative Kreidt			Representative Delmore		
Representative Martinson			Representative Holman		
Representative Meier					
Representative Monson					
Representative Nathe					
Representative J. Nelson					
Representative Pollert					
Representative Sanford					
Representative Schatz					
Representative Schmidt					

Total    (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

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

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

Motion Failed.

Date: 2/15/2017  
Roll Call Vote #: 4

**2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1023**

House Appropriations Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

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

Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Rep. Boehning Seconded By Rep. Brandenburg

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X				
Representative Kempenich	X		Representative Streyle	X	
Representative: Boehning	X		Representative Vigesaa	X	
Representative: Brabandt	X				
Representative Brandenburg	X				
Representative Kading	X		Representative Boe	X	
Representative Kreidt	AB		Representative Delmore		X
Representative Martinson	X		Representative Holman		X
Representative Meier	X				
Representative Monson	AB				
Representative Nathe	X				
Representative J. Nelson		X			
Representative Pollert	X				
Representative Sanford	X				
Representative Schatz	AB				
Representative Schmidt	X				

Total    (Yes) 15    No 3

Absent 3

Floor Assignment Representative Boehning

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

**Motion Carried.**

**REPORT OF STANDING COMMITTEE**

**HB 1023: Appropriations Committee (Rep. Delzer, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 3 NAYS, 3 ABSENT AND NOT VOTING). HB 1023 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "and" with "to provide a continuing appropriation;"

Page 1, line 2, after "transfer" insert "; and to amend and reenact subdivision j of subsection 2 of section 12-60-24, paragraph 4 of subdivision a of subsection 4 of section 15-10-17, sections 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, subsection 2 of section 39-03.1-09, sections 39-03.1-10.1, 39-03.1-10.2, 39-03.1-11, 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, 52-11-01, 54-35-02.3, 54-35-02.4, 54-52-01, 54-52-02.1, 54-52-02.6, 54-52-03, and 54-52-04, subsection 3 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, 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, 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, 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, 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, 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, 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, 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, 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, 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, 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, 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, 54-52.6-18, 54-52.6-19, 54-52.6-20, and 54-52.6-21 of the North Dakota Century Code, relating to the public employees retirement board, the public employees retirement system, and the membership of the employee benefits programs committee"

Page 1, replace lines 11 through 15 with:

"Salaries and wages	\$6,315,360	\$8,263	\$6,323,623
Operating expenses	2,753,643	(132,844)	2,620,799
Contingencies	<u>250,000</u>	<u>0</u>	<u>250,000</u>
Total special funds	\$9,319,003	(\$124,581)	\$9,194,422
Full-time equivalent positions	34.50	(1.00)	33.50

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

Page 1, line 22, remove "Upon approval of the retirement"

Page 1, line 23, replace "board, the" with "The"

Page 1, line 23, after "system" insert "office"

Page 2, after line 2, insert:

**"SECTION 5. HEALTH INSURANCE RESERVE FUND - LIMITATIONS.**

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

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

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

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

- (4) Employees of the university system who are members of the public employees retirement system under chapter 54-52 or 54-52.6 and who become entitled to participate in the alternate retirement program are entitled to a special annuity purchase in the alternate retirement program in accordance with this subdivision. An eligible employee who consents to have that employee's contribution included is entitled to have that employee's contribution and employer's contribution, with interest, in the public employees retirement system fund, used by the ~~retirement board of the~~ public employees retirement system ~~office~~ to purchase for that employee an annuity in the alternate retirement program in lieu of any other rights under the public employees retirement fund. However, before the employer's contribution may be used for an annuity purchase, the employee's combined years of service with the public employees retirement system and the alternate retirement program must equal or exceed the years of service necessary to be eligible for retirement benefits under the public employees retirement system. An employee who transferred from the public employees retirement system before March 30, 1987, and who received a refund of that employee's contribution is entitled to have the employer's contribution, with interest, used to purchase an annuity even if that employee did not purchase an annuity in the alternate employee program with the employee's contribution. If an employee makes the election allowed under this subdivision, that employee relinquishes all rights the employee or any of the employee's beneficiaries may have had to benefits provided under chapters 54-52 and 54-52.6.

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

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

1. The North Dakota state investment board consists of the governor, the state treasurer, the commissioner of university and school lands, the director of workforce safety and insurance, the insurance commissioner, three members of the teachers' fund for retirement board or the board's designees who need not be members of the fund as selected by that board, two of the elected members of the ~~public employees~~ retirement system ~~advisory~~ board as selected by that board, and ~~one member of the~~ public employees retirement system ~~board as selected by that~~ ~~board office executive director or the director's designee~~. The director of workforce safety and insurance may appoint a designee, subject to approval by the workforce safety and insurance board of directors, to attend the meetings, participate, and vote when the director is unable to

attend. The teachers' fund for retirement board may appoint an alternate designee with full voting privileges to attend meetings of the state investment board when a selected member is unable to attend. The ~~public employees~~ retirement system advisory board may appoint an alternate designee with full voting privileges from the ~~public employees~~ retirement system advisory board to attend meetings of the state investment board when a selected member is unable to attend. The members of the state investment board, except elected and appointed officials and the director of workforce safety and insurance or the director's designee ~~and the public employees retirement system executive director or executive director's designee~~, are entitled to receive as compensation one hundred forty-eight dollars per day and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09 for attending meetings of the state investment board.

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

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

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

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

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

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

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

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

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

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

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

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

**39-03.1-07. Membership.**

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

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

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

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

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

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

1. The fund may accept rollovers from other eligible plans under rules adopted by the board for the purchase of additional service credit, but only to the extent the transfer is a rollover contribution that meets the requirement of section 408 of the Internal Revenue Code [26 U.S.C. 408].
2. The boardoffice may accept trustee-to-trustee transfers as permitted by Internal Revenue Code section 403(b)(13) and section 457(e)(17) from an Internal Revenue Code section 403(b) annuity or Internal Revenue Code section 457 deferred compensation plan for the purchase of permissive service credit, as defined in Internal Revenue Code section

415(n)(3)(A), or as repayment of a cashout from a governmental plan under Internal Revenue Code section 415(k)(3).

3. A contributor may elect to purchase credit for years of service and prior service for which the contributor is not presently receiving credit. A contributor is entitled to purchase additional credit under this section for the following service or prior service, except this service is not eligible for credit if the years claimed also qualify for retirement benefits from another retirement system:
  - a. Except as provided in subsection 3 of section 39-03.1-10.1, up to four years of credit for active employment in the armed forces of the United States.
  - b. Employment as a permanent employee by a public employer either within or outside the state.
  - c. Employment as a permanent employee by the federal government.
4. A contributor may elect to purchase credit for the following absences for which the participating contributor is not receiving service credit:
  - a. Employer-approved leave of absence; and
  - b. Months away from work while participating as a seasonal employee.
5. The contributor may purchase credit under this section by paying to the boardoffice an amount equal to the actuarial cost to the fund of providing the credit. The boardoffice shall adopt rules governing the purchase of additional credit under this section.
6. The boardoffice may establish individual retirement accounts and individual retirement annuities as permitted under section 408(q) of the Internal Revenue Code to allow employees to make voluntary employee contributions. The boardoffice may adopt appropriate rules as may be necessary to implement and administer the accounts and annuities under this section.
7. In addition to service credit identified in this section, a contributor may purchase up to five years of service credit.
8. Pursuant to rules adopted by the boardoffice, the boardoffice may allow a contributor to purchase service credit with either pretax or aftertax moneys, at the board's discretion of the office. If a contributor elects to purchase service credit using pretax moneys, the requirements and restrictions in subsection 2 of section 39-03.1-09 apply to the purchase arrangement.

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

2. The state of North Dakota, at its option, may pay the member contributions required by subsection 1 for all compensation earned after June 30, 1983, and may pay the member contributions required to purchase service credit on a pretax basis pursuant to subsection 8 of section 39-03.1-08.2. The amount paid must be paid by the state in lieu of contributions by the member. A member may not receive the contributed amounts directly once the employer has elected to pay the member contributions. If the state decides not to pay the contributions, the amount that would have been paid will continue to be deducted from compensation. If contributions are paid by the state, they must be treated

as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the state, they must not be included as gross income of the member in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The state shall pay these member contributions from the same source of funds used in paying compensation to the members. The state shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a combination of a reduction in gross salary and offset against future salary increases. If member contributions are paid by the state, they must be treated for the purposes of this chapter in the same manner and to the same extent as member contributions made prior to the date the contributions were assumed by the state. The option given employers by this subsection must be exercised in accordance with rules adopted by the boardoffice.

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

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

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

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

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

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

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

1. The contributor may not be given the option to choose between an employer service purchase and an equivalent amount paid in cash.
2. The contributor must meet one of the following conditions at the time the purchase is made:

- a. The contributor's age plus service credit must be equal to or greater than seventy; or
- b. The contributor's age must be at least fifty and the contributor must have at least ten years of service credit.
3. The boardoffice must determine the purchase price on an actuarially equivalent basis.
4. The purchase must be completed before the contributor's retirement.
5. The employer may purchase a maximum of five years of service credit on behalf of the contributor.
6. The employer must pay the purchase price for the service credit purchased under this section in a lump sum.

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

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

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

1. A contributor is entitled to credit for permanent employment or its equivalent from the date eligibility is attained until normal or postponed retirement date, as described in subsection 3.
2. Retirement benefits are based on the contributor's final average salary. Final average salary is the average of the highest salary received by the contributor for any thirty-six months employed during the last one hundred twenty months of employment. For contributors who terminate employment on or after August 1, 2010, final average salary is the average of the highest salary received by the contributor for any thirty-six months employed during the last one hundred eighty months of employment. For contributors who terminate employment between July 31, 2005, and August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the period for which the boardoffice has appropriate and accurate salary records on its electronic database, but that period may not be more than the last one hundred eighty months of employment. Months not employed or months in which employment was not as a permanent employee are excluded in arriving at the thirty-six months to be used for the purpose of computing an average. If the contributor has worked for less than thirty-six months at the postponed retirement date, the final average salary is the average salary for all months of employment.
3. Retirement dates are as follows:
  - a. Early retirement date is the first day of the month next following the month in which the contributor attains the age of fifty years and has completed at least ten years of eligible employment.
  - b. Normal retirement date is:

- (1) The first day of the month next following the month in which the contributor attains the age of fifty-five years and has completed at least ten years of eligible employment; or
  - (2) When the contributor has a combined total of years of service credit and years of age equal to eighty and has not received a retirement benefit under this chapter.  
Postponed retirement date is the first day of the month next following the month in which the contributor attains the age of sixty years.
  - d. Disability retirement date is the first day of the month after a contributor becomes permanently and totally disabled, according to medical evidence called for under the rules of the boardoffice, and has completed at least one hundred eighty days of employment.
4. The boardoffice shall calculate retirement benefits as follows:
    - a. Normal retirement benefits for all contributors reaching the normal retirement date are payable monthly, and are:
      - (1) The first twenty-five years of credited service multiplied by three and sixty hundredths percent of final average salary.
      - (2) All years in excess of twenty-five years of credited service multiplied by one and three-fourths percent of final average salary.
      - (3) All contributors who retired before August 1, 2001, or their beneficiaries, are entitled to receive benefits equal to three and sixty hundredths percent of final average salary multiplied by the first twenty-five years of credited service, plus one and three-fourths percent of final average salary multiplied by credited service in excess of twenty-five years, with the increased benefits payable beginning August 1, 2001.
    - b. Early retirement benefits are normal retirement benefits accrued to the date of termination of employment, but actuarially reduced to account for benefit payments beginning before the normal retirement date.
    - c. Postponed retirement benefits, for all contributors reaching the postponed retirement date, are calculated in the same manner as normal retirement benefits.
    - d. Disability retirement benefits are payable monthly and are:
      - (1) Seventy percent of the contributor's final average salary, reduced by any workforce safety and insurance benefits paid. The minimum monthly disability retirement benefit under this subsection is one hundred dollars.
      - (2) An individual or that person's beneficiary who, on July 31, 2001, is receiving a disability retirement benefit is entitled to receive an increase in benefits equal to six percent of the individual's present benefits, with the increase payable beginning August 1, 2001.
  5. On termination of employment after completing ten years of eligible employment but before the normal retirement date, a contributor who does not elect to receive early retirement benefits is eligible to receive

deferred vested retirement benefits. The deferred benefits are payable beginning on the contributor's normal retirement date in one of the forms provided in this section. Contributors who have delayed or inadvertently failed to apply for retirement benefits to commence on their normal retirement date may choose to receive either a lump sum payment equal to the amount of missed payments, or an actuarial increase to the form of benefit the member has selected, which increase must reflect the missed payments. The final average salary used for calculating deferred vested retirement benefits must be increased annually, from the later of the date of termination of employment or July 1, 1991, until the date the contributor begins to receive retirement benefits from the fund, at a rate as determined by the boardoffice not to exceed a rate that would be approximately equal to annual salary increases provided state employees pursuant to action by the legislative assembly.

6. If before retiring a contributor dies after completing ten years of eligible employment, the boardoffice shall pay the contributor's accumulated deductions to the contributor's designated beneficiary as provided in this subsection. If the contributor has designated an alternate beneficiary with the surviving spouse's written consent, the boardoffice shall pay the contributor's account balance to the named beneficiary. If the contributor has named more than one primary beneficiary, the boardoffice shall pay the contributor's account balance to the named primary beneficiaries in the percentages designated by the contributor or, if the contributor has not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the contributor, the boardoffice shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If there are no remaining primary beneficiaries, the boardoffice shall pay the contributor's account balance to the contingent beneficiaries in the same manner. If there are no remaining designated beneficiaries, the boardoffice shall pay the contributor's account balance to the contributor's estate. If the contributor has not designated an alternate beneficiary under this section or the surviving spouse is the beneficiary, the surviving spouse of the contributor may select one of the following optional forms of payment:
  - a. A lump sum payment of the contributor's accumulated deductions as of the date of death.
  - b. Payment of a monthly retirement benefit equal to fifty percent of the deceased contributor's accrued normal retirement benefits until the spouse dies.
7. If a contributor not eligible for the benefits of subsection 6 terminates employment for any reason before retirement, the contributor or the contributor's designated beneficiary is entitled to the contributor's accumulated deductions at termination.
8. The surviving spouse of a member receiving retirement benefits must be the member's primary beneficiary unless there is no surviving spouse or the surviving spouse designates an alternate beneficiary in writing. If a contributor receiving retirement benefits, or a contributor's surviving spouse receiving retirement benefits, dies before the total amount of benefits paid to them equals the amount of the contributor's accumulated deductions at retirement, the difference must be paid to the named beneficiary of the recipient or, if there is no named beneficiary, to the recipient's estate.
9. The boardoffice shall adopt rules providing for the receipt of retirement benefits in the following optional forms:

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

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

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

**39-03.1-11.2. 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 benefits from all the plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. If the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. This reduction must be made pro rata between the plans, in proportion to the participating member's service in each plan.
2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirements under section 401(a)(9)(G), and the regulations issued under that provision to

the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. A member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.

3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.

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

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

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

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

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

1. For the purpose of determining eligibility for benefits under this chapter, a member's years of service is the total of the years of service earned under this chapter and the years of service employment or years of service credit earned in any number of the following, the total of which may not exceed twelve months of credit per year:
  - a. The public employees retirement system.
  - b. The teachers' fund for retirement.
  - c. 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.
2. If a member terminates eligible employment under this chapter, if that member has not received a refund of the member's accumulated deductions, and if that member begins eligible employment in a plan described in subdivision a or b of subsection 1, that member may elect to

remain an inactive member of the system without refund of the member's accumulated deductions. The election must be made within ninety days after beginning the eligible employment. The boardoffice shall terminate the inactive status of a member under this subsection if the member gains eligible employment under this chapter or if the member terminates eligible employment under a plan described in subdivision a or b of subsection 1.

3. Pursuant to rules adopted by the boardoffice, a member who has service credit in the system and in any of the alternate plans described in subdivision a or b of subsection 1 is entitled to benefits under this chapter. The employee may elect to have benefits calculated using the benefit formula in section 39-03.1-11 under either of the following calculation methods:
  - a. By using the final average salary as calculated in section 39-03.1-11. 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.
  - b. Using the final average salary as calculated in section 39-03.1-11, 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 employment earned under this chapter.

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

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

1. The boardoffice shall pay retirement benefits in accordance with the applicable requirements of any qualified domestic relations order. The boardoffice shall review a domestic relations order submitted to it to determine if the domestic relations order is qualified under this section and under rules established by the boardoffice for determining the qualified status of domestic relations orders and administering distributions under the qualified orders. Upon determination that a domestic relations order is qualified, the boardoffice shall notify the contributor and the named alternate payee of its receipt of the qualified domestic relations order.
2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of a contributor, is made pursuant to a North Dakota domestic relations law, and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of the benefits payable to the contributor. A qualified domestic relations order may not require the boardoffice to provide any type or form of benefit, or any option, not otherwise provided under the retirement system, or to provide increased benefits as determined on the basis of actuarial value. However, a qualified domestic relations order may require the payment of benefits at the early retirement date notwithstanding that the contributor has not

terminated eligible employment. A qualified domestic relations order must specify:

- a. The name and the last-known mailing address of the contributor and the name and mailing address of each alternate payee covered by the order;
- b. The amount or percentage of the contributor's benefits to be paid by the plan 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 23. AMENDMENT.** Section 39-03.1-25 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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

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

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

1. A person to whom the member has given written consent to have the information disclosed.
2. A person legally representing the member, upon proper proof of representation, and unless the member specifically withdraws consent.
3. A person authorized by a court order.
4. A member's participating employer, limited to information concerning the member's years of service credit and years of age. The boardoffice may share other types of information as needed by the employer to validate the employer's compliance with existing state or federal laws. Any information provided to the member's participating employer under this subsection must remain confidential except as provided under subsection 6.
5. The administrative staff of the retirement and investment office for purposes relating to membership and benefits determination.
6. State or federal agencies for purposes of reporting on a service provider's provision of services or when the employer must supply information to an agency to validate the employer's compliance with existing state or federal laws.

7. Member interest groups approved by the boardoffice on a third-party blind list basis, limited to information concerning the member's participation, name, and address.
8. The member's spouse or former spouse, that individual's legal representative, and the judge presiding over the member's dissolution proceeding for purposes of aiding the parties in drafting a qualified domestic relations order under section 39-03.1-14.2. The information disclosed under this subsection must be limited to information necessary for drafting the order.
9. Beneficiaries designated by a participating member or a former participating member to receive benefits after the member's death, but only after the member's death. Information relating to beneficiaries may be disclosed to other beneficiaries of the same member.
10. Any person if the boardoffice determines disclosure is necessary for treatment, operational, or payment purposes, including the completion of necessary documents.
11. The general public, but only after the boardoffice has been unable to locate the member for a period in excess of two years, and limited to the member's name and the fact that the boardoffice has been unable to locate the member.
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 under section 39-03.1-10.2, 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 25. AMENDMENT.** Section 39-03.1-29 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-29. Savings clause - Plan modifications.**

If the boardoffice determines that any section of this chapter does not comply with applicable federal statutes or rules, the boardoffice shall adopt appropriate terminology with respect to that section as will comply with those federal statutes or rules, subject to the approval of the employee benefits programs committee. Any plan modifications made by the boardoffice pursuant to this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

**SECTION 26. AMENDMENT.** Section 52-11-01 of the North Dakota Century Code is amended and reenacted as follows:

**52-11-01. Retirement for certain state employees.**

1. The North Dakota national guard is authorized to establish an employee retirement program by contract with an insurance company, state or national bank and trust company, or an investment company, authorized under the law to do business in this state, the state investment board, or the North Dakota public employees retirement system office. Except for a

retirement program established under chapter 54-52, the North Dakota national guard shall prepare specifications of the terms of the retirement program which must be submitted to not less than three companies or agencies with a request for bids upon the retirement program contracts. After the submission of at least three bids, the adjutant general shall compare the bids, and with the approval of the governor, shall execute a contract for the retirement program with the company or agency submitting the lowest and best bid. The public employees retirement system ~~board is authorized to~~ office may administer the retirement plan established in 1961 and frozen to new entrants in 1980 for employees of job service North Dakota. The public employees retirement system ~~board~~ office shall fund the administrative expenses of administering that retirement plan from the funds in that plan.

2. The employing agency shall be authorized to withhold the employee's share of the contributions required under such retirement program from the salary paid each employee of such agency. The amount of such withholding must be an adjustable percentage rate of the employee's salary sufficient to provide financing of the required employee's contributions to such retirement plan as such plan was originally contracted and as it has been or will be amended, provided that such percentage rate may not exceed the percentage rate which may be fixed for withholding from federal employees for employee contributions to the federal retirement program under civil service. The employing agency shall be authorized to pay a sum as prescribed in the program contract toward the cost of such retirement program, which sum may not be in excess of the amount approved by the appropriate federal agency supervising the payment or reimbursement of salary and retirement program costs. The amount withheld from the wages due an employee and the amount to be paid by the employing agency must be paid to the company holding such retirement program contract in accordance with the terms of such contract.
3. The employing agency's share of the costs of such retirement program must be paid from any funds made available to it for this purpose by the United States government, and in the case of employees of such agencies for whom the state does not receive federal payments for salary costs, such employer's share may be made from any appropriations made available for the purpose of paying such salaries. Payments may be made for prior service of employees in accordance with the terms of the retirement program contract and in accordance with the availability of funds. The contract must specify the terms and conditions under which employee contributions may be withdrawn from the program and for the crediting of the employer's contributions to future payments due from the employing agency. Provision may be made in the contract for optional payment of benefits to survivors of covered employees. Each agency participating in the retirement program shall be authorized to do all things necessary for the proper administration of the program, but no benefits payable under the terms of the retirement program contract shall ever become an obligation of the state.

**SECTION 27. AMENDMENT.** Section 54-35-02.3 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-02.3. Employee benefits programs committee - Appointment - Selection of chairman.**

The legislative management, during each biennium, shall appoint an employee benefits programs committee in the same manner as the legislative management appoints other interim committees. The legislative management shall appoint seven members of the house of representatives and six members of the

senate to the committee. The legislative management shall designate the chairman of the committee. The three elected employee members of the retirement system advisory board shall serve as nonvoting members of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees. The public employees retirement system office shall pay the per diem and expenses of the three nonvoting members.

**SECTION 28. AMENDMENT.** Section 54-35-02.4 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-02.4. Employee benefits programs committee - Powers and duties.**

1. The employee benefits programs committee shall meet at least quarterly at the discretion of the chairman.
  - a. The employee benefits programs committee shall consider and report on those legislative measures and proposals over which it takes jurisdiction and which affect, actuarially or otherwise, the retirement programs of state employees or employees of any political subdivision, and health and retiree health plans of state employees or employees of any political subdivision. The committee shall make a thorough review of any measure or proposal which it takes under its jurisdiction, including an actuarial review.
  - b. The committee shall take jurisdiction over any measure or proposal that authorizes an automatic increase or other change in benefits beyond the ensuing biennium which would not require legislative approval. The committee must include in the report of the committee a statement that the proposal would allow future changes without legislative involvement.
  - c. Quarterly, the public employees retirement system office shall report to the committee on the activities of the office, including the status of and any proposed changes to retirement plans and uniform group insurance plans administered by the office. Before each regular legislative session, the office shall present to the committee the executive budget proposals, including any anticipated changes, relating to retirement plans and uniform group insurance plans administered by the office. The committee shall consider and report on these activities and executive budget proposals.
  - d. The committee shall report its findings and recommendations, along with any necessary legislation, to the legislative management and to the legislative assembly.
2. To carry out its responsibilities, the committee, or its designee, may:
  - a. Enter contracts, including retainer agreements, with an actuary or actuarial firm for expert assistance and consultation. Each retirement, insurance, or retiree insurance program shall pay, from its retirement, insurance, or retiree health benefits fund, as appropriate, and without the need for a prior appropriation, the cost of any actuarial report required by the committee which relates to that program.
  - b. Call on personnel from state agencies or political subdivisions to furnish such information and render such assistance as the committee may from time to time request.

- c. Establish rules for its operation, including the submission and review of proposals and the establishing of standards for actuarial review.
3. The committee may solicit draft measures and proposals from interested persons during the interim between legislative sessions, and may also study measures and proposals referred to it by the legislative assembly or the legislative management.
4. A copy of the committee's report concerning any legislative measure shall, if that measure is introduced for consideration by a legislative assembly, be appended to the copy of that measure which is referred to a standing committee.
5. A legislative measure affecting a public employees retirement program, public employees health insurance program, or public employee retiree health insurance program may not be introduced in either house unless it is accompanied by a report from the committee. A majority of the members of the committee, acting through the chairman, has sole authority to determine whether any legislative measure affects a program.
6. Any amendment made during a legislative session to a legislative measure affecting a public employees retirement program, public employees health insurance program, or public employee retiree health insurance program may not be considered by a standing committee unless it is accompanied by a report from the employee benefits programs committee.
7. Any legislation enacted in contravention of this section is invalid and of no force and effect, and any benefits provided under such legislation must be reduced to the level current prior to enactment.

**SECTION 29. AMENDMENT.** Section 54-52-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-01. (Effective through July 31, 2017) Definition of terms.**

As used in this chapter, unless the context otherwise requires:

1. "Account balance" means the total contributions made by the employee, vested employer contributions under section 54-52-11.1, the vested portion of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the boardoffice.
2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
3. "Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.
4. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14.

Eligible employee does not include state employees who elect to become members of the retirement plan established under chapter 54-52.6.

5. "Employee" means any person employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.
6. "Employer" means a governmental unit.
7. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution which the ~~retirement board~~ office may select to hold and invest the employers' and members' contributions.
8. "Governmental unit" means the state of North Dakota, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision thereof.
9. "National guard security officer or firefighter" means a participating member who is:
  - a. A security police employee of the North Dakota national guard; or
  - b. A firefighter employee of the North Dakota national guard.
10. "Office" means the public employees retirement system office.
11. "Participating member" means all eligible employees who through payment into the plan have established a claim against the plan.
- 11.12. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the bureau of criminal investigation or by a political subdivision and, notwithstanding subsection 12, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. Participating members of the law enforcement retirement plan created by this chapter who begin employment after August 1, 2005, are ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.
- 12.13. "Permanent employee" means a governmental unit employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least twenty weeks each year of employment.
- 13.14. "Prior service" means service or employment prior to July 1, 1966.
- 14.15. "Prior service credit" means such credit toward a retirement benefit as the ~~retirement board~~ office may determine under the provisions of this chapter.
- 15.16. "Public employees retirement system" means the retirement plan and program established by this chapter.

- 46.17. "Retirement" means the acceptance of a retirement allowance under this chapter upon either termination of employment or termination of participation in the retirement plan and meeting the normal retirement date.
- 47.18. "Retirement board" or "board" means the ~~governing authority~~retirement system ~~advisory~~ board created under section 54-52-03.
- 48.19. "Seasonal employee" means a participating member who does not work twelve months a year.
- 49.20. "Service" means employment on or after July 1, 1966.
- 50.21. "Service benefit" means the credit toward retirement benefits as determined by the ~~retirement board~~office under the provisions of this chapter.
- 51.22. "Temporary employee" means a governmental unit employee who is not eligible to participate as a permanent employee, who is at least eighteen years old and not actively contributing to another employer-sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.
- 52.23. "Wages" and "salaries" means the member's earnings in eligible employment under this chapter reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between the member and participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the ~~board~~office.

**(Effective after July 31, 2017) Definition of terms.** As used in this chapter, unless the context otherwise requires:

1. "Account balance" means the total contributions made by the employee, vested employer contributions under section 54-52-11.1, the vested portion of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the ~~board~~office.
2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
3. "Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.
4. "Director" means the executive director of the public employees ~~retirement system~~ office.
5. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for

retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. Eligible employee does not include nonclassified state employees who elect to become members of the retirement plan established under chapter 54-52.6 but does include employees of the judicial branch and employees of the board of higher education and state institutions under the jurisdiction of the board.

- 5.6. "Employee" means any person employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.
- 6.7. "Employer" means a governmental unit.
- 7.8. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution ~~which the retirement board~~the office may select to hold and invest the employers' and members' contributions.
- 8.9. "Governmental unit" means the state of North Dakota, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision thereof.
- 9.10. "National guard security officer or firefighter" means a participating member who is:
  - a. A security police employee of the North Dakota national guard; or
  - b. A firefighter employee of the North Dakota national guard.
- 11. "Office" means the public employees retirement system office.
- 10.12. "Participating member" means all eligible employees who through payment into the plan have established a claim against the plan.
- 11.13. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the bureau of criminal investigation or by a political subdivision and, notwithstanding subsection 12, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. Participating members of the law enforcement retirement plan created by this chapter who begin employment after August 1, 2005, are ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.
- 12.14. "Permanent employee" means a governmental unit employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least twenty weeks each year of employment.
- 13.15. "Prior service" means service or employment prior to July 1, 1966.

- 14.16. "Prior service credit" means such credit toward a retirement benefit as the ~~retirement board~~ office may determine under the provisions of this chapter.
- 15.17. "Public employees retirement system" means the retirement plan and program established by this chapter.
- 16.18. "Retirement" means the acceptance of a retirement allowance under this chapter upon either termination of employment or termination of participation in the retirement plan and meeting the normal retirement date.
- 17.19. "Retirement board" or "board" means the ~~seven persons designated by this chapter as the governing authority for the retirement system created~~ retirement system advisory board established under section 54-52-03.
- 18.20. "Seasonal employee" means a participating member who does not work twelve months a year.
- 19.21. "Service" means employment on or after July 1, 1966.
- 20.22. "Service benefit" means the credit toward retirement benefits as determined by the ~~retirement board~~ office under the provisions of this chapter.
- 21.23. "Temporary employee" means a governmental unit employee who is not eligible to participate as a permanent employee, who is at least eighteen years old and not actively contributing to another employer-sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.
- 22.24. "Wages" and "salaries" means the member's earnings in eligible employment under this chapter reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between the member and participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the ~~board~~ office.

**SECTION 30. AMENDMENT.** Section 54-52-02.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-02.1. Political subdivisions authorized to join public employees retirement system.**

1. A political subdivision may, on behalf of its permanent employees, on behalf of its peace officers and correctional officers separately from its other employees, and permanent noncertified employees only in the case of school districts, enter into agreements with the ~~retirement board~~ office for the purpose of extending the benefits of the public employees retirement system, as provided in this chapter, to those employees. The agreement may, in accordance with this chapter, contain provisions relating to benefits, contributions, effective date, modification, administration, and other appropriate provisions as the ~~retirement~~

beardoffice and the political subdivision agree upon, but the agreement must provide that:

- a. The political subdivision will contribute on behalf of each eligible employee an amount equal to that provided in section 54-52-06 or 54-52-06.3 for peace officers and correctional officers participating separately from other political subdivision employees.
- b. A portion of the moneys paid by the political subdivision may be used to pay administrative expenses of the ~~retirement~~ beardoffice.
2. Notwithstanding any other provision of law, a political subdivision having an existing police pension plan may merge that plan into the public employees retirement system under rules adopted by and in a manner determined by the beardoffice.
3. Notwithstanding any other provision of this chapter, a political subdivision of this state not currently participating in the public employees retirement system may not become a participant in the retirement system until an actuarial study is performed under the direction of the beardoffice to calculate the required employer contribution for any past service liability and the required employer contribution must be an amount determined sufficient to amortize and fund any past service liability over a period not to exceed thirty years as determined by the beardoffice. Any fees incurred in performing the actuarial study must be paid for by the political subdivision in a manner determined by the beardoffice.

**SECTION 31. AMENDMENT.** Section 54-52-02.6 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-02.6. Repurchase of past service upon re-employment.**

An individual who terminates participation in the plan may elect to receive a refund of the member's account balance under subsection 7 of section 54-52-17 and thus forfeit all rights under the retirement plan. An individual upon re-employment may elect to repurchase the forfeited past service for retirement and the retiree health benefits program in accordance with rules established by the beardoffice.

**SECTION 32. AMENDMENT.** Section 54-52-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-03. ~~Governing authority~~Public employees retirement system office - Retirement system advisory board.**

1. ~~A state agency~~The public employees retirement system office is hereby created to constitute the governing authority of the public employees retirement system to consist of a board of nine individuals known as the retirement board.
2. A seven-member retirement system advisory board shall advise the director, the governor, and the legislative management in the administration of the public employees retirement system. No more than one elected member of the board may be in the employ of a single department, institution, or agency of the state or in the employ of a political subdivision. An employee of the public employees retirement system office or the state retirement and investment office may not serve on the board.
4. a. Two members of the legislative assembly must be appointed by the chairman of the legislative management to serve on the board.

- a. (1) If the same political party has the greatest number of members in both the house and senate, one member must be from that majority party and one member from the political party with the next greatest number of members in the house and senate.
- b. (2) If the same political party does not have the greatest number of members in both the house and senate, one member must be from the majority party in the house and one member must be from the majority party in the senate.
- 2. b. One member of the board must be appointed by the governor to serve a term of five years. The appointee must be a North Dakota citizen who is not a state or political subdivision employee and who by experience is familiar with money management. ~~The citizen member is chairman of the board.~~
- 3. ~~One member of the board must be appointed by the attorney general from the attorney general's legal staff and shall serve a term of five years.~~
- 4. ~~The state health officer appointed under section 23-01-05 or the state health officer's designee is a member of the board.~~
- 5. c. Three board members must be elected by and from among the active participating members, members of the retirement plan established under chapter 54-52.6, members of the retirement plan established under chapter 39-03.1, and members of the job service North Dakota retirement plan. Employees who have terminated their employment for whatever reason are not eligible to serve as elected members of the board under this subsection. Board members must be elected to a five-year term pursuant to an election called by the board. Notice of board elections must be given to all active participating members. The time spent in performing duties as a board member may not be charged against any employee's accumulated annual or any other type of leave.
- 6. d. One board member must be elected by and from among those individuals who are receiving retirement benefits under this chapter. The board shall call the election and must give prior notice of the election to the individuals eligible to participate in the election pursuant to this subsection. The board member shall serve a term of five years.
- 7. e. The members of the board are entitled to receive one hundred forty-eight dollars per day compensation and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09. This is in addition to any other pay or allowance due the chairman or a member, plus an allowance for expenses they may incur through service on the board.
- 8. f. A board member shall serve a five-year term and until the board member's successor qualifies. Each board member is entitled to one vote, and ~~fivefour~~ of the ~~nineseven~~ board members constitute a quorum. ~~FiveFour~~ votes are necessary for resolution or action by the board at any meeting.

**SECTION 33. AMENDMENT.** Section 54-52-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-04. Board authorityAuthority - Continuing appropriation.**

1. The ~~board~~public employees retirement system office shall adopt rules necessary to implement this chapter, and to manage the system, subject to the limitations of this chapter. ~~The board has the powers and privileges of a corporation, including the right to sue and be sued in its own name as the board. The venue of all actions in which the board is a party must be Burleigh County, North Dakota.~~
2. The ~~board~~governor shall appoint an executive director to serve at ~~its~~the governor's discretion. ~~The executive director shall perform such duties as assigned by the board.~~
3. The ~~board~~office shall authorize the creation of whatever employ staff it deems ~~as~~ necessary for sound and economical administration of the system. ~~The executive director shall hire the staff, subject to the approval of the board.~~
4. The ~~board~~office shall arrange for actuarial and medical advisers for the system. The ~~board~~office shall cause~~contract~~ with a qualified, competent actuary to be retained on a consulting basis. The actuary shall make an annual valuation of the liabilities and reserves of the system and a determination of the contributions required by the system to discharge its liabilities and pay the administrative costs under this chapter, and to recommend to the ~~board~~office rates of employer and employee contributions required, based upon the entry age normal cost method, to maintain the system on an actuarial reserve basis; once every five years make a general investigation of the actuarial experience under the system including mortality, retirement, employment turnover, and other items required by the ~~board~~office, and recommend actuarial tables for use in valuations and in calculating actuarial equivalent values based on such investigation; and perform other duties as may be assigned by the ~~board~~office.
5. The state shall provide the ~~board~~office with the ~~retirement systems~~ office or offices to be used for the ~~meetings of the board and for the general purposes of the administrative personnel~~ office.
6. The funds necessary for paying prior service and service benefits, consultant fees, and making withdrawal payments and refunds are hereby appropriated from the retirement fund for those purposes. The amount necessary to pay the consulting fees and insurance benefits related to the uniform group insurance program is hereby appropriated from the insurance premiums received by the ~~board~~office.
7. The ~~board~~office shall administer chapters 39-03.1, 54-52.1, and 54-52.2, and may administer other optional employee benefit programs, including a flexible benefits plan, an optional employee short-term disability plan, a long-term care plan, or other optional employee benefit programs as the ~~board~~office deems appropriate. The ~~board~~office shall also administer the retirement plan established in 1961 and frozen to new entrants in 1980 for employees of job service North Dakota under chapter 52-11.
8. ~~The board shall annually~~Annually, the ~~office shall~~ report the investment performance of the fund and distribute a copy to each participant.
9. The ~~board~~office may distribute the employer contribution and applicable interest for any employee of any development foundation associated with a public institution of higher education in this state who may previously have been included in the public employees retirement system while employed by such foundation. Such employee is entitled to have that

employee's contribution and the contribution of the development foundation, with interest.

10. The ~~board~~office may audit any books, papers, accounts, bills, vouchers, and other documents or property of any and all departments, boards, commissions, political subdivisions, financial institutions, contractors, health care organizations, and consultants relating to their participation in services provided to programs administered by the ~~board~~office.
11. The ~~board~~office shall fund the administrative expenses of chapter 54-52.2 from funds collected under chapters 54-52, 54-52.1, and 54-52.3 and from fines and fees collected from deferred compensation services providers, including any fees paid for by participant funds, subject to appropriation by the legislative assembly.
12. Except as provided by section 54-52-17.7, the ~~board~~office may adjust service and make any correction of member, retiree, or beneficiary records and benefits after an error or inequity has been determined.
13. ~~The board~~Subject to appropriation, the office may use any amount credited to the separate uniform group insurance program fund created by section 54-52.1-06 in excess of the costs of administration of the uniform group insurance program to reduce the amount of premium amounts paid monthly by enrolled members of the uniform group insurance program, to reduce any increase in premium amounts paid monthly by enrolled members, or to provide increased insurance coverage to the members, as the ~~board~~office may determine.
14. The ~~board~~office may create and implement an Internal Revenue Code section 115 trust health care savings plan for all supreme and district court judges participating in the public employees retirement system if seventy-five percent of the total active participating supreme and district court judges vote to approve the program. If approved, the contribution level specified in the vote applies to all current and future participating supreme and district court judges and must be paid pursuant to the plan document developed by the ~~board~~office. The contribution level may only be changed by a vote of seventy-five percent of the total active participating supreme and district court judges at that time.
15. The office shall establish policies and implement procedures to make and collect payments in the most cost-effective manner, including the use of electronic transfer of funds.

**SECTION 34. AMENDMENT.** Subsection 3 of section 54-52-05 of the North Dakota Century Code is amended and reenacted as follows:

3. Each employer, at its option, may pay all or a portion of the employee contributions required by subsection 2 and sections 54-52-06.1, 54-52-06.2, 54-52-06.3, and 54-52-06.4 or the employee contributions required to purchase service credit on a pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not receive the contributed amounts directly once the employer has elected to pay the employee contributions. The amount paid must be paid by the employer in lieu of contributions by the employee. If the state determines not to pay the contributions, the amount that would have been paid must continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the employer, they may not be included as gross income of the employee in determining tax treatment under this code and the Internal Revenue Code until they are

distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee or from the levy authorized by subsection 5 of section 57-15-28.1. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a contribution of a reduction in gross salary and offset against future salary increases. If employee contributions are paid by the employer, they must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made prior to the date on which employee contributions were assumed by the employer. An employer exercising its option under this subsection shall report its choice to the boardoffice in writing.

**SECTION 35. AMENDMENT.** Section 54-52-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06. Employer's contribution to retirement plan.**

Each governmental unit shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Governmental unit contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. 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 boarddirector 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 36. AMENDMENT.** Section 54-52-06.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06.2. Contribution by national guard security officers or firefighters - Employer contribution.**

Each national guard security officer or firefighter who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Member contributions increase by one-half of one

percent of the member's monthly salary beginning with the monthly reporting period of January 2014. Effective August 1, 2015, each national guard security officer or firefighter who is a participating member of the plan under this section becomes a participating member of the plan under section 54-52-06.4 and the beardoffice shall thereafter manage any account balance associated with those participating members under section 54-52-06.4. After July 31, 2015, a new eligible employee may not become a participating member of the plan under this section. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The national guard security officer's or firefighter's employer shall contribute an amount determined by the beardoffice to be actuarially required to support the level of benefits specified in section 54-52-17. The employer's contribution must be paid from funds appropriated for salary or from any other funds available for such purposes. If the security officer's or firefighter's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required national guard security officer's or firefighter's assessment.

**SECTION 37. AMENDMENT.** Section 54-52-06.3 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06.3. Contribution by peace officers and correctional officers employed by political subdivisions - Employer contribution.**

Each peace officer or correctional officer employed by a political subdivision that enters into an agreement with the retirement boardoffice on behalf of its peace officers and correctional officers separately from its other employees and who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Peace officer or correctional officer contributions increase by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2014. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's or correctional officer's employer shall contribute an amount determined by the beardoffice to be actuarially required to support the level of benefits specified in section 54-52-17. If the peace officer's or correctional officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace officer's or correctional officer's assessment.

**SECTION 38. AMENDMENT.** Section 54-52-06.4 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06.4. Contribution by peace officers employed by the bureau of criminal investigation or security officers employed by the national guard - Employer contribution.**

Each peace officer employed by the bureau of criminal investigation who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Peace officer contributions increase by one percent of the member's monthly salary 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. Effective August 1, 2015, each national guard security officer who is a member of the public employee's retirement system is assessed and monthly shall pay six percent of the employee's monthly salary. National guard security officer contributions decrease by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2016. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's or security officer's employer shall contribute an amount determined by the beardoffice to be

actuarially required to support the level of benefits specified in section 54-52-17. The employer's contribution must be paid from funds appropriated for salary or from any other funds available for such purposes. If the peace officer's or security officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace officer's or security officer's assessment.

**SECTION 39. AMENDMENT.** Section 54-52-10 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-10. Allocation of funds.**

The boardoffice shall maintain such funds and accounts as may be necessary to administer the provisions of this chapter. Any and all expenses incurred by or for the operation of the retirement plan must be paid from the funds contributed pursuant to sections 54-52-06 and 54-52-06.1.

**SECTION 40. AMENDMENT.** Section 54-52-10.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-10.1. Payment of benefits and other costs.**

The boardoffice shall use funds under itsthe control of the office both before and after July 1, 1977, to administer this chapter and pay benefits authorized by this chapter.

**SECTION 41. AMENDMENT.** Section 54-52-11.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-11.1. Vesting of employer contributions.**

Except for supreme and district court judges, who are not eligible for benefits under this section, a member's account balance includes vested employer contributions equal to the member's contributions to the deferred compensation plan for public employees under chapter 54-52.2, or member contributions to other participating employer supplemental Internal Revenue Code section 457 or 403(b) retirement programs as approved by the boardoffice, with the minimum member contribution being twenty-five dollars. However, the vested employer contribution may not exceed:

1. For months one through twelve of service credit, twenty-five dollars or one percent of the member's monthly salary, whichever is greater.
2. For months thirteen through twenty-four of service credit, twenty-five dollars or two percent of the member's monthly salary, whichever is greater.
3. For months twenty-five through thirty-six of service credit, twenty-five dollars or three percent of the member's monthly salary, whichever is greater.
4. For service exceeding thirty-six months, twenty-five dollars or four percent of the member's monthly salary, whichever is greater.
5. The vested employer contribution may not exceed four percent of the member's monthly salary.

Vested employer contributions must be credited monthly to the member's account balance.

**SECTION 42. AMENDMENT.** Section 54-52-14 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-14. Acceptance of money and property by the board.**

The ~~board~~office may take by gift, grant, devise, or bequest, any money or real or personal property or any other thing of value for the benefit of the employees retirement fund, and when received, said property becomes a part of such fund.

**SECTION 43. AMENDMENT.** Section 54-52-14.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-14.2. Interest and earnings attributable to administered funds.**

All interest and earnings on funds administered by the ~~retirement~~ ~~board~~office established under chapters 39-03.1, 54-52, 54-52.1, 54-52.2, and 54-52.3 must be credited to the respective fund.

**SECTION 44. AMENDMENT.** Section 54-52-16 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-16. Insurance contracts - Trust agreements.**

For the purpose of establishing the funding agent or agents, the ~~board~~office may enter ~~into~~ an insurance contract, agreement, or purchase an insurance policy or policies covering all or any part of the retirement plan adopted, provided the assuring company is a North Dakota corporation or authorized to do business in the state of North Dakota, or may enter ~~into~~ a contract with any qualified trust company or companies, or combinations of insurance contracts and trust contracts.

**SECTION 45. AMENDMENT.** Section 54-52-17 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-17. Formulation of plan.**

Participating members shall receive benefits according to this section and according to rules adopted by the ~~board~~office, not inconsistent with this chapter. No person is entitled to receive a prior service benefit if the person was not continuously employed by a governmental unit in North Dakota for a period of not less than two years immediately prior to eligibility for retirement.

1. Participating members shall receive credit for full-time employment or its equivalent from the date they attain eligibility until their normal retirement date, postponed retirement date, or early retirement date, as defined in this section. Part-time employment will be recognized as full-time employment on a prorated basis as the ~~board~~office may prescribe.
2. Retirement benefits are calculated from the participating member's final average salary, which is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred twenty months of employment. For members who terminate employment on or after August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred eighty months of employment. For members who terminate employment between July 31, 2005, and August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the period for which the ~~board~~office has appropriate and accurate salary records on its electronic database, but that period may not be more than the last one hundred eighty months of employment. Months not employed are excluded in arriving at the thirty-six months to be used for

the purpose of computing an average. If the participating member has worked for less than thirty-six months at the normal retirement date, the final average salary is the average salary for the total months of employment.

3. Retirement dates are defined as follows:
  - a. Normal retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is:
    - (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
    - (2) When the member has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
  - b. Normal retirement date for members first enrolled after December 31, 2015, except for a national guard security officer or firefighter, a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, or a supreme court or district court judge, is:
    - (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
    - (2) When the member has a combined total of years of service credit and years of age equal to ninety and the member attains a minimum age of sixty and has not received a retirement benefit under this chapter.
  - c. Normal retirement date for a national guard security officer or firefighter is:
    - (1) The first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty-five years and has completed at least three eligible years of employment; or
    - (2) When the national guard security officer or firefighter has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
  - d. Normal retirement date for a peace officer or correctional officer employed by a political subdivision is:
    - (1) The first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty-five years and has completed at least three eligible years of employment; or
    - (2) When the peace officer or correctional officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
  - e. Normal retirement date for a peace officer employed by the bureau of criminal investigation is:

- (1) The first day of the month next following the month in which the peace officer attains the age of fifty-five years and has completed at least three eligible years of employment; or
- (2) When the peace officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- f. Postponed retirement date is the first day of the month next following the month in which the member, on or after July 1, 1977, actually severs or has severed the member's employment after reaching the normal retirement date.
- g. Early retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed three years of eligible employment. For a national guard security officer or firefighter, early retirement date is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty years and has completed at least three years of eligible employment. For a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, early retirement date is the first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty years and has completed at least three years of eligible employment.
- h. Disability retirement date is the first day of the month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules of the boardoffice, and has completed at least one hundred eighty days of eligible employment. For supreme and district court judges, permanent and total disability is based solely on a judge's inability to perform judicial duties arising out of physical or mental impairment, as determined pursuant to rules adopted by the boardoffice or as provided by subdivision a of subsection 3 of section 27-23-03. A member is eligible to receive disability retirement benefits only if the member:
  - (1) Became disabled during the period of eligible employment; and
  - (2) Applies for disability retirement benefits within twelve months of the date the member terminates employment.

A member is eligible to continue to receive disability benefits as long as the permanent and total disability continues and the member submits the necessary documentation and undergoes medical testing required by the boardoffice, or for as long as the member participates in a rehabilitation program required by the boardoffice, or both. If the boardoffice determines that a member no longer meets the eligibility definition, the boardoffice may discontinue the disability retirement benefit. The boardoffice may pay the cost of any medical testing or rehabilitation services if the office deems necessary and these payments are appropriated from the retirement fund for those purposes.

4. The boardoffice shall calculate retirement benefits as follows:

- a. Normal retirement benefits for all retirees, except supreme and district court judges, reaching normal retirement date equal an

annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which is determined as follows:

- (1) Service benefit equals two percent of final average salary multiplied by the number of years of service employment.
- (2) Prior service benefit equals two percent of final average salary multiplied by the number of years of prior service employment.
- b. Normal retirement benefits for all supreme and district court judges under the public employees retirement system reaching normal retirement date equal an annual amount, payable monthly, comprised of a benefit as defined in this chapter, determined as follows:
  - (1) Benefits must be calculated from the time of appointment or election to the bench and must equal three and one-half percent of final average salary multiplied by the first ten years of judicial service, two and eighty hundredths percent of final average salary multiplied by the second ten years of judicial service, and one and one-fourth percent of final average salary multiplied by the number of years of judicial service exceeding twenty years.
  - (2) Service benefits must include, in addition, an amount equal to the percent specified in subdivision a of final average salary multiplied by the number of years of nonjudicial employee service and employment.
- c. Postponed retirement benefits are calculated as for single life benefits for those members who retired on or after July 1, 1977.
- d. Early retirement benefits are calculated as for single life benefits accrued to the date of termination of employment, but must be actuarially reduced to account for benefit payments beginning prior to the normal retirement date, which is the earlier of age sixty-five or the age at which current service plus age equals eighty-five. Except for a national guard security officer or firefighter, a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, or a supreme court or district court judge, early retirement benefits for members first enrolled after December 31, 2015, are calculated for single life benefits accrued to the date of termination of employment, but must be reduced by fixed rate of eight percent per year to account for benefit payments beginning before the normal retirement date. A retiree, other than a supreme or district court judge, is eligible for early retirement benefits only after having completed three years of eligible employment. A supreme or district court judge retiree is eligible for early retirement benefits only after having completed five years of eligible employment.
- e. Except for supreme and district court judges, disability retirement benefits are twenty-five percent of the member's final average salary. Disability retirement benefits for supreme and district court judges are seventy percent of final average salary reduced by the member's primary social security benefits and by any workforce safety and insurance benefits paid. The minimum monthly disability retirement benefit under this section is one hundred dollars.

5. Upon termination of employment after completing three years of eligible employment, except for supreme and district court judges, who must complete five years of eligible employment, but before normal retirement date, a member who does not elect to receive early retirement benefits is eligible to receive deferred vested retirement benefits payable commencing on the member's normal retirement date in one of the optional forms provided in subsection 9. Members who have delayed or inadvertently failed to apply for retirement benefits to commence on their normal retirement date may choose to receive either a lump sum payment equal to the amount of missed payments, or an actuarial increase to the form of benefit the member has selected, which increase must reflect the missed payments.
6. If before retiring a member dies after completing three years of eligible employment, except for supreme and district court judges, who must have completed five years of eligible employment, the boardoffice shall pay the member's account balance to the member's designated beneficiary as provided in this subsection. If the member has designated an alternate beneficiary with the surviving spouse's written consent, the boardoffice shall pay the member's account balance to the named beneficiary. If the member has named more than one primary beneficiary, the boardoffice shall pay the member's account balance to the named primary beneficiaries in the percentages designated by the member or, if the member has not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the member, the boardoffice shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If any beneficiary survives the member, yet dies before distribution of the beneficiary's share, the beneficiary must be treated as if the beneficiary predeceased the member. If there are no remaining primary beneficiaries, the boardoffice shall pay the member's account balance to the contingent beneficiaries in the same manner. If there are no remaining designated beneficiaries, the boardoffice shall pay the member's account balance to the member's estate. If the member has not designated an alternate beneficiary or the surviving spouse is the beneficiary, the surviving spouse of the member may select a form of payment as follows:
  - a. If the member was a supreme or district court judge, the surviving spouse may select one of the following optional forms of payment:
    - (1) A lump sum payment of the member's retirement account as of the date of death.
    - (2) Payments as calculated for the deceased member as if the member was of normal retirement age at the date of death, payable until the spouse dies.
  - b. The surviving spouse of all other members may select one of the following options:
    - (1) A lump sum payment of the member's retirement account as of the date of death.
    - (2) Payment of a monthly retirement benefit equal to fifty percent of the deceased member's accrued single life retirement benefits until the spouse dies.
    - (3) If the member dies on or after the member's normal retirement date, the payment of a monthly retirement benefit equal to an amount that would have been paid to the surviving spouse if

the member had retired on the day of the member's death and had selected a one hundred percent joint and survivor annuity, payable until the spouse dies. A surviving spouse who received a benefit under this subsection as of July 31, 1995, is entitled to the higher of that person's existing benefit or the equivalent of the accrued benefit available under the one hundred percent joint and survivor provision as if the deceased member were of normal retirement age, with the increase payable beginning August 1, 1995.

7. If a member not coming under the provisions of subsection 6 terminates employment because of death, permanent and total disability, or any voluntary or involuntary reason prior to retirement, the member or the member's designated beneficiary is entitled to the member's account balance at termination. The boardoffice automatically shall refund a member's account balance if the member has completed less than three years of eligible employment, has an account balance of less than one thousand dollars, and was not a supreme or district court judge. If the member was a supreme or district court judge, the boardoffice automatically shall refund a member's account balance if the member completed less than five years of eligible employment. A member may waive the refund if the member submits a written statement to the boardoffice, within thirty days after termination, requesting that the member's account balance remain in the fund.
8. The surviving spouse of a member receiving retirement benefits must be the member's primary beneficiary unless there is no surviving spouse or the surviving spouse designates an alternate beneficiary in writing. If a member receiving retirement benefits or the member's surviving spouse receiving retirement benefits dies before the total amount of benefits paid to either or both equals the amount of the member's account balance at retirement, the difference must be paid to the named beneficiary of the recipient or, if there is no named beneficiary, to the recipient's estate.
9. The boardoffice shall adopt rules providing for the receipt of retirement benefits in the following optional forms:
  - a. Single life.
  - b. An actuarially equivalent joint and survivor option, with fifty percent or one hundred percent options.
  - c. Actuarially equivalent life with ten-year or twenty-year certain options.
  - d. An actuarially equivalent partial lump sum distribution option with a twelve-month maximum lump sum distribution.
  - e. An actuarially equivalent graduated benefit option with either a one percent or two percent increase to be applied the first day of January of each year.

Except for supreme and district court judges, unless a member specifically requests that the member receive benefits according to one of these options at the time of applying for retirement, all retirement benefits must be in the form of a single life benefit. For supreme and district court judges, unless a member specifically requests that the member receive benefits according to one of these options at the time of applying for retirement, all retirement benefits must be in the form of a lifetime monthly pension with fifty percent of the benefit continuing for the life of the surviving spouse, if any.

10. The fund may accept rollovers from other eligible plans under rules adopted by the boardoffice for the purchase of additional service credit, but only to the extent the transfer is a rollover contribution that meets the requirement of section 408 of the Internal Revenue Code.
11. The boardoffice may accept trustee-to-trustee transfers as permitted by Internal Revenue Code section 403(b)(13) and section 457(e)(17) from an Internal Revenue Code section 403(b) annuity or Internal Revenue Code section 457 deferred compensation plan for the purchase of permissive service credit, as defined in Internal Revenue Code section 415(n)(3)(A) or as repayment of a cashout from a governmental plan under Internal Revenue Code section 415(k)(3).
12. The boardoffice may establish individual retirement accounts and individual retirement annuities as permitted under section 408(q) of the Internal Revenue Code to allow employees to make voluntary employee contributions. The boardoffice may adopt rules to implement and administer the accounts and annuities under this section.

**SECTION 46. AMENDMENT.** Section 54-52-17.2 of the North Dakota Century Code is 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 ~~board~~office 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 retirement system is required, then, for purposes of current participation, the employee is a member of each applicable retirement system. The employer shall pay over to each retirement system the member assessment and employer contributions at the rates currently existing for that retirement system.  
  
b. If an employee described in subdivision a was employed prior to August 1, 2003, and has dual membership rights, the employee may elect to begin participation in the alternate plan pursuant to the plan provisions on August 1, 2003, or may continue participation according to the plan provisions in effect on July 31, 2003. An employee's election under this subdivision is ineffective unless delivered to the public employees retirement system administrative offices by five p.m. on October 31, 2003. If an election is not received by the public employees retirement system, the participation and benefit calculation requirements in effect on July 31, 2003, apply to that employee.

**SECTION 47. AMENDMENT.** Section 54-52-17.3 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-17.3. Purchase of legislative service credit.**

A member may purchase service credit for the time during each legislative session spent serving as a member of the legislative assembly while holding eligible employment under this chapter. The member shall pay for this service credit an amount equal to the required member assessments and employer contributions plus interest as established by the ~~board~~office. Service credit for legislative sessions prior to July 1, 1985, must be purchased before January 1, 1986. Service credit for each later legislative session must be purchased within one year after the adjournment of that legislative session.

**SECTION 48. AMENDMENT.** Section 54-52-17.4 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-17.4. Purchase of additional credit.**

1. A participating member may elect to purchase credit for years of service and prior service for which the participating member is not presently receiving credit. A participating member is entitled to purchase additional credit under this section for the following service or prior service, except this service is not eligible for credit if the years claimed also qualify for retirement benefits from another retirement system:
  - a. Active prior employment in the armed forces of the United States, except as provided in section 54-52-17.14, for up to four years of credit.
  - b. Employment as a permanent employee by a public employer either within or outside the state of North Dakota.

- c. Employment as a permanent employee by a political subdivision participating in the public employees retirement system which did not pay the cost of past service benefits under section 54-52-02.1.
  - d. Service the participating member did not elect to repurchase upon re-employment under section 54-52-02.6.
  - e. Service of an eligible employee, who exercised the privilege to withdraw from the predecessor plan to the public employees retirement system under subsection 10 of section 54-52-17 as created by section 13 of chapter 499 of the 1977 Session Laws.
  - f. Employment as a permanent employee by the federal government.
2. A participating member may elect to purchase credit for the following absences for which the participating member is not receiving service credit:
    - a. Employer-approved leave of absence; or
    - b. Months away from work while participating as a seasonal employee.
  3. Supreme and district court judges under the public employees retirement system may elect to purchase credit for the following years of service:
    - a. Except as provided in section 54-52-17.14, for up to four years of credit for active employment in the armed forces of the United States.
    - b. As a county judge in a county or counties that did not participate in the public employees retirement system under this chapter.
    - c. Participation in the public employees retirement system as a county judge may be converted to credit in the judges' retirement system.
  4. The participating member may purchase credit under this section, or the participating member's employer may purchase for the participating member, by paying to the boardoffice an amount equal to the actuarial cost to the fund of providing the credit. If the participating member purchases credit pursuant to subdivision d of subsection 1, the participating member must pay to the boardoffice an amount equal to the greater of the actuarial cost to the fund of providing the credit, or the amount the participating member received upon taking a refund of the participating member's account balance, plus interest at the actuarial rate of return from the time the participating member was issued the refund. If the participating member is not repurchasing all of the credit originally refunded, the participating member must pay a pro rata amount of the refunded amount determined by dividing the refunded amount by the number of months of credit refunded, multiplying that amount times the number of months of credit the participating member seeks to repurchase, and adding interest at the actuarial rate of return. The participating member or the participating member's employer shall also pay to the retiree health benefits fund established under section 54-52.1-03.2 an amount equal to the actuarial cost to that fund for the additional credit. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. The boardoffice shall adopt rules governing the purchase of additional credit under this section.
  5. Pursuant to rules adopted by the boardoffice, the boardoffice may allow a participating member to purchase service credit with either pretax or aftertax moneys, at the board's discretion of the office. If the participating

member elects to purchase service credit using pretax moneys, the requirements and restrictions in subsection 3 of section 54-52-05 apply to the purchase arrangement.

6. In addition to service credit identified in this section, a vested participating member may purchase up to five years of service credit unrelated to any other eligible service.

**SECTION 49. AMENDMENT.** Section 54-52-17.6 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-17.6. Benefit payments to alternate payee under qualified domestic relations order.**

1. The ~~boardoffice~~ shall pay retirement benefits in accordance with the applicable requirements of any qualified domestic relations order. The ~~boardoffice~~ shall review a domestic relations order submitted to it to determine if the domestic relations order is qualified under this section and under rules established by the ~~boardoffice~~ for determining the qualified status of domestic relations orders and administering distributions under the qualified orders. Upon determination that a domestic relations order is qualified, the ~~boardoffice~~ shall notify the participating member and the named alternate payee of its receipt of the qualified domestic relations order.
2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of a participating member, is made pursuant to a North Dakota domestic relations law, and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of the benefits payable to the participating member. A qualified domestic relations order may not require the ~~boardoffice~~ to provide any type or form of benefit, or any option, not otherwise provided under the public employees retirement system, or to provide increased benefits as determined on the basis of actuarial value. However, a qualified domestic relations order may require the payment of benefits at the early retirement date notwithstanding that the participating member has not terminated eligible employment. A qualified domestic relations order must specify:
  - a. The name and the last-known mailing address of the participating member and the name and mailing address of each alternate payee covered by the order;
  - b. The amount or percentage of the participating member's benefits to be paid by the plan 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 50. AMENDMENT.** Section 54-52-17.11 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-17.11. Judges postretirement adjustments.**

A supreme or district court judge or that person's beneficiary who, on December 31, 2007, is receiving retirement benefits under subdivision b of subsection 4 of section 54-52-17, is entitled to receive an increase in benefits equal

to two percent of the individual's present benefits with the increase payable beginning January 1, 2008. A supreme or district court judge or that person's beneficiary who, on December 31, 2008, is receiving retirement benefits under subdivision b of subsection 4 of section 54-52-17, is entitled to receive an increase in benefits equal to two percent of the individual's present benefits with the increase payable beginning January 1, 2009. The increases allowed by this section may only be given if the ~~public employees retirement board~~ office determines there is actuarial margin sufficient to pay the increases.

**SECTION 51. AMENDMENT.** Section 54-52-17.13 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-17.13. Supplemental retiree benefit payment.**

If the ~~board~~ office determines that the fund has obtained a total return on investments of nine and six hundredths percent or higher for the fiscal year ending June 30, 2007, or June 30, 2008, the ~~board~~ office shall authorize an additional payment equal to seventy-five percent of the January retirement allowance following the fiscal yearend to each eligible retiree in pay status as of that January, excluding judicial retirees and beneficiaries, but including joint and survivor and term certain beneficiaries, under this chapter. The ~~board~~ office may only make one payment to each retiree under this section.

**SECTION 52. AMENDMENT.** Section 54-52-23 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-23. Savings clause - Plan modifications.**

If the ~~board~~ office determines that any section of this chapter does not comply with applicable federal statutes or rules, the ~~board~~ office shall adopt appropriate terminology with respect to that section as will comply with those federal statutes or rules, subject to the approval of the employee benefits programs committee. Any plan modifications made by the ~~board~~ office pursuant to this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

**SECTION 53. AMENDMENT.** Section 54-52-26 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-26. Confidentiality of records.**

All records relating to the retirement benefits of a member or a beneficiary under this chapter, chapter 54-52.2, and chapter 54-52.6 are confidential and are not public records. Information and records may be disclosed, under rules adopted by the ~~board~~ office, only to:

1. A person to whom the member has given written consent to have the information disclosed.
2. A person legally representing the member, upon proper proof of representation, and unless the member specifically withdraws consent.
3. A person authorized by a court order.
4. A member's participating employer, limited to information concerning the member's years of service credit and years of age. The ~~board~~ office may share other types of information as needed by the employer to validate the employer's compliance with existing state or federal laws. Any information provided to the member's participating employer under this

subsection must remain confidential except as provided under subsection 6.

5. The administrative staff of the retirement and investment office for purposes relating to membership and benefits determination.
6. State or federal agencies for purposes of reporting on a service provider's provision of services or when the employer must supply information to an agency to validate the employer's compliance with existing state or federal laws.
7. Member interest groups approved by the boardoffice on a third-party blind list basis, limited to information concerning the member's participation, name, and address.
8. The member's spouse or former spouse, that individual's legal representative, and the judge presiding over the member's dissolution proceeding for purposes of aiding the parties in drafting a qualified domestic relations order under section 54-52-17.6. The information disclosed under this subsection must be limited to information necessary for drafting the order.
9. Beneficiaries designated by a participating member or a former participating member to receive benefits after the member's death, but only after the member's death. Information relating to beneficiaries may be disclosed to other beneficiaries of the same member.
10. The general public, but only after the boardoffice has been unable to locate the member for a period in excess of two years, and limited to the member's name and 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 54. 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 benefits from all the plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. If the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. The reduction must be made pro rata between the plans, in proportion to the participating member's service in each plan.
2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirements under section 401(a)(9)(G), and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. A member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.
  3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
  4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
  5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.

**SECTION 55. AMENDMENT.** Section 54-52-29 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-29. Employer service purchases.**

A participating employer may purchase additional service credit on behalf of a member under the following conditions:

1. The member may not be given the option to choose between an employer service purchase and an equivalent amount paid in cash.
2. The member must meet one of the following conditions at the time the purchase is made:
  - a. The member's age plus service credit must be equal to or greater than seventy-five; or
  - b. The member's age must be at least fifty-five and the member must have at least three years of service credit.
3. The ~~boardoffice~~ must determine the purchase price on an actuarially equivalent basis, taking into account the contributions necessary for both the retirement program and the retiree health benefits fund.
4. The purchase must be completed before the member's retirement.
5. The employer may purchase a maximum of five years of service credit on behalf of the member.
6. The employer must pay the purchase price for the service credit purchased under this section in a lump sum.

**SECTION 56. AMENDMENT.** Section 54-52.1-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-01. Definitions.**

As used in this chapter, unless the context otherwise requires:

1. "~~Board~~" means the public employees retirement board.
2. "Carrier" means:
  - a. For the hospital benefits coverage, an insurance company authorized to do business in the state, or a nonprofit hospital service association, or a prepaid group practice hospital care plan authorized to do business in the state, or the state if a self-insurance plan is used for providing hospital benefits coverage.
  - b. For the medical benefits coverage, an insurance company authorized to do business in the state, or a nonprofit medical service association, or a prepaid group practice medical care plan authorized to do business in the state, or the state if a self-insurance plan is used for providing medical benefits coverage.
  - c. For the life insurance benefits coverage, an insurance company authorized to do business in the state.
- 3-2. "Department, board, or agency" means the departments, boards, agencies, or associations of this state, and includes the state's charitable, penal, and higher educational institutions; the Bank of North Dakota; the state mill and elevator association; and counties, cities, district health units, and school districts.
3. "Director" means the executive director of the public employees retirement system office.
4. "Eligible employee" means every permanent employee who is employed by a governmental unit, as that term is defined in section 54-52-01.

"Eligible employee" includes members of the legislative assembly, judges of the supreme court, paid members of state or political subdivision boards, commissions, or associations, full-time employees of political subdivisions, elective state officers as defined by subsection 2 of section 54-06-01, and disabled permanent employees who are receiving compensation from the North Dakota workforce safety and insurance fund. As used in this subsection, "permanent employee" means one whose services are not limited in duration, who is filling an approved and regularly funded position in a governmental unit, and who is employed at least seventeen and one-half hours per week and at least five months each year or for those first employed after August 1, 2003, is employed at least twenty hours per week and at least twenty weeks each year of employment. For purposes of sections 54-52.1-04.1, 54-52.1-04.7, 54-52.1-04.8, and 54-52.1-11, "eligible employee" includes retired and terminated employees who remain eligible to participate in the uniform group insurance program pursuant to applicable state or federal law.

5. "Health maintenance organization" means an organization certified to establish and operate a health maintenance organization in compliance with chapter 26.1-18.1.
6. "Hospital benefits coverage" means a plan which either provides coverage for, or pays, or reimburses expenses for hospital services incurred in accordance with the uniform contract.
7. "Life insurance benefits coverage" means a plan which provides both term life insurance and accidental death and dismemberment insurance in amounts determined by the boardoffice, with a minimum of one thousand dollars provided for the term life insurance portion of the coverage.
8. "Medical benefits coverage" means a plan which either provides coverage for, or pays, or reimburses expenses for medical services in accordance with the uniform contract.
9. "Member contribution" means the payment by the member into the retiree health benefits fund pursuant to sections 54-52-02.9 and 54-52-17.4.
10. "Member's account balance" means the member's contributions plus interest at the rate set by the boardoffice.
11. "Office" means the public employees retirement system office.
12. "Temporary employee" means a governmental unit employee who is not filling an approved and regularly funded position in an eligible governmental unit and whose services may or may not be limited in duration.

**SECTION 57. AMENDMENT.** Section 54-52.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-02. Uniform group insurance program created - Formation into subgroups.**

In order to promote the economy and efficiency of employment in the state's service, reduce personnel turnover, and offer an incentive to high-grade individuals to enter and remain in the service of state employment, there is created a uniform group insurance program. The uniform group must be composed of eligible and retired employees and be formed to provide hospital benefits coverage, medical benefits coverage, and life insurance benefits coverage in the manner set forth in

this chapter. The uniform group may be divided into the following subgroups at the discretion of the boardoffice:

1. Medical and hospital benefits coverage group consisting of active eligible employees and retired employees not eligible for medicare, except for employees who first retire after the effective date of this section and are not eligible for medicare on their retirement. In determining premiums for coverage under this subsection for retired employees not eligible for medicare, the rate for a non-medicare retiree single plan is one hundred fifty percent of the active member single plan rate, the rate for a non-medicare retiree family plan of two people is twice the non-medicare retiree single plan rate, and the rate for a non-medicare retiree family plan of three or more persons is two and one-half times the non-medicare retiree single plan rate.
2. In addition to the coverage provided in subsection 1, another coverage option may be provided for retired employees not eligible for medicare, except for employees who first retire after the effective date of this section and are not eligible for medicare on their retirement, provided the option does not increase the implicit subsidy as determined by the governmental accounting standards board's other postemployment benefit reporting procedure. In offering this additional option, the boardoffice may have an open enrollment but thereafter enrollment for this option must be as specified in section 54-52.1-03.
3. Retired medicare-eligible employee group medical and hospital benefits coverage.
4. Active eligible employee life insurance benefits coverage.
5. Retired employee life insurance benefits coverage.
6. Terminated employee continuation group medical and hospital benefits coverage.
7. Terminated employee conversion group medical and hospital benefits coverage.
8. Dental benefits coverage.
9. Vision benefits coverage.
10. Long-term care benefits coverage.
11. Employee assistance benefits coverage.
12. Prescription drug coverage.

**SECTION 58. AMENDMENT.** Section 54-52.1-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-03. Employee participation in plan - Employee to furnish information - Benefits to continue upon retirement or termination.**

1. Any eligible employee may be enrolled in the uniform group insurance program created by this chapter by requesting enrollment with the employing department. If an eligible employee does not enroll in the uniform group insurance program at the time of beginning employment, in order to enroll at a later time the eligible employee must meet minimum requirements established by the boardoffice. An employing department may not require an active eligible employee to request

coverage under the uniform group insurance program as a prerequisite to receive the minimum employer-paid life insurance benefits coverage or employee assistance program benefits coverage.

2. Within five days after the expiration of the payroll period during which enrollment was requested, the employing department shall enroll the employee with the boardoffice. The employee's insurance coverage becomes effective on the date of enrollment.
3. A retiree who has accepted a periodic distribution from the defined contribution retirement plan pursuant to section 54-52.6-13 who the boardoffice determines is eligible for participation in the uniform group insurance program or has accepted a retirement allowance from the public employees retirement system, the highway patrolmen's retirement system, the teachers' insurance and annuity association of America - college retirement equities fund for service credit earned while employed by North Dakota institutions of higher education, the retirement system established by job service North Dakota under section 52-11-01, the judges' retirement system established under chapter 27-17, or the teachers' fund for retirement may elect to participate in the uniform group under this chapter without meeting minimum requirements at age sixty-five, when the member's spouse reaches age sixty-five, upon the receipt of a benefit, or when the spouse terminates employment. If a retiree or surviving spouse does not elect to participate at the times specified in this subsection, the retiree or surviving spouse must meet the minimum requirements established by the boardoffice. Subject to sections 54-52.1-03.2 and 54-52.1-03.3, each retiree or surviving spouse shall pay directly to the boardoffice the premiums in effect for the coverage then being provided. A retiree or surviving spouse who has met the initial eligibility requirements of this subsection to begin participation in the uniform group insurance program remains eligible as long as the retiree maintains the retiree's participation in the program by paying the required premium pursuant to rules adopted by the boardoffice.
4. Upon the termination of employment when the employee is not eligible to participate under subsection 3 or 5 or applicable federal law, that employee cannot continue as a member of the uniform group.
5. A member or former member of the legislative assembly or that person's surviving spouse may elect to continue membership in the uniform group within the applicable time limitations after either termination of eligible employment as a member of the legislative assembly or termination of other eligible employment or, for a surviving spouse, upon the death of the member or former member of the legislative assembly. The member or former member of the legislative assembly or that person's surviving spouse shall pay the premiums in effect for the coverage provided directly to the boardoffice.
6. Each eligible employee requesting enrollment shall furnish the appropriate person in the employing department, board, or agency with such information and in such form as prescribed by the boardoffice to enable the enrollment of the employee, or employee and dependents, in the uniform group insurance program created by this chapter.
7. If the participating employee is a faculty member in a state charitable, penal, or educational institution who receives a salary or wages on less than a twelve-month basis and has signed a contract to teach for the next ensuing school year, the agency shall make arrangements to include that employee in the insurance program on a twelve-month basis and make the contribution authorized by this section for each month of the twelve-month period.

**SECTION 59. AMENDMENT.** Section 54-52.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-03.1. Certain political subdivisions authorized to join uniform group insurance program - Employer contribution.**

If eligible under federal law, a political subdivision may extend the benefits of the uniform group insurance program under this chapter to its permanent employees, subject to minimum requirements established by the boardoffice and a minimum period of participation of sixty months. If the political subdivision withdraws from participation in the uniform group insurance program, before completing sixty months of participation, unless federal or state laws or rules are modified or interpreted in a way that makes participation by the political subdivision in the uniform group insurance program no longer allowable or appropriate, the political subdivision shall make payment to the boardoffice in an amount equal to any expenses incurred in the uniform group insurance program that exceed income received on behalf of the political subdivision's employees as determined under rules adopted by the boardoffice. The Garrison Diversion Conservancy District, and district health units required to participate in the public employees retirement system under section 54-52-02, shall participate in the uniform group insurance program under the same terms and conditions as state agencies. A retiree who has accepted a retirement allowance from a participating political subdivision's retirement plan may elect to participate in the uniform group under this chapter without meeting minimum requirements at age sixty-five, when the employee's spouse reaches age sixty-five, upon the receipt of a benefit, when the political subdivision joins the uniform group insurance plan if the retiree was a member of the former plan, or when the spouse terminates employment. If a retiree or surviving spouse does not elect to participate at the times specified in this section, the retiree or surviving spouse must meet the minimum requirements established by the boardoffice. Each retiree or surviving spouse shall pay directly to the boardoffice the premiums in effect for the coverage then being provided. The boardoffice may require documentation that the retiree has accepted a retirement allowance from an eligible retirement plan other than the public employees retirement system.

**SECTION 60. AMENDMENT.** Section 54-52.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-03.2. Retiree health benefits fund - Appropriation.**

1. The boardoffice shall establish a retiree health benefits fund account with the Bank of North Dakota for the purpose of prefunding and providing hospital benefits coverage and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program for retired eligible employees or surviving spouses of retired eligible employees and their dependents as provided in this chapter. The state shall contribute monthly to the retiree health benefits fund an amount equal to one and fourteen hundredths percent of the monthly salaries and wages of all participating members of the highway patrolmen's retirement system under chapter 39-03.1, and one and fourteen hundredths percent of the monthly salaries of all supreme or district court judges who are participating members of the public employees retirement system under chapter 54-52. Each governmental unit that contributes to the public employees retirement system fund under section 54-52-06 or the retirement plan under chapter 54-52.6 shall contribute monthly to the retiree health benefits fund an amount equal to one and fourteen hundredths percent of the monthly salaries or wages of all participating members of the public employees retirement system under chapter 54-52 or chapter 54-52.6, except for nonteaching employees of the superintendent of public instruction who elect to participate in the public employees retirement system pursuant to section

54-52-02.13 and employees of the state board for career and technical education who elect to participate in the public employees retirement system pursuant to section 54-52-02.14. For nonteaching employees of the superintendent of public instruction who elect to participate in the public employees retirement system pursuant to section 54-52-02.13, the superintendent of public instruction shall contribute monthly to the retiree health benefits fund an amount equal to three and twenty-four hundredths percent of the monthly salaries or wages of those nonteaching employee members, beginning on the first of the month following the transfer under section 54-52-02.13 and continuing thereafter for a period of eight years, after which time the superintendent of public instruction shall contribute one and fourteen hundredths percent of the monthly salary or wages of those nonteaching employee members. For employees of the state board for career and technical education who elect to participate in the public employees retirement system pursuant to section 54-52-02.14, the state board for career and technical education shall contribute monthly to the retiree health benefits fund an amount equal to two and ninety-nine hundredths percent of the monthly salary or wages of those employee members, beginning on the first of the month following the transfer under section 54-52-02.14 and continuing thereafter for a period of eight years, after which time the state board for career and technical education shall contribute one and fourteen hundredths percent of the monthly salary or wages of those employee members. The employer of a national guard security officer or firefighter shall contribute monthly to the retiree health benefits fund an amount equal to one and fourteen hundredths percent of the monthly salaries or wages of all national guard security officers or firefighters participating in the public employees retirement system under chapter 54-52. Job service North Dakota shall reimburse monthly the retiree health benefits fund for credit received under section 54-52.1-03.3 by members of the retirement program established by job service North Dakota under section 52-11-01. The boardoffice, as trustee of the fund and in exclusive control of its administration, shall:

- a. Provide for the investment and disbursement of moneys of the retiree health benefits fund and administrative expenditures in the same manner as moneys of the public employees retirement system are invested, disbursed, or expended.
- b. Adopt rules necessary for the proper administration of the retiree health benefits fund, including enrollment procedures.
2. All moneys deposited in the fund established under subsection 1, not otherwise appropriated, are hereby appropriated to the boardoffice for the purpose of making investments for the fund and to make contributions toward hospital and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program for eligible retired employees or surviving spouses of eligible retired employees and their dependents as elected.
3. If a member terminates employment because of death, permanent and total disability, or any voluntary or involuntary reason prior to retirement, the member or the member's designated beneficiary is entitled to the member's account balance at termination. If a member's account balance is withdrawn, the member relinquishes all rights to benefits under the retiree health benefits fund.

**SECTION 61. AMENDMENT.** Section 54-52.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-03.3. Eligibility for retiree health benefits - Fixed contribution and reduction factors.**

1. The following persons are entitled to receive credit for hospital and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program under subsection 2:
  - a. A member or surviving spouse of the highway patrolmen's retirement system is eligible for the credit beginning on the date retirement benefits are effective unless the premium is billed to the employer.
  - b. A member or surviving spouse of the public employees retirement system is eligible for the credit beginning on the date retirement benefits are effective unless the premium is billed to the employer.
  - c. A member or surviving spouse of the retirement program established by job service North Dakota under section 52-11-01 receiving retirement benefits is eligible for the credit beginning on the date retirement benefits are effective unless the premium is billed to the employer.
  - d. A retired judge or surviving spouse receiving retirement benefits under the retirement program established under chapter 27-17 is eligible for the credit beginning on the date retirement benefits are effective unless the premium is billed to the employer.
  - e. A former participating member of the defined contribution retirement plan receiving retirement benefits, or the surviving spouse of a former participating member of that retirement plan who was eligible to receive or was receiving benefits, under section 54-52.6-13, is eligible as determined by the beardoffice pursuant to its rules.
2. The beardoffice shall calculate the allowable monthly credit toward hospital and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program for a person eligible under subsection 1 in an amount equal to five dollars multiplied by the member's or deceased member's number of years of credited service under the highway patrolmen's retirement system, the public employees retirement system, the retirement program established by job service North Dakota under section 52-11-01, or the judges' retirement program established under chapter 27-17. For a member of the public employees retirement system receiving an early retirement benefit or the surviving spouse of that member, or a former participating member of the defined contribution retirement plan who is receiving a periodic distribution and would not meet the normal retirement provisions of the public employees retirement system, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of sixty-five and an additional reduction factor of six percent shall apply for each year the member terminates employment prior to attaining the age of sixty-four. For a member of the highway patrolmen's retirement system receiving an early retirement benefit or the surviving spouse of that member, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of fifty-five and an additional reduction factor of six percent shall apply for each year the member terminates employment prior to attaining the age of fifty-four. For a member of the retirement program established by job service North Dakota under section 52-11-01 receiving an early

retirement benefit or a discontinued service annuity under the plan provisions of that retirement program or the surviving spouse of that member, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of sixty-five and an additional reduction factor of six percent applies for each year the member terminates employment prior to attaining the age of sixty-four.

3. The boardoffice shall apply the credit allowable under subsection 2 as elected by the eligible participant to the payment of monthly premiums required of each person eligible under subsection 1 for hospital benefits coverage and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program. The boardoffice shall allow spouses who each have credit under subsection 2 to combine their credits and shall apply the combined credit to the required monthly premiums as elected pursuant to this subsection. However, if the allowable credit under any circumstance exceeds the monthly premium in effect for selected coverage, that amount of the credit which exceeds the premium is forfeited and may not be used for any other purpose.
4. The boardoffice may, as an alternative to the calculation of the allowable monthly credit under subsection 2, provide actuarially reduced benefit options for the member and the member's surviving spouse, including a one hundred percent joint and survivor option or a fifty percent joint and survivor option.

**SECTION 62. AMENDMENT.** Section 54-52.1-03.4 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-03.4. Temporary employees and employees on unpaid leave of absence.**

A temporary employee employed before August 1, 2007, may elect to participate in the uniform group insurance program by completing the necessary enrollment forms and qualifying under the medical underwriting requirements of the program if such election is made before January 1, 2015, and if the temporary employee is participating in the uniform group insurance program on January 1, 2015. In order for a temporary employee employed after July 31, 2007, to qualify to participate in the uniform group insurance program, the employee must be employed at least twenty hours per week; must be employed at least twenty weeks each year of employment; must make the election to participate before January 1, 2015; and must be participating in the uniform group insurance program as of January 1, 2015. To be eligible to participate in the uniform group insurance program, a temporary employee first employed after December 31, 2014, or any temporary employee not participating in the uniform group insurance program as of January 1, 2015, must meet the definition of a full-time employee under section 4980H(c)(4) of the Internal Revenue Code [26 U.S.C. 4980H(c)(4)]. Monthly, the temporary employee or the temporary employee's employer shall pay to the boardoffice the premiums in effect for the coverage being provided. In the case of a temporary employee who is an applicable taxpayer as defined in section 36B(c)(1)(A) of the Internal Revenue Code [26 U.S.C. 36B(c)(1)(A)], the temporary employee's required contribution for medical and hospital benefits self-only coverage may not exceed the maximum employee required contribution specified under section 36B(c)(2)(C) of the Internal Revenue Code [26 U.S.C. 36B(c)(2)(C)], and the employer shall pay any difference between the maximum employee required contribution for medical and hospital benefits self-only coverage and the cost of the premiums in effect for this coverage. An employer may pay health or life insurance premiums for a permanent employee on an unpaid leave of absence. A political subdivision, department, board, or agency may make a contribution for coverage under this section.

**SECTION 63. AMENDMENT.** Section 54-52.1-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04. BeardOffice to contract for insurance.**

The boardoffice shall receive bids for the providing of hospital benefits coverage, medical benefits coverage, life insurance benefits coverage for a specified term, and employee assistance program services; may receive bids separately for prescription drug coverage; and shall accept one or more bids of and contract with the carriers that in the judgment of the boardoffice best serves the interests of the state and its eligible employees. Solicitations must be made not later than ninety days before the expiration of an existing uniform group insurance contract. Bids must be solicited by advertisement in a manner selected by the boardoffice that will provide reasonable notice to prospective bidders. In preparing bid proposals and evaluating bids, the boardoffice may utilize the services of consultants on a contract basis in order that the bids received may be uniformly compared and properly evaluated. In determining which bid, if any, will best serve the interests of eligible employees and the state, the boardoffice shall give adequate consideration to the following factors:

1. The economy to be effected.
2. The ease of administration.
3. The adequacy of the coverages.
4. The financial position of the carrier, with special emphasis as to its solvency.
5. The reputation of the carrier and any other information that is available tending to show past experience with the carrier in matters of claim settlement, underwriting, and services.

The boardoffice may reject any or all bids and, in the event it does so, shall again solicit bids as provided in this section. The boardoffice may establish a plan of self-insurance for providing health insurance benefits coverage only under an administrative services only (ASO) contract or a third-party administrator (TPA) contract.

**SECTION 64. AMENDMENT.** Section 54-52.1-04.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.1. Health maintenance organization contract - Membership option.**

Notwithstanding the provisions of section 54-52.1-04, the boardoffice may contract with one or more health maintenance organizations to provide eligible employees the option of membership in a health maintenance organization. If it makes such a contract, the boardoffice may not require that the health maintenance organization be federally qualified if the health maintenance organization has a certificate of authority issued by the North Dakota insurance commissioner. The contract or contracts must be included in the uniform group insurance program.

**SECTION 65. AMENDMENT.** Section 54-52.1-04.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.2. Self-insurance plan for hospital and medical benefits coverage.**

1. The boardoffice may establish a self-insurance plan for providing:

- a. Health insurance benefits coverage;
  - b. Health insurance benefits coverage excluding all or part of prescription drug coverage; or
  - c. All or part of prescription drug coverage.
2. Any self-insurance plan under this section must be provided under an administrative services only (ASO) contract or a third-party administrator (TPA) contract under the uniform group insurance program, and may be established only if it is determined by the ~~board~~office that an administrative services only or third-party administrator plan is less costly than the lowest bid submitted by a carrier for underwriting the plan with equivalent contract benefits. Upon establishing a self-insurance plan, the ~~board~~office shall solicit bids for an administrative services only or third-party administrator contract only every other biennium, and the ~~board~~office is authorized to renegotiate an existing administrative services only or third-party administrator contract during the interim. In addition, individual stop-loss coverage insured by a carrier authorized to do business in this state must be made part of any self-insured plan. All bids under this section are due no later than January first, and must be awarded no later than March first, preceding the end of each biennium. All bids under this section must be opened at a public meeting of the ~~board~~.

**SECTION 66. AMENDMENT.** Section 54-52.1-04.3 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.3. Contingency reserve fund - Continuing appropriation.**

The ~~board~~office shall establish under a self-insurance plan a contingency reserve fund to provide for adverse fluctuations in future charges, claims, costs, or expenses of the uniform group insurance program. The ~~board~~office shall determine the amount necessary to provide a balance in the contingency reserve fund between one and one-half months and three months of claims paid based on the average monthly claims paid during the twelve-month period immediately preceding March first of each year. The ~~board~~office also shall determine the amount necessary to provide an additional balance in the contingency reserve fund between one month and one and one-half months for claims incurred but not yet reported. The ~~board~~office may arrange for the services of an actuarial consultant to assist the ~~board~~office in making these determinations. Upon the initial changeover from a contract for insurance pursuant to section 54-52.1-04 to a self-insurance plan pursuant to section 54-52.1-04.2, the ~~board~~office must have a plan in place which is reasonably calculated to meet the funding requirements of this chapter within sixty months. All moneys in the contingency reserve fund, not otherwise appropriated, are appropriated for the payment of claims and other costs of the uniform group insurance program during periods of adverse claims or cost fluctuations.

**SECTION 67. AMENDMENT.** Section 54-52.1-04.4 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.4. Insurance to cover mammogram examinations.**

The ~~board~~office shall provide medical benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 for:

1. One baseline mammogram examination for each woman who is at least thirty-five but less than forty years of age.

2. One mammogram examination every year, or more frequently if ordered by a physician, for each woman who is at least forty years of age.

**SECTION 68. AMENDMENT.** Section 54-52.1-04.6 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.6. Coverage for treatment of certain disorders.**

The boardoffice shall provide coverage under either a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 for coverage for surgical and nonsurgical treatment of temporomandibular joint disorder and craniomandibular disorder. Coverage must be the same as that for treatment to any other joint in the body, and applies if the treatment is administered or prescribed by a physician or a dentist. Benefits for the coverage may be limited to a lifetime maximum of ten thousand dollars per person for surgery, and two thousand five hundred dollars for nonsurgical treatment.

**SECTION 69. AMENDMENT.** Section 54-52.1-04.7 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.7. Uniform group insurance program - Vision and dental plans.**

The boardoffice may establish a dental plan, a vision plan, or both, for eligible employees. The boardoffice shall receive bids for the plan or plans pursuant to section 54-52.1-04. The boardoffice may reject any or all bids and provide a plan of self-insurance. Premiums for this coverage must be paid by the eligible employee. Any refund, rebate, dividend, experience rating allowance, discount, or other reduction of premium must be credited as provided by section 54-52.1-06.

**SECTION 70. AMENDMENT.** Section 54-52.1-04.8 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.8. Uniform group insurance program - Long-term care plan.**

The boardoffice may establish a long-term care plan for eligible employees. The boardoffice shall receive bids for the plan under section 54-52.1-04. The boardoffice may reject any or all bids and provide a plan of self-insurance. Premiums for this plan must be paid by the eligible employee. Any refund, rebate, dividend, experience rating allowance, discount, or other reduction of premium must be credited as provided by section 54-52.1-06.

**SECTION 71. AMENDMENT.** Section 54-52.1-04.9 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.9. Uniform group insurance program - Employee assistance program.**

The boardoffice shall establish an employee assistance program available to persons in the medical and hospital benefits coverage group. The premium for this coverage must be paid as provided by section 54-52.1-06. The boardoffice shall receive bids for this program under section 54-52.1-04. Each department, board, or agency shall obtain employee assistance program services through the boardoffice for eligible employees and may not enter into any agreement to obtain employee assistance program services with a third-party provider except that a department, board, or agency may use its own employee assistance program services to the extent such services are provided by personnel of that department, board, or agency. As used in this section, "employee assistance program" means an employer-sponsored service for employees under which a professional employee assistance program staff assists employees and their families in finding help for

emotional, drug, alcohol, family, health, and other personal or job-related problems that may be affecting their work performance.

**SECTION 72. AMENDMENT.** Section 54-52.1-04.10 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.10. Insurance to cover dental anesthesia and hospitalization.**

The boardoffice shall provide medical benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 for dental anesthesia and hospitalization in the same manner as provided under section 26.1-36-09.9.

**SECTION 73. AMENDMENT.** Section 54-52.1-04.11 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.11. Insurance to cover foods and food products for inherited metabolic diseases.**

The boardoffice shall provide medical benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 for foods and food products for inherited metabolic diseases in the same manner as provided for under section 26.1-36-09.7.

**SECTION 74. AMENDMENT.** Section 54-52.1-04.12 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.12. Insurance to cover medical services related to intoxication.**

The boardoffice shall provide medical benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52-04.2 for medical services related to intoxication in the same manner as provided for under subsection 15 of section 26.1-36-05 and section 26.1-36-09.13.

**SECTION 75. AMENDMENT.** Section 54-52.1-04.13 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.13. (Effective through July 31, 2017) Insurance coverage of telehealth services.**

1. As used in this section:
  - a. "Distant site" means a site at which a health care provider or health care facility is located while providing medical services by means of telehealth.
  - b. "Health care facility" means any office or institution at which health services are provided. The term includes hospitals; clinics; ambulatory surgery centers; outpatient care facilities; nursing homes; nursing, basic, long-term, or assisted living facilities; laboratories; and offices of any health care provider.
  - c. "Health care provider" includes an individual licensed under chapter 43-05, 43-06, 43-12.1 as a registered nurse or as an advanced practice registered nurse, 43-13, 43-15, 43-17, 43-26.1, 43-28, 43-32, 43-37, 43-40, 43-41, 43-42, 43-44, 43-45, 43-47, 43-58, or 43-60.

- d. "Originating site" means a site at which a patient is located at the time health services are provided to the patient by means of telehealth.
  - e. "Policy" means health benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2.
  - f. "Store-and-forward technology" means electronic information, imaging, and communication that is transferred, recorded, or otherwise stored in order to be reviewed at a distant site at a later date by a health care provider or health care facility without the patient present in real time. The term includes telehome monitoring and interactive audio, video, and data communication.
  - g. "Telehealth":
    - (1) Means the use of interactive audio, video, or other telecommunications technology that is used by a health care provider or health care facility at a distant site to deliver health services at an originating site; and that is delivered over a secure connection that complies with the requirements of state and federal laws.
    - (2) Includes the use of electronic media for consultation relating to the health care diagnosis or treatment of a patient in real time or through the use of store-and-forward technology.
    - (3) Does not include the use of audio-only telephone, electronic mail, or facsimile transmissions.
2. For all policies that become effective after June 30, 2015, and which do not extend past June 30, 2017, the ~~board~~office shall provide health benefits coverage under a policy that provides coverage for health services delivered by means of telehealth which is the same as the coverage for health services delivered by in-person means.
  3. Payment or reimbursement of expenses for covered health services delivered by means of telehealth under this section may be established through negotiations conducted by the ~~board~~office or the ~~board's~~office's contractor with the health services providers in the same manner as the ~~board~~office establishes payment or reimbursement of expenses for covered health services that are delivered by in-person means.
  4. Coverage under this section may be subject to deductible, coinsurance, and copayment provisions.
  5. This section does not require:
    - a. A policy to provide coverage for health services that are not medically necessary, subject to the terms and conditions of the policy;
    - b. A policy to provide coverage for health services delivered by means of telehealth if the policy would not provide coverage for the health services if delivered by in-person means;
    - c. A policy to reimburse a health care provider or health care facility for expenses for health services delivered by means of telehealth if the policy would not reimburse that health care provider or health care

facility if the health services had been delivered by in-person means; or

- d. A health care provider to be physically present with a patient at the originating site unless the health care provider who is delivering health services by means of telehealth determines the presence of a health care provider is necessary.

**SECTION 76. AMENDMENT.** Section 54-52.1-04.14 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.14. Coverage of cancer treatment medications.**

The ~~board~~office shall provide medical benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 which provides coverage of cancer treatment medications in the same manner as provided under section 26.1-36-09.14.

**SECTION 77. AMENDMENT.** Section 54-52.1-05 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-05. Provisions of contract - Term of contract.**

1. Each uniform group insurance contract entered by the ~~board~~office must be consistent with the provisions of this chapter, must be signed for the state of North Dakota by the ~~chairman of the board~~director, and must include the following:
  - a. As many optional coverages as deemed feasible and advantageous by the ~~board~~office.
  - b. A detailed statement of benefits offered, including maximum limitations and exclusions, and such other provisions as the ~~board~~office may deem necessary or desirable.
2. The initial term or the renewal term of a fully insured uniform group insurance contract for hospital benefits coverage, medical benefits coverage, or prescription drug coverage may not exceed two years.
  - a. The ~~board~~office may renew a contract subject to this subsection without soliciting a bid under section 54-52.1-04 if the ~~board~~office determines the carrier's performance under the existing contract meets the ~~board~~'s expectations of the office and the proposed premium renewal amount does not exceed the ~~board~~'s expectations of the office.
  - b. In making a determination under this subsection, the ~~board~~office shall:
    - (1) Use the services of a consultant to concurrently and independently prepare a renewal estimate the ~~board~~office shall consider in determining the reasonableness of the proposed premium renewal amount.
    - (2) Review the carrier's performance measures, including payment accuracy, claim processing time, member service center metrics, wellness or other special program participation levels, and any other measures the ~~board~~office determines relevant to making the determination and shall consider these measures in determining the ~~board~~'s satisfaction of the office with the carrier's performance.

- (3) Consider any additional information the ~~board~~office determines relevant to making the determination.
- c. If the ~~board~~office determines the carrier's performance under the existing contract does not meet the ~~board~~'s expectations of the office or the proposed premium renewal amount exceeds the ~~board~~'s expectations of the office and the ~~board~~office determines to solicit a bid under section 54-52.1-04, the ~~board~~office shall specify its reasons for the determination to solicit a bid.

**SECTION 78. AMENDMENT.** Section 54-52.1-05.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-05.1. Health insurance benefits coverage - Insured and provider data disclosure.**

Except as necessary for treatment, payment, or health care operations, a carrier providing health insurance benefits coverage under this chapter may not disclose identifiable or unidentifiable insured or provider data or information to a related or unrelated health care delivery entity. The ~~board~~office may establish exceptions to the disclosure limitations under this section for the limited purpose of addressing public interest and benefit activities or for the limited purpose of addressing research, public health, or health care operations. An exception established by the ~~board~~office under this section may not be more permissive than allowed under state and federal privacy laws.

**SECTION 79. AMENDMENT.** Section 54-52.1-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-06. State contribution.**

Each department, board, or agency shall pay to the ~~board~~office each month from its funds appropriated for payroll and salary amounts a state contribution in the amount as determined by the primary carrier of the group contract for the full single rate monthly premium for each of its eligible employees enrolled in the uniform group insurance program and the full rate monthly premium, in an amount equal to that contributed under the alternate family contract, including major medical coverage, for hospital and medical benefits coverage for spouses and dependent children of its eligible employees enrolled in the uniform group insurance program pursuant to section 54-52.1-07. The ~~board~~office shall then pay the necessary and proper premium amount for the uniform group insurance program to the proper carrier or carriers on a monthly basis. Any refund, rebate, dividend, experience rating allowance, discount, or other reduction of premium amount must be credited at least annually to a separate fund of the uniform group insurance program to be used by the ~~board~~office to reimburse the administrative expense and benefit fund of the public employees retirement program for the costs of administration of the uniform group insurance program. In the event an enrolled eligible employee is not entitled to receive salary, wages, or other compensation for a particular calendar month, that employee may make direct payment of the required premium to the ~~board~~office to continue the employee's coverage, and the employing department, board, or agency shall provide for the giving of a timely notice to the employee of that person's right to make such payment at the time the right arises.

**SECTION 80. AMENDMENT.** Section 54-52.1-06.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-06.1. Uniform group insurance program benefits - Continuing appropriation.**

The funds necessary to pay the consulting fees and health insurance benefits related to the uniform group insurance program are hereby appropriated from insurance premiums received by the boardoffice.

**SECTION 81. AMENDMENT.** Section 54-52.1-08 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-08. Administration - ~~Board to promulgate rules~~Rules and regulations.**

~~It is the responsibility of the board to~~The office shall account for and disburse premium payments, maintain records, prepare reports, and to perform such other functions as may be necessary to carry out the provisions of this chapter. The boardoffice may ~~promulgate such~~adopt rules and regulations as may be necessary to carry out the provisions of this chapter.

**SECTION 82. AMENDMENT.** Section 54-52.1-08.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-08.1. Administrative - Nondiscrimination testing for health and life insurance programs.**

~~The board shall be~~office is responsible for the nondiscrimination testing required under section 89 of the Internal Revenue Code. The boardoffice may engage the services of a consultant to assist the boardoffice in its administration of this section. The various state departments, boards, agencies, and commissions shall provide the boardoffice with requested information so the boardoffice may carry out its duties under this section.

**SECTION 83. AMENDMENT.** Section 54-52.1-08.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-08.2. Uniform group insurance program - Compliance with federal requirements - Group purchasing arrangements.**

If the boardoffice determines that any section or the phraseology of any section of this chapter does not comply with applicable federal statutes or rules, the boardoffice shall adopt appropriate terminology with respect to that section to comply with the federal statutes or rules, subject to the approval of the legislative management's employee benefits programs committee. The boardoffice may assume responsibility for group purchasing arrangements as provided by federal law. Any plan modifications made by the boardoffice under this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

**SECTION 84. AMENDMENT.** Section 54-52.1-09 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-09. Reports.**

Each department, board, or agency shall keep such records, make such certifications, and furnish the boardoffice or carriers with such information and reports as may be necessary to enable the boardoffice or carriers to carry out their functions under the provisions of this chapter. Carriers that have entered into a contract with the boardoffice are required to furnish such reasonable reports as the boardoffice determines to be necessary, and to permit the boardoffice to examine those records that relate to the uniform group insurance program.

**SECTION 85. AMENDMENT.** Section 54-52.1-11 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-11. Confidentiality of employee records.**

Information pertaining to an eligible employee's group medical records for claims, employee premium payments made, salary reduction amounts taken, history of any available insurance coverage purchased, and amounts and types of insurance applied for under the supplemental life insurance coverage under this chapter is confidential and is not a public record. The information and records may be disclosed, under rules adopted by the boardoffice, only to:

1. A person to whom the eligible employee has given written authorization to have the information disclosed.
2. A person legally representing the eligible employee, upon proper proof of representation, and unless the eligible employee specifically withdraws authorization.
3. A person authorized by a court order.
4. A person or entity to which the boardoffice is required to disclose information pursuant to federal or state statutes or regulations.
5. Any person or entity if the purpose of the disclosure is for treatment, payment, or health care operations.

**SECTION 86. AMENDMENT.** Section 54-52.1-12 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-12. Ownership and confidentiality of the uniform group health insurance medical records of employees, retirees, and dependents.**

The medical records and related data of the employees, retirees, and dependents, obtained as the result of enrollment in the uniform group insurance program, are the property of the public employees retirement system. The records and data are confidential and are not public records. However, the boardoffice may allow administrators of administrative services only contracts or third-party administrators contracts access to the records and data where it is required in the performance of the administrator's duties pursuant to the contract. No administrator may be held liable for furnishing to the boardoffice information with respect to any patient, or any physician, hospital, or other health care provider.

**SECTION 87. AMENDMENT.** Section 54-52.1-13 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-13. Uniform prescription drug cards.**

The boardoffice shall provide for issuance of uniform prescription drug cards under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 in the same manner as provided under section 26.1-36-43.

**SECTION 88. AMENDMENT.** Section 54-52.1-14 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-14. Wellness program.**

The boardoffice shall develop an employer-based wellness program. The program must encourage employers to adopt a board-developed an office-developed

wellness program by either charging extra health insurance premium to nonparticipating employers or reducing premium for participating employers.

**SECTION 89. AMENDMENT.** Section 54-52.1-15 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-15. Acceptance and expenditure of third-party payments - Continuing appropriation.**

The ~~beardoffice~~ may receive moneys from third parties, including the federal government, pursuant to one or more federal programs. Any money received from a third party by the ~~beardoffice~~ is appropriated to the ~~beardoffice~~ on a continuing basis for the ~~beard~~'s use of the office in paying benefits, premiums, or administrative expenses under the uniform group insurance program.

**SECTION 90. AMENDMENT.** Section 54-52.1-16 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-16. Uniform group insurance program - Collaborative drug therapy program - Continuing appropriation.**

1. The ~~beardoffice~~ may establish a collaborative drug therapy program available to individuals in the medical and hospital benefits coverage group. The purpose of the collaborative drug therapy program is to improve the health of individuals in identified health populations and to manage health care expenditures.
2. Under the program, the ~~beardoffice~~ may involve physicians, pharmacists, and other health professionals to coordinate health care for individuals in identified health populations in order to improve health outcomes and reduce spending on care for the identified health problem. Under the program, pharmacists and other health professionals may be reimbursed for providing face-to-face collaborative drug therapy services to covered individuals in the identified health population. To encourage enrollment in the plan, the ~~beardoffice~~ may provide incentives to covered individuals in the identified health population which may include waived or reduced copayment for related treatment drugs and supplies.
3. The ~~beardoffice~~ may request the assistance of the North Dakota pharmacists association or a specified delegate to implement a formalized disease management program with the approval of the prescriptive practices committee established in section 43-15-31.4, which must serve to standardize chronic disease care and improve patient outcomes. This program must facilitate enrollment procedures, provide standards of care, enable consistent documentation of clinical and economic outcomes, and structure an outcomes reporting system.
4. The ~~beardoffice~~ may seek and accept private contributions, gifts, and grants-in-aid from the federal government, private industry, and other sources for a collaborative drug therapy program for identified health populations. Any funds that may become available through contributions, gifts, grants-in-aid, or other sources to the ~~beardoffice~~ for a collaborative drug therapy program are appropriated to the ~~beardoffice~~ on a continuing basis.

**SECTION 91. AMENDMENT.** Section 54-52.1-17 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-17. Uniform group insurance program - Collaborative drug therapy program - Funding.**

1. The boardoffice shall establish a collaborative drug therapy program that is to be available to individuals in the medical and hospital benefits coverage group. The purpose of the collaborative drug therapy program is to improve the health of individuals with diabetes and to manage health care expenditures.
2. The boardoffice shall involve physicians, pharmacists, and certified diabetes educators to coordinate health care for covered individuals with diabetes in order to improve health outcomes and reduce spending on diabetes care. Under the program, pharmacists and certified diabetes educators may be reimbursed for providing face-to-face collaborative drug therapy services to covered individuals with diabetes. To encourage enrollment in the plan, the boardoffice shall provide incentives to covered individuals who have diabetes which may include waived or reduced copayment for diabetes treatment drugs and supplies.
3. The North Dakota pharmacists association or a specified delegate shall implement a formalized diabetes management program with the approval of the prescriptive practices committee established in section 43-15-31.4, which must serve to standardize diabetes care and improve patient outcomes. This program must facilitate enrollment procedures, provide standards of diabetes care, enable consistent documentation of clinical and economic outcomes, and structure an outcomes reporting system.
4. The boardoffice shall fund the program from any available funds in the uniform group insurance program and if necessary the fund may add up to a two dollar per month charge on the policy premium for medical and hospital benefits coverage. A state agency shall pay any additional premium from the agency's existing appropriation.

**SECTION 92. AMENDMENT.** Section 54-52.1-18 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-18. High-deductible health plan alternative with health savings account option.**

1. The boardoffice shall develop and implement a high-deductible health plan as an alternative to the plan under section 54-52.1-02. The high-deductible health plan alternative with a health savings account must be made available to state employees by January 1, 2012. After June 30, 2015, at the board's discretion of the office, the high-deductible health plan alternative may be offered to political subdivisions for coverage of political subdivision employees. If a political subdivision elects this high-deductible option the political subdivision may not offer the plan under section 54-52.1-02.
2. Health savings account fees for participating state employees must be paid by the employer.
  - a. Except as provided in subdivision b, subject to the limits of section 223(b) of the Internal Revenue Code [26 U.S.C. 233(b)], the difference between the cost of the single and family premium for eligible state employees under section 54-52.1-06 and the premium for those employees electing to participate under the high-deductible health plan under this section must be deposited in a health savings account for the benefit of each participating employee.

- b. If the public employees retirement system is unable to establish a health savings account due to the employee's ineligibility under federal or state law or due to failure of the employee to provide necessary information in order to establish the account, the system is not responsible for depositing the health savings account contribution. The member will remain a participant in the high-deductible health plan regardless of whether a health savings account is established.
3. Each new state employee must be provided the opportunity to elect the high-deductible health plan alternative. At least once each biennium, the ~~board~~office shall provide an open enrollment period allowing existing state employees or a political subdivision to change their coverage.

**SECTION 93. AMENDMENT.** Section 54-52.2-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.2-01. Deferred compensation program for public employees - Contract.**

The state or any county, city, or other political subdivision may, by contract, agree with any employee to defer, in whole or in part, any portion of that employee's compensation and may subsequently, with the consent of the employee, fund a deferred compensation program for the employee. The deferred compensation program may consist of a contract, purchase, or investment in a fixed or variable life insurance or annuity contract from any life underwriter duly licensed by this state who represents an insurance company licensed to contract business in this state, a savings account at a federally insured financial institution or the Bank of North Dakota, an account with or managed by a dealer registered under chapter 10-04, or any combination of contracts or accounts authorized by this section, as specified by the employee. The ~~public employees retirement~~ ~~board~~office shall specify methods of payment of deferred compensation funds to be selected by individual employees. That ~~board~~ The office shall determine the number of employees participating in a deferred compensation program necessary to qualify for automatic payroll deduction.

**SECTION 94. AMENDMENT.** Section 54-52.2-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.2-02. Deferred employee's compensation - Agreements.**

The public employees retirement ~~boards~~system office, acting on behalf of each state agency, department, board, commission, or institution, may enter into contractual agreements with employees of a state agency, department, board, commission, or institution on behalf of the state to defer any portion of that employee's compensation allowed under section 457 of the Internal Revenue Code [26 U.S.C. 457].

**SECTION 95. AMENDMENT.** Section 54-52.2-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.2-03. Deferred compensation program - Administration - Contract for services.**

The administration of the deferred compensation program for each state agency, department, board, commission, or institution is under the direction of the public employees retirement ~~boards~~system office. Each county, city, or other political subdivision shall designate an officer to administer the deferred compensation program or appoint the public employees retirement ~~boards~~system office to administer the program on its behalf. Payroll reductions must be made in each instance by the appropriate payroll officer. The public employees retirement ~~boards~~system office shall administer the deferred compensation program based on one or more plans in

compliance with the appropriate provisions of the Internal Revenue Code and regulations adopted under those provisions. Not later than January 1, 1999, all plan assets and income must be held in trust, custodial accounts, or contracts as described in section 401(f) of the Internal Revenue Code [26 U.S.C. 401(f)] for the exclusive benefit of participants and their beneficiaries as required by section 457 of the Internal Revenue Code [26 U.S.C. 457]. Once the trust, custodial account, or contract is established as required by this section, the boardoffice shall act as fiduciary of the plan to the extent required by section 457 of the Internal Revenue Code [26 U.S.C. 457] and the boardoffice is authorized to do all things necessary for the proper administration of the plan to ensure that the plan maintains its qualified status.

**SECTION 96. AMENDMENT.** Section 54-52.2-03.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.2-03.2. Deferred compensation program - Board authorityAuthority - Provider information.**

1. The boardpublic employees retirement system office shall adopt rules necessary to implement this chapter and to manage the deferred compensation plan subject to the limitations of this chapter.
2. The boardoffice shall do all things necessary to preserve the tax-exempt status of the plan.
3. All providers must be authorized to do business in this state and all agents of providers must be licensed by the appropriate licensing authority or authorities in this state.
4. To continue to participate in the program, each provider must report annually, in a form and manner specified by the boardoffice, information related to their products, administrative and management fees, contract and maintenance charges, withdrawal penalties, market rating, and such other information the boardoffice may require.
5. The boardoffice may suspend participation of any provider that does not meet the requirements of this chapter or the rules adopted by the boardoffice.
6. The board has the authority topublic employees retirement system office executive director may establish a deferred compensation advisory committee, which shallmust include active providers who have signed a provider administrative agreement with the state of North Dakota deferred compensation plan.

**SECTION 97. AMENDMENT.** Section 54-52.2-03.3 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.2-03.3. Benefit payments to alternate payee under qualified domestic relations order.**

1. The boardpublic employees retirement system office or a vendor contracted for by the boardoffice shall apportion a participating member's account in the deferred compensation plan under this chapter in accordance with the applicable requirements of any qualified domestic relations order. The boardoffice shall review a domestic relations order submitted to the boardoffice to determine if the domestic relations order is qualified under this section and pursuant to the plan document established by the boardoffice for determining the qualified status of domestic relations orders and administering distributions under the qualified orders.

2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of a participating member, is made pursuant to a North Dakota domestic relations law, and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of the benefits payable to the participating member. A qualified domestic relations order may not require the ~~board~~office to provide any type or form of benefit, or any option, not otherwise provided under this chapter, or to provide increased benefits. A qualified domestic relations order must specify:
  - a. The name and the last-known mailing address of the participating member and the name and mailing address of each alternate payee covered by the order;
  - b. The amount or percentage of the participating member's benefits to be paid by the plan to each alternate payee;
  - c. That the alternate payee must take a lump sum payment of the benefits allocated to the alternate payee within one hundred twenty days of the later of the ~~board~~'s office's acceptance of the qualified domestic relations order or the entry of the order by the court; and
  - d. Each plan to which the order applies.

**SECTION 98. AMENDMENT.** Section 54-52.3-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.3-01. Pretax benefits program for public employees.**

The public employees retirement system ~~board~~office may establish a pretax benefits program for all state employees and employees of district health units, including members of the legislative assembly, under which an employee may reduce the employee's salary and elect benefits to the extent of the reduction. A participating district health unit shall comply with the program conditions and pay all fees established by the ~~board~~office.

**SECTION 99. AMENDMENT.** Section 54-52.3-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.3-02. Authority of ~~board~~.**

The ~~board~~public employees retirement system office shall determine benefits to be offered under the pretax benefits program, accept proposals from qualified providers, retain consultants, and do all things necessary to administer the pretax benefits program and preserve its tax-exempt status.

**SECTION 100. AMENDMENT.** Section 54-52.3-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.3-03. Employer savings used to defray expenses of administering program - Continuing appropriation.**

The office of management and budget shall transfer funds from the savings accruing to the agencies' salaries and wages line item, as a result of the diminution of the state's employer contribution for the Federal Insurance Contribution Act tax, to a payroll clearing account. The office of management and budget shall transfer funds from the payroll clearing account to the ~~board~~public employees retirement system office as necessary to defray the reasonable expenses of administering the pretax

benefits program established under this chapter, including expenses associated with the program's medical spending account. Any revenue collected by the ~~board~~office from participating district health units must be used, and is hereby appropriated, to defray the expenses of administering the program. The amount necessary to pay consultants retained by the ~~board~~office, vendors retained by the ~~board~~office to provide claims administration services, any insurance costs associated with the medical spending account, and medical reimbursements for the medical spending account if funds are insufficient to pay claims are hereby appropriated from the savings and revenue generated by the program. All other expenses of administering the program must be paid in accordance with the agency's appropriation authority as established by the legislative assembly. The director of the office of management and budget may decrease or suspend the transfer of the savings accruing to the agencies' salaries and wages line item to the payroll clearing account upon determination that the funds deposited under this section are sufficient to offset anticipated obligations. Notwithstanding other provisions in this section, the public employees retirement system ~~board~~office, or any successor state agency, may not establish, enroll, or administer any pretax benefits program for a political subdivision or any other public or private business or entity, except for any program established specifically for employees of the state and employees of district health units.

**SECTION 101. AMENDMENT.** Section 54-52.3-05 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.3-05. Confidentiality of program records.**

Any records and information pertaining to a public employee's medical and dependent care reimbursement under the pretax benefits program are confidential and are not public records subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota. The records and information may be disclosed, under rules adopted by the ~~board~~public employees retirement system office, only to:

1. A person to whom the employee has given written authorization to have the information disclosed.
2. A person legally representing the employee, upon proper proof of representation.
3. A person authorized by a court order.
4. A person or entity to which the ~~board~~office is required to disclose information pursuant to federal or state statutes or regulations.
5. Any person or entity if the purpose of the disclosure is for health care treatment, payment, or operations.

**SECTION 102. AMENDMENT.** Section 54-52.3-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.3-06. Deposit of program moneys - Appropriation.**

All moneys collected pursuant to elections made by public employees under the pretax benefits program for the medical spending account and the dependent care account must be deposited in an account with the Bank of North Dakota. All moneys deposited in the account, not otherwise appropriated, are hereby appropriated for the purpose of making payments to employees participating in the program. The ~~board~~public employees retirement system office shall transfer any surplus in the pretax benefits account at the end of the plan year to the payroll clearing account.

**SECTION 103. AMENDMENT.** Section 54-52.6-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-01. (Effective through July 31, 2017) Definition of terms.**

As used in this chapter, unless the context otherwise requires:

1. "Board" means the public employees retirement system board.
2. "Deferred member" means a person who elected to receive deferred vested retirement benefits under chapter 54-52.
- 3.2. "Eligible employee" means a permanent state employee who elects to participate in the retirement plan under this chapter.
- 4.3. "Employee" means any person employed by the state, whose compensation is paid out of state funds, or funds controlled or administered by the state or paid by the federal government through any of its executive or administrative officials.
- 5.4. "Employer" means the state of North Dakota.
5. "Office" means the public employees retirement system office.
6. "Participating member" means an eligible employee who elects to participate in the defined contribution retirement plan established under this chapter.
7. "Permanent employee" means a state employee whose services are not limited in duration and who is filling an approved and regularly funded position and is employed twenty hours or more per week and at least five months each year.
8. "Wages" and "salaries" means earnings in eligible employment under this chapter reported as salary on a federal income tax withholding statement plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement, incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between an employee and a participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the boardoffice.

**(Effective after July 31, 2017) Definition of terms.** As used in this chapter, unless the context otherwise requires:

1. "Board" means the public employees retirement system board.
2. "Deferred member" means a person who elected to receive deferred vested retirement benefits under chapter 54-52.
- 3.2. "Eligible employee" means a permanent state employee, except an employee of the judicial branch or an employee of the board of higher education and state institutions under the jurisdiction of the board, who is eighteen years or more of age and who is in a position not classified by North Dakota human resource management services. If a participating member loses permanent employee status and becomes a temporary employee, the member may still participate in the defined contribution retirement plan.

- 4.3. "Employee" means any person employed by the state, whose compensation is paid out of state funds, or funds controlled or administered by the state or paid by the federal government through any of its executive or administrative officials.
- 5.4. "Employer" means the state of North Dakota.
5. "Office" means the public employees retirement system office.
6. "Participating member" means an eligible employee who elects to participate in the defined contribution retirement plan established under this chapter.
7. "Permanent employee" means a state employee whose services are not limited in duration and who is filling an approved and regularly funded position and is employed twenty hours or more per week and at least five months each year.
8. "Wages" and "salaries" means earnings in eligible employment under this chapter reported as salary on a federal income tax withholding statement plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement, incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between an employee and a participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the boardoffice.

**SECTION 104. AMENDMENT.** Section 54-52.6-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-02. (Effective through July 31, 2017) Election.**

1. The boardoffice shall provide an opportunity for eligible employees who are new members of the public employees retirement system under chapter 54-52 to transfer to the defined contribution plan under this chapter pursuant to the rules and policies adopted by the boardoffice. An election made by a member of the public employees retirement system under chapter 54-52 to transfer to the defined contribution retirement plan under this chapter is irrevocable. For an individual who elects to transfer membership from the public employees retirement system under chapter 54-52 to the defined contribution retirement plan under this chapter, the boardoffice shall transfer a lump sum amount from the public employees retirement system fund to the participating member's account in the defined contribution retirement plan under this chapter. However, if the individual terminates employment prior to receiving the lump sum transfer under this section, the election made is ineffective and the individual remains a member of the public employees retirement system under chapter 54-52 and retains all the rights and privileges under that chapter. This section does not affect an individual's right to health benefits or retiree health benefits under chapter 54-52.1.
2. If the boardoffice receives notification from the internal revenue service that this section or any portion of this section will cause the public employees retirement system or the retirement plan established under this chapter to be disqualified for tax purposes under the Internal

Revenue Code, then the portion that will cause the disqualification does not apply.

3. A participating member who becomes a temporary employee may still participate in the defined contribution retirement plan upon filing an election with the boardoffice within one hundred eighty days of transferring to temporary employee status. The participating member may not become a member of the defined benefit plan as a temporary employee. The temporary employee electing to participate in the defined contribution retirement plan shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by two percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of two percent, beginning with the monthly reporting period of January 2013, and with an additional increase of two percent, beginning with the monthly reporting period of January 2014. The temporary employee shall also pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee until termination of employment or reclassification of the temporary employee as a permanent employee.
4. A former participating member who has accepted a retirement distribution pursuant to section 54-52.6-13 and who subsequently becomes employed by an entity different from the employer with which the member was employed at the time the member retired but which does participate in any state-sponsored retirement plan may, before re-enrolling in the defined contribution retirement plan, elect to permanently waive future participation in the defined contribution retirement plan, whatever plan in which the new employing entity participates, and the retiree health program and maintain that member's retirement status. Neither the member nor the employer are required to make any future retirement contributions on behalf of that employee.

**(Effective after July 31, 2017) Election.**

1. The boardoffice shall provide an opportunity for each eligible employee who is a member of the public employees retirement system on September 30, 2001, and who has not made a written election under this section to transfer to the defined contribution retirement plan before October 1, 2001, to elect in writing to terminate membership in the public employees retirement system and elect to become a participating member under this chapter. Except as provided in section 54-52.6-03, an election made by an eligible employee under this section is irrevocable. The boardoffice shall accept written elections under this section from eligible employees during the period beginning on July 1, 1999, and ending 12:01 a.m. December 14, 2001. An eligible employee who does not make a written election or who does not file the election during the period specified in this section continues to be a member of the public employees retirement system. An eligible employee who makes and files a written election under this section ceases to be a member of the public employees retirement system effective twelve midnight December 31, 2001; becomes a participating member in the defined contribution retirement plan under this chapter effective 12:01 a.m. January 1, 2002; and waives all of that person's rights to a pension, annuity, retirement allowance, insurance benefit, or any other benefit under the public employees retirement system effective December 31, 2001. This section

does not affect a person's right to health benefits or retiree health benefits under chapter 54-52.1. An eligible employee who is first employed and entered upon the payroll of that person's employer after September 30, 2001, may make an election to participate in the defined contribution retirement plan established under this chapter at any time during the first six months after the date of employment. If the boardoffice, in its sole discretion, determines that the employee was not adequately notified of the employee's option to participate in the defined contribution retirement plan, the boardoffice may provide the employee a reasonable time within which to make that election, which may extend beyond the original six-month decision window.

2. If an individual who is a deferred member of the public employees retirement system on September 30, 2001, is re-employed and by virtue of that employment is again eligible for membership in the public employees retirement system under chapter 54-52, the individual may elect in writing to remain a member of the public employees retirement system or if eligible to participate in the defined contribution retirement plan established under this chapter to terminate membership in the public employees retirement system and become a participating member in the defined contribution retirement plan established under this chapter. An election made by a deferred member under this section is irrevocable. The boardoffice shall accept written elections under this section from a deferred member during the period beginning on the date of the individual's re-employment and ending upon the expiration of six months after the date of that re-employment. If the boardoffice, in its sole discretion, determines that the employee was not adequately notified of the employee's option to participate in the defined contribution retirement plan, the boardoffice may provide the employee a reasonable time within which to make that election, which may extend beyond the original six-month decision window. A deferred member who makes and files a written election to remain a member of the public employees retirement system retains all rights and is subject to all conditions as a member of that retirement system. A deferred member who does not make a written election or who does not file the election during the period specified in this section continues to be a member of the public employees retirement system. A deferred member who makes and files a written election to terminate membership in the public employees retirement system ceases to be a member of the public employees retirement system effective on the last day of the payroll period that includes the date of the election; becomes a participating member in the defined contribution retirement plan under this chapter effective the first day of the payroll immediately following the date of the election; and waives all of that person's rights to a pension, an annuity, a retirement allowance, insurance benefit, or any other benefit under the public employees retirement system effective the last day of the payroll that includes the date of the election. This section does not affect any right to health benefits or retiree health benefits to which the deferred member may otherwise be entitled.
3. An eligible employee who elects to participate in the retirement plan established under this chapter must remain a participant even if that employee returns to the classified service or becomes employed by a political subdivision that participates in the public employees retirement system. The contribution amount must be as provided in this chapter, regardless of the position in which the employee is employed. Notwithstanding the irrevocability provisions of this chapter, if a member who elects to participate in the retirement plan established under this chapter becomes a supreme or district court judge, becomes a member of the highway patrol, becomes employed in a position subject to teachers' fund for retirement membership, or becomes an employee of the board of higher education or state institution under the jurisdiction of

the board who is eligible to participate in an alternative retirement program established under subsection 6 of section 15-10-17, the member's status as a member of the defined contribution retirement plan is suspended, and the member becomes a new member of the retirement plan for which that member's new position is eligible. The member's account balance remains in the defined contribution retirement plan, but no new contributions may be made to that account. The member's service credit and salary history that were forfeited as a result of the member's transfer to the defined contribution retirement plan remain forfeited, and service credit accumulation in the new retirement plan begins from the first day of employment in the new position. If the member later returns to employment that is eligible for the defined contribution plan, the member's suspension must be terminated, the member again becomes a member of the defined contribution retirement plan, and the member's account resumes accepting contributions. At the member's option, and pursuant to rules adopted by the boardoffice, the member may transfer any available balance as determined by the provisions of the alternate retirement plan into the member's account under this chapter.

4. After consultation with its actuary, the boardoffice shall determine the method by which a participating member or deferred member may make a written election under this section. If the participating member or deferred member is married at the time of the election, the election is not effective unless the election is signed by the individual's spouse. However, the boardoffice may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.
5. If the boardoffice receives notification from the internal revenue service that this section or any portion of this section will cause the public employees retirement system or the retirement plan established under this chapter to be disqualified for tax purposes under the Internal Revenue Code, then the portion that will cause the disqualification does not apply.
6. A participating member who becomes a temporary employee may still participate in the defined contribution retirement plan upon filing an election with the boardoffice within one hundred eighty days of transferring to temporary employee status. The participating member may not become a member of the defined benefit plan as a temporary employee. The temporary employee electing to participate in the defined contribution retirement plan shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by two percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of two percent, beginning with the monthly reporting period of January 2013, and with an additional increase of two percent, beginning with the monthly reporting period of January 2014. The temporary employee shall also pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee until termination of employment or reclassification of the temporary employee as a permanent employee.
7. A former participating member who has accepted a retirement distribution pursuant to section 54-52.6-13 and who subsequently becomes employed by an entity different from the employer with which the member

was employed at the time the member retired but which does participate in any state-sponsored retirement plan may, before re-enrolling in the defined contribution retirement plan, elect to permanently waive future participation in the defined contribution retirement plan, whatever plan in which the new employing entity participates, and the retiree health program and maintain that member's retirement status. Neither the member nor the employer are required to make any future retirement contributions on behalf of that employee.

**SECTION 105. AMENDMENT.** Section 54-52.6-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-03. (Suspended from October 1, 2013, through July 31, 2017)  
Transfer of accumulated fund balances.**

For an individual who elects to terminate membership in the public employees retirement system under chapter 54-52, the boardoffice shall transfer a lump sum amount from the retirement fund to the participating member's account in the defined contribution retirement plan under this chapter. However, if the individual terminates employment prior to receiving the lump sum transfer under this section, the election made under section 54-52.6-02 is ineffective and the individual remains a member of the public employees retirement system under chapter 54-52 and retains all the rights and benefits provided under that chapter. The boardoffice shall calculate the amount to be transferred for persons employed before October 1, 2001, using the two following formulas, and shall transfer the greater of the two amounts obtained:

1. The actuarial present value of the individual's accumulated benefit obligation under the public employees retirement system based on the assumption that the individual will retire under the earliest applicable normal retirement age, plus interest from January 1, 2001, to the date of transfer, at the rate of one-half of one percent less than the actuarial interest assumption at the time of the election; or
2. The actual employer contribution made, less vested employer contributions made pursuant to section 54-52-11.1, plus compound interest at the rate of one-half of one percent less than the actuarial interest assumption at the time of the election plus the employee account balance.

The boardoffice shall calculate the amount to be transferred for persons employed after September 30, 2001, using only the formula contained in subsection 2.

**SECTION 106. AMENDMENT.** Section 54-52.6-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-03.1. Changes to election.**

1. In this section the term "participating member" is limited in application to a participating member who elected to participate in the defined contribution retirement plan established under this chapter as an active employee of a participating employer, is an actively participating member of the defined contribution plan as of July 1, 2015, and is an active employee with a participating employer on the date an election is made under this section. The term does not include a participant who is not actively employed with a participating employer on the date of transfer of the funds under this section, has taken a distribution from the defined contribution plan, is retired, is no longer actively employed with a participating employer, or who is a member who has a qualified domestic relations order or other court order on the member's account.

2. Notwithstanding any other provision of law, the boardoffice shall provide an opportunity for each participating member to elect in writing to terminate membership in the defined contribution retirement plan under this chapter and to elect to become a participating member in the public employees retirement system under chapter 54-52.
3. The boardoffice shall establish a three-calendar-month election period beginning not later than February 1, 2016. A participating member who does not make a written election or who does not file the election with the North Dakota public employees retirement system office during the period specified in this section continues to be a member of the defined contribution plan. A participating member who makes and files a written election with the North Dakota public employees retirement system office under this section ceases to be a member of the defined contribution plan upon receipt by the public employees retirement system of the accumulated fund balance of the member's defined contribution plan under this chapter and waives all rights to that employee's accumulated fund balance under the defined contribution plan. If the executive director of the North Dakota public employees retirement system determines a participating member was not adequately notified of the option to make an election under this section, the executive director may provide that participating member a reasonable time, not to exceed three months, within which to make that election.
4. The public employees retirement system shall credit the transferring employee with the service credit and salary history reflected on the public employees retirement system's electronic database.
5. The boardoffice shall determine the method by which a participating member may make a written election under this section. If the participating member is married at the time of the election, the election is not effective unless the election is signed by the individual's spouse. However, the executive director of the North Dakota public employees retirement system may waive this spousal signature requirement if the spouse's signature cannot be obtained because of extenuating circumstances.
6. For a participating member who elects to terminate membership in the defined contribution plan under this section, the boardoffice shall transfer that member's accumulated fund balance, less any rollovers from other plans made into the defined contribution plan, to the public employees retirement system under chapter 54-52. If funds are transferred from the defined contribution plan to the defined benefit plan under an election made under this section, the boardoffice shall record this transfer to the defined benefit plan as employee and employer contributions in the same manner as transferred by the defined contribution provider. If a participating member has a separate account attributable to rollover contributions to the defined contribution plan pursuant to section 54-52.6-09.1, the participating member shall make an election to receive a distribution of the entire amount held in the rollover account at the time of transfer.
7. A participating member who elects a transfer under this section is entitled to vested employer contribution amounts under section 54-52-11.1 prospectively from the date of transfer. A participating member who elects a transfer under this section must be assessed and required to pay monthly to the defined benefit plan an additional employee contribution of an additional two percent of the monthly salary or wages paid to the member.

**SECTION 107. AMENDMENT.** Section 54-52.6-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-04. Administration.**

The boardoffice shall administer the defined contribution retirement plan established under this chapter and the boardoffice or vendors contracted for by the boardoffice shall invest the assets of the plan. The boardoffice is the fiduciary and the trustee of the plan. The boardoffice has the exclusive authority and responsibility to employ or contract with personnel and for services that the boardoffice determines necessary for the proper administration of and investment of assets of the plan, including managerial, professional, legal, clerical, technical, and administrative personnel or services.

**SECTION 108. AMENDMENT.** Section 54-52.6-05 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-05. Direction of investments.**

Each participating member shall direct the investment of the individual's accumulated employer and employee contributions and earnings to one or more investment choices within available categories of investment provided by the boardoffice.

**SECTION 109. AMENDMENT.** Section 54-52.6-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-06. Administrative expenses - Continuing appropriation.**

The administrative expenses of the plan must be paid by the participating members in a manner determined by the boardoffice. The boardoffice or vendors contracted for by the boardoffice may charge reasonable administrative expenses and deduct those expenses from a participating member's account in the defined contribution retirement plan established under this chapter. The boardoffice shall place any money deducted in an administrative expenses account with the state treasurer. The boardoffice may also use funds from the payroll clearing account established pursuant to section 54-52.3-03 to pay for consulting expenses. All moneys in the payroll clearing account, not otherwise appropriated, or so much of the moneys as may be necessary, are appropriated to the boardoffice on a continuing basis for the purpose of retaining a consultant as required for the administration of this chapter.

**SECTION 110. AMENDMENT.** Section 54-52.6-08 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-08. Credit of transfers.**

The boardoffice shall promptly credit the plan account of a participating member who makes an election under this chapter to terminate membership in the public employees retirement system under chapter 54-52 with any amount transferred from the public employees retirement system.

**SECTION 111. AMENDMENT.** Section 54-52.6-09 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-09. Contributions - Penalty.**

1. Each participating member shall contribute monthly four percent of the monthly salary or wage paid to the participant, and this assessment must be deducted from the participant's salary in equal monthly installments commencing with the first month of participation in the defined

contribution retirement plan established under this chapter. Participating member contributions increase by one percent of the monthly salary or wage paid to the participant beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014.

2. The employer shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Employer contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. If the employee's contribution is paid by the employer under subsection 3, the employer shall contribute, in addition, an amount equal to the required employee's contribution. The employer shall pay monthly such contribution into the participating member's account from its funds appropriated for payroll and salary or any other funds available for such purposes. If the employer fails to pay the contributions monthly, it is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due.
3. Each employer, at its option, may pay the employee contributions required by this section for all compensation earned after December 31, 1999. The amount paid must be paid by the employer in lieu of contributions by the employee. If the employer decides not to pay the contributions, the amount that would have been paid will continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. Contributions paid by the employer may not be included as gross income of the employee in determining tax treatment under this code and the federal Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a combination of a reduction in gross salary and offset against future salary increases. Employee contributions paid by the employer must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made before the date on which employee contributions were assumed by the employer. An employer shall exercise its option under this subsection by reporting its choice to the boardoffice in writing.

**SECTION 112. AMENDMENT.** Section 54-52.6-09.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-09.1. Acceptance of rollovers.**

The plan may allow a participating member to transfer or rollover funds from other qualified plans into the member's account under rules adopted by the boardoffice.

**SECTION 113. AMENDMENT.** Section 54-52.6-11 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-11. Refund beneficiaries.**

A participating or former participating member may nominate one or more individuals as a refund beneficiary by filing written notice of nomination with the boardoffice. If the participating member or former participating member is married at the time of the nomination and the participant's spouse is not the refund beneficiary for one hundred percent of the account, the nomination is not effective unless the nomination is signed by the participant's spouse. However, the boardoffice may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.

**SECTION 114. AMENDMENT.** Section 54-52.6-12 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-12. Qualified domestic relations orders.**

1. The boardoffice or a vendor contracted for by the boardoffice shall apportion a participating member's account in the defined contribution retirement plan under this chapter in accordance with the applicable requirements of any qualified domestic relations order. The boardoffice shall review a domestic relations order submitted to it to determine if the domestic relations order is qualified under this section and under rules adopted by the boardoffice for determining the qualified status of domestic relations orders, administering distributions, and apportioning accounts under the qualified orders. Upon determination of the domestic relations order as qualified, the boardoffice shall notify the participating member, the named alternate payee, and the vendor, if applicable, of its receipt of the qualified domestic relations order.
2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of a participating member, is made pursuant to a North Dakota domestic relations law, which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of a participating member's account in the defined contribution retirement plan under this chapter. A qualified domestic relations order may not require the boardoffice to provide any type or form of benefit, or any option, not otherwise allowed under this chapter. However, a qualified domestic relations order may require distribution from an account in the defined contribution retirement plan under this chapter notwithstanding that the participating member has not terminated eligible employment. A qualified domestic relations order must specify:
  - a. The name and last-known mailing address of the participating member and the 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 115. 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.
3. A former participating member may elect one or a combination of several of the following methods of distribution of the accumulated balance:
  - a. A lump sum distribution to the recipient.
  - b. A lump sum direct rollover to another qualified plan, to the extent allowed by federal law.
  - c. Periodic distributions, as authorized by the boardoffice.
  - d. No current distribution, in which case the accumulated balance must remain in the plan until the former participating member or refund beneficiary elects a method or methods of distribution under this section, to the extent allowed by federal law.A surviving spouse beneficiary may elect one or a combination of several of the methods of distribution provided in subdivisions a, b, or c if the surviving spouse is the sole refund beneficiary. If the surviving spouse is not the sole refund beneficiary, the refund beneficiary may only choose a lump sum distribution of the accumulated balance.
4. If the former participating member's vested account balance is less than one thousand dollars, the boardoffice shall automatically refund the member's vested account balance upon termination of employment. The member may waive the refund if the member submits a written statement to the boardoffice, within one hundred twenty days after termination, requesting that the member's vested account balance remain in the plan.

**SECTION 116. AMENDMENT.** Section 54-52.6-14 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-14. Disability benefits.**

The ~~boardoffice~~ shall allow distribution of the participating member's vested account balance if the ~~boardoffice~~ determines that the participating member has become totally and permanently disabled. If approved, the disabled member has the same distribution options as provided in subdivisions a and c of subsection 3 of section 54-52.6-13. However, if the member chooses the periodic distribution option, the member may only receive distributions for as long as the disability continues and the member submits the necessary documentation and undergoes medical testing required by the ~~boardoffice~~, or for as long as the member participates in a rehabilitation program required by the ~~boardoffice~~, or both. If the ~~boardoffice~~ determines that a member no longer meets the eligibility definition, the ~~boardoffice~~ shall discontinue the disability retirement benefit.

**SECTION 117. AMENDMENT.** Section 54-52.6-15 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-15. Board to provide information**Information provided.

The ~~boardoffice~~ shall provide information to employees who are eligible to elect to become participating members under this chapter. The information must include at a minimum the employee's current account balance, the assumption of investment risk under a defined contribution retirement plan, administrative and investment costs, coordination of benefits information, and a comparison of projected retirement benefits under the public employees retirement system under chapter 54-52 and the retirement plan established under this chapter. Notwithstanding any other provision of law, the ~~boardoffice~~ is not liable for any election or investment decision made by an employee based upon information provided to an employee under this chapter.

**SECTION 118. AMENDMENT.** Section 54-52.6-18 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-18. Savings clause.**

If the ~~boardoffice~~ determines that any section of this chapter does not comply with applicable federal statutes or rules, the ~~boardoffice~~ shall adopt appropriate terminology with respect to that section as will comply with those federal statutes or rules. Any plan modifications made by the ~~boardoffice~~ pursuant to this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

**SECTION 119. AMENDMENT.** Section 54-52.6-19 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-19. Overpayments.**

The ~~boardoffice~~ has the right of setoff to recover overpayments made under this chapter and to satisfy any claims arising from embezzlement or fraud committed by a participating member, deferred member, refund beneficiary, or other person who has a claim to a distribution or any other benefit from a plan governed by this chapter.

**SECTION 120. AMENDMENT.** Section 54-52.6-20 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-20. Correction of records.**

The boardoffice shall correct errors in the records and actions in plans under this chapter and shall seek to recover overpayments and shall seek to collect underpayments.

**SECTION 121. AMENDMENT.** Section 54-52.6-21 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-21. Internal Revenue Code compliance.**

The boardoffice shall administer the plan in compliance with the following sections of the Internal Revenue Code, as amended, as they apply to governmental plans:

1. Section 415, including the defined contribution limitations under section 415(c)(1)(A) and (B) of the Internal Revenue Code and the Treasury Regulations thereunder, which are incorporated herein by reference.
  - a. In accordance with the defined contribution limitations under section 415(c) of the Internal Revenue Code, annual additions (as defined in section 415(c)(2) of the Internal Revenue Code) under this plan may not exceed the limitations set forth in section 415(c)(1)(A) and (B), as adjusted under section 415(d) of the Internal Revenue Code, effective January first of each year following a regular legislative session.
  - b. If a participating member's aggregate annual additions exceed the defined contribution limitations under section 415(c) of the Internal Revenue Code, the member's annual additions must be reduced to the extent necessary to comply with section 415(c) of the Internal Revenue Code and the Treasury Regulations thereunder.
2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. A member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.
3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.

**SECTION 122. LEGISLATIVE INTENT - ELECTRONIC DISTRIBUTION OF MATERIALS.** It is the intent of the sixty-fifth legislative assembly that the public

employees retirement system office create operating efficiencies when feasible by discontinuing the distribution of paper materials, including newsletters and benefit statements. It is further the intent of the sixty-fifth legislative assembly that the public employees retirement system office develop procedures to electronically distribute materials or provide access to materials through member self-service website applications."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1023 - Public Employees Retirement System - House Action**

	<b>Base Budget</b>	<b>House Changes</b>	<b>House Version</b>
Salaries and wages	\$6,315,360	\$8,263	\$6,323,623
Operating expenses	2,753,643	(132,844)	2,620,799
Contingencies	250,000		250,000
<b>Total all funds</b>	<b>\$9,319,003</b>	<b>(\$124,581)</b>	<b>\$9,194,422</b>
Less estimated income	9,319,003	(124,581)	9,194,422
General fund	\$0	\$0	\$0
FTE	34.50	(1.00)	33.50

**Department No. 192 - Public Employees Retirement System - Detail of House Changes**

	<b>Adjusts Funding for Base Payroll Changes<sup>1</sup></b>	<b>Adds Funding for Health Insurance Increases<sup>2</sup></b>	<b>Removes FTE Position<sup>3</sup></b>	<b>Adjusts Funding for Operating Expenses<sup>4</sup></b>	<b>Total House Changes</b>
Salaries and wages	\$55,378	\$102,885	(\$150,000)	(132,844)	\$8,263 (132,844)
Operating expenses					
Contingencies					
<b>Total all funds</b>	<b>\$55,378</b>	<b>\$102,885</b>	<b>(\$150,000)</b>	<b>(132,844)</b>	<b>(\$124,581)</b> <b>(124,581)</b>
Less estimated income	55,378	102,885	(150,000)	(132,844)	
General fund	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	(1.00)	0.00	(1.00)

<sup>1</sup> Funding is added for cost-to-continue 2015-17 biennium salaries and benefit increases and for other base payroll changes.

<sup>2</sup> Funding is added for increases in employee health insurance premiums from \$1,130 to \$1,249 per month.

<sup>3</sup> One FTE position and related funding is removed.

<sup>4</sup> Funding for operating expenses is adjusted as follows:

	<b>Other Funds</b>
Printing and postage costs for newsletters	(\$59,504)
Printing and postage costs for annual benefit statements	(66,440)
Other postage, printing, and supplies	(16,900)
Mobile app hosting costs	(43,000)
Office remodeling	30,000
Other operating adjustments	23,000
<b>Total</b>	<b>(\$132,844)</b>

This amendment also:

- Adds a section detailing the amount of funding provided to the agency for health insurance premium increases.
- Adds a section to limit the use of funding in the health insurance reserve fund for reducing health insurance premium amounts.
- Amends various sections of North Dakota Century Code to provide for the Director of the Public Employees Retirement System to be appointed by the Governor, to remove the Public Employees Retirement System Board, and to adjust the membership and duties of the Employee Benefits Programs Committee.
- Adds a section of legislative intent regarding the electronic distribution of materials by the Public Employees Retirement System office.

**2017 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**HB 1023**

# 2017 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee  
Sheyenne River Room, State Capitol

HB 1023  
3/2/2017  
Job Number 28630

- Subcommittee  
 Conference Committee

Committee Clerk Signature

## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the public employees retirement system; to provide a continuing appropriation; to limit the use of health insurance program reserves; to provide for a transfer; and relating to the public employees retirement board, the public employees retirement system, and the membership of the employee benefits programs committee; and to provide legislative intent.

Minutes:

Attachments: 1

**Chairman Poolman:** Opened the hearing on HB 1023.

**Rep Carlson, District 41:** See Attachment #1 for testimony in support of the bill. (Begins with talking about figures from Page 3 of testimony.) At some point, we are going to have such a big encumbrance there that we are going to ask ourselves how we are going to fund it. (3:30 - Moves to page 1 of testimony. The bill is so large is because we changed the word "board" to "office". Really only 2-3 pages of the bill contain the main substance of the changes. It is a change in governance. We should have input in issues like this one. We need to be responsible for the expenditures that we commit to. We have no input in the \$22 million that we spend on state health insurance.

**(13:09) Chairman Poolman:** You mentioned the fiduciary conflict and you have an amendment here?

**Representative Carlson:** I do not have an amendment but we are working on one. I understand that is an issue. I read the GRS report that came out and I am sure that you will get that later. I have some trouble with things that are put in there. I think we need to make sure that the fiduciary responsibility that we have for these large retirement funds are properly insulated so that it is in fact a proper relationship. We probably need to adjust that. In the end, if there is a shortfall, remember if our retirement system went upside down, who would be responsible for the difference? We have the ultimate responsibility as the legislative body representing the state of North Dakota. I will certainly get some amendments prepared to address the fiduciary responsibility if you would like for me to do that.

**Chairman Poolman:** I am just confused on the amendment that is stapled to your testimony.

**Representative Carlson:** There was an amendment that clarified the role of the employee benefits committee. (Referred to page 2 of testimony)

**(17:37) Vice Chairman Davison:** Was there any consideration given to just increasing the number of legislators on the board?

**Representative Carlson:** No there was not. I believe that those decisions should be made by elected officials. That is why I moved it over to the employee benefits committee which is a responsibility of theirs already except we do not grant them the authority. We do it with other committees. I made them an advisory board because their input is very important to us, but the people making the final decisions should be elected officials.

**(19:03) Chairman Poolman:** Suspended the hearing on HB 1023.

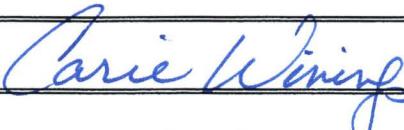
# 2017 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee  
Sheyenne River Room, State Capitol

HB 1023  
3/2/2017  
Job Number 28629

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the public employees retirement system; to provide a continuing appropriation; to limit the use of health insurance program reserves; to provide for a transfer; and relating to the public employees retirement board, the public employees retirement system, and the membership of the employee benefits programs committee; and to provide legislative intent.

Minutes:

Attachments: 1-4

**Chairman Poolman:** Reopened the hearing on HB 1023. (Attachment #1 is testimony given to the committee by Representative Carlson.)

**Sparb Collins, Executive Director, NDPERS:** See Attachment #2 for testimony in opposition to HB 1023.

**(7:56) Senator Bekkedahl:** To get at the heart of what the bill was trying to do, it is to put the control of the appropriations totally with the elected officials and not anyone outside of that realm. You are saying here that the premium provided by the legislature would be controlled by the legislative appropriation process and any reserve refunds that the board has available. The consideration would be that then the refunds would be an area outside of the control of the legislature for the use of reducing the premiums but ultimately that authority has been given to the NDPERS board by legislature?

**Sparb Collins:** Yes, that is correct. (10:00 - Returns to testimony page 2.)

**(12:15) Chairman Poolman:** There is a chart that talks about how we have used those reserves for contracts; do you have a chart that says how much has come in in terms of reserves each biennium? So we see how much money is being returned on a biennium basis total – kind of a bigger picture?

**Sparb Collins:** We can work on that. (12:52 - Returns to testimony page 3.) See Attachment #3 for additional information provided to committee.

**(28:00) Nick Archuleta, President, North Dakota United:** See Attachment #4 for testimony in opposition to the bill.

**(31:05) Senator Dever, District 32:** Testified in a neutral capacity to the bill. I serve on the employee benefits committee and have been very involved in many capacities on this issue. I would like you to have careful consideration of these amendments that were added to the bill. This is a drastic change that calls for more questions than it does statements. These amendments were added to a budget bill in the House so they never had a hearing in the House. They need to have a hearing. (Recalled what happened last session with the health insurance plan for the state.) There are legitimate questions to be asked on the legislative role in this entire process. I think the legislature has a bigger role than it understands itself to have. The board does not act outside of any authority previously provided by the legislature. I am not sure what the motivation is in this change in governance, but if it has anything to do with the performance of the board then I stand here to defend the board. They are all very good people and they followed the law. If there is anyone on the board that would act out of bias to their own constituency it would be the legislators. As we consider issues on the board, I think they are given due consideration. They are professional in their approach. It was interesting to me that Representative Carlson is having amendments drafted because he recognizes the importance of fiduciary responsibility. I would suggest, that as you go forward, recognizing that and the importance of keeping the governance with the PERS board. Maybe you leave the governance of the health insurance with the PERS board as well and address separately any consideration for the responsibilities that the legislature has. I would go further to suggest that instead of HB 1023, you amend HB 1406 or HB 1407; as well as making an effective date to apply to the next bid. I appreciate the comments of Representative Carlson on responsibilities that we have, but to say that the board controls \$1.7 billion is kind of like saying the DHS controls \$2.8 billion etc. The number of contracts that PERS enters into is a necessary function of a board. We do not want that responsibility as legislators. How many other agencies enter into contracts? Are we going to impose ourselves on those? In regards to cost of health insurance, it has increased dramatically over the years, but the Affordable Care Act was signed on March 23<sup>rd</sup>, 2010, and at that time the legislature established a health care reform review committee the average health insurance cost per family was over \$1400 a month. I think we are still below the prevailing cost. That suggests that it is well managed and it needs to be. The legislature does need to have whatever oversight it feels it needs to have, but I think it needs to have an understanding of what oversight it does have.

**(41:00) Dennis Murphy, Bismarck Resident:** Testified in opposition to the bill. Two years ago I stood before you and testified about the re-bid on the health plan, and today I am in opposition to the addition of the extra people to take care of the health plan. I have been retired for 19 years, and it has worked just fine for me and PERS has been going for 51 years and it seems to work just fine. I trust them and I think we should just keep it the way that it is for the time being. I am not in favor of adding the Governor. The board has done a fine job.

**Chairman Poolman:** Closed the hearing on HB 1023.

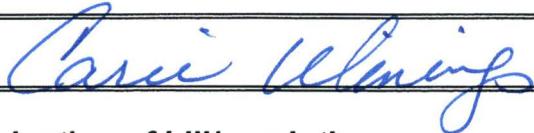
# 2017 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee  
Sheyenne River Room, State Capitol

HB 1023  
3/17/2017  
Job Number 29407

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the public employees retirement system; to provide a continuing appropriation; to limit the use of health insurance program reserves; to provide for a transfer; and relating to the public employees retirement board, the public employees retirement system, and the membership of the employee benefits programs committee; and to provide legislative intent.

Minutes:

Attachments: 1

**Chairman Poolman:** Opened HB 1023 for committee discussion. This is a budget bill that needs to be acted on and sent on to appropriations. See Attachment #1 for amendment proposed to committee. I think Representative Carlson's ideas have a lot of merit and I think this is something to take a look at, but I don't think it is something that we can take a look at in the course of a legislative session and make such a big change and address so many of our questions that we have. (Asked Senator Dever to speak to the amendments.)

**(2:55) Senator Dever, District 32:** There are right now four different proposals affecting PERS and the health insurance program on the table. They are not in sync with each other. I agree that there is benefit in studying this. Some of the challenges that we faced in the last session and now in to this session I think are more of a result of a lack of understanding of how the process works and what the involvement of the legislature is in that process. I think the benefit of doing this study would be more to provide an education than to make changes. If there are changes that come about as a result of the study, then we should consider them. The PERS board and the director of PERS encourage us to study it so that we do develop that better understanding. When we talk about self-insurance, you may know that the contract is a 2-year contract, renewable twice for a total of 6 years. Each of the renewables the Century Code says that if we do not decide to stay with the carrier that has the contract from the previous two years, we have to give them a reason not to and why we are going to take it out for bid. In this circumstance they did a survey of the members that are on the health insurance plan, and they were generally very well received. The increase in the rates is going up 17.4%. I asked the consultant what the general cost of insurance is going up and he said 7-9% per year. So 17.4% over two years fits in that. When they rebid it, they asked for bids

with it fully insured and also with it self-insured. They do make those considerations with self-insurance. It is my understanding that the self-insurance is lower cost but the risk is on the state. It is a matter of weighing that. I think the study would provide some answers and insights into how to approach that. I would encourage the adoption of the amendments.

**(6:10) Senator Bekkedahl:** Based on what you just stated, should it be a "shall study" rather than a "shall consider studying", or do you think this is of such importance that it will be picked up anyway?

**Senator Dever:** I think you have been here long enough to know how receptive the legislature is to the words "shall study". I think if it goes to conference committee and that become a sticking point, I think we all recognize the importance of going forward with it. I suspect legislative management would as well.

**Senator Bekkedahl: Moved Amendments 17.0508.02002.**

**Vice Chairman Davison: Seconded.**

**A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.**

**Motion Carried.**

**Senator Bekkedahl: Moved a Do Pass As Amended and Rerefer to Appropriations.**

**Senator Meyer: Seconded.**

**A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.**

**Motion Carried.**

**Chairman Poolman will carry the bill.**

March 16, 2017

On  
3/17/17  
1 of 2

### PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1023

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide an appropriation for defraying the expenses of the public employees retirement system; to provide for a transfer; to create and enact a new subsection to section 54-02-04 of the North Dakota Century Code, relating to public employees retirement system payments; to provide for a legislative management study; and to provide for legislative intent.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys from special funds derived from income to the public employees retirement system for the purpose of defraying the expenses of the public employees retirement system, for the biennium beginning July 1, 2017, and ending June 30, 2019, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$6,315,360	\$8,263	\$6,323,623
Operating expenses	2,753,643	(132,844)	2,620,799
Contingencies	<u>250,000</u>	<u>0</u>	<u>250,000</u>
Total special funds	\$9,319,003	(\$124,581)	\$9,194,422
Full-time equivalent positions	34.50	(1.00)	33.50

**SECTION 2. HEALTH INSURANCE INCREASE.** The salaries and wages line item in section 1 of this Act includes the sum of \$102,885 from other funds for increases in employee health insurance premiums from \$1,130 to \$1,249 per month.

**SECTION 3. ONE-TIME FUNDING.** The following amounts reflect the one-time funding 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>
Public employees retirement system - temporary salaries	\$100,000	\$0
Desktop support services	<u>77,370</u>	<u>0</u>
Total special funds	\$177,370	\$0

**SECTION 4. APPROPRIATION LINE ITEM TRANSFERS.** The public employees retirement system office may transfer from their contingencies line item in section 1 of this Act to all other line items. The agency shall notify the office of management and budget of each transfer made pursuant to this section.

**SECTION 5.** A new subsection to section 54-52-06 of the North Dakota Century Code is created and enacted as follows:

The board shall establish policies and implement procedures to make and collect payments in the most cost-effective manner, including the use of electronic transfer of funds.

CR  
3/17/17  
2 of 2

**SECTION 6. PUBLIC EMPLOYEES RETIREMENT SYSTEM - LEGISLATIVE MANAGEMENT STUDY.** During the 2017-18 interim, the legislative management shall consider studying the powers and duties of the public employees retirement system's retirement board, including the board's fiduciary duties; the administrative structure of the public employees retirement system, including the feasibility and desirability of changing this structure; the powers and duties of the employee benefits programs committee, including the feasibility and desirability of increasing the committee's oversight of the public employees retirement system; the feasibility and desirability of implementing a self-funded insurance plan; and the feasibility and desirability of changing the contract bidding process to every two years. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

**SECTION 7. LEGISLATIVE INTENT - ELECTRONIC DISTRIBUTION OF MATERIALS.** It is the intent of the sixty-fifth legislative assembly that the public employees retirement system office create operating efficiencies when feasible by discontinuing the distribution of paper materials, including newsletters and benefit statements. It is further the intent of the sixty-fifth legislative assembly that the public employees retirement system office develop procedures to electronically distribute materials or provide access to materials through member self-service website applications."

Renumber accordingly

Date: 3/17  
Roll Call Vote #: 1

**2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 10**

1023

Senate Government and Veterans Affairs Committee

## Committee

Subcommittee

Amendment LC# or Description: 17.0508.02002

Recommendation:	<input checked="" type="checkbox"/> Adopt Amendment	<input type="checkbox"/> Do Pass <input type="checkbox"/> Do Not Pass	<input type="checkbox"/> Without Committee Recommendation
	<input type="checkbox"/> As Amended	<input type="checkbox"/> Rerefer to Appropriations	
	<input type="checkbox"/> Place on Consent Calendar		
Other Actions:	<input type="checkbox"/> Reconsider	<input type="checkbox"/>	

**Other Actions:**  Reconsider  \_\_\_\_\_

Motion Made By Bekkedahl Seconded By Dawson

Total      (Yes) 6      No 0

Absent

## Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 3/17  
Roll Call Vote #: 2

**2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 10**

1023

Senate Government and Veterans Affairs Committee

## Committee

Subcommittee

Amendment LC# or Description: 17.0508.02002 .03000

Recommendation:	<input type="checkbox"/> Adopt Amendment	<input checked="" type="checkbox"/> Do Pass <input type="checkbox"/> Do Not Pass	<input type="checkbox"/> Without Committee Recommendation
	<input checked="" type="checkbox"/> As Amended	<input checked="" type="checkbox"/> Rerrefer to Appropriations	
	<input type="checkbox"/> Place on Consent Calendar	<input type="checkbox"/> Reconsider	<input type="checkbox"/>

Other Actions:  Reconsider

Motion Made By Bekkedahl Seconded By Meyer

Total (Yes) 6 No 0

Absent

Floor Assignment \_\_\_\_\_ Poolman

If the vote is on an amendment, briefly indicate intent:

#### REPORT OF STANDING COMMITTEE

**HB 1023, as engrossed: Government and Veterans Affairs Committee (Sen. Poolman, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1023 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide an appropriation for defraying the expenses of the public employees retirement system; to provide for a transfer; to create and enact a new subsection to section 54-02-04 of the North Dakota Century Code, relating to public employees retirement system payments; to provide for a legislative management study; and to provide for legislative intent.

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employee benefits programs committee, including the feasibility and desirability of increasing the committee's oversight of the public employees retirement system; the feasibility and desirability of implementing a self-funded insurance plan; and the feasibility and desirability of changing the contract bidding process to every two years. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

**SECTION 7. LEGISLATIVE INTENT - ELECTRONIC DISTRIBUTION OF MATERIALS.** It is the intent of the sixty-fifth legislative assembly that the public employees retirement system office create operating efficiencies when feasible by discontinuing the distribution of paper materials, including newsletters and benefit statements. It is further the intent of the sixty-fifth legislative assembly that the public employees retirement system office develop procedures to electronically distribute materials or provide access to materials through member self-service website applications."

Renumber accordingly

**2017 SENATE APPROPRIATIONS**

**HB 1023**

# 2017 SENATE STANDING COMMITTEE MINUTES

## Appropriations Committee Harvest Room, State Capitol

HB 1023  
3/23/2017  
JOB # 29574

- Subcommittee  
 Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the public employees' retirement system (PERS)

Minutes:

Attach#1 = Testimony of NDPERS

**Chairman Holmberg:** Called the Committee to order on HB 1023. Roll call was taken. All committee members were present. Michael Johnson, Legislative Council and Lori Laschkewitsch, OMB were also present. He commented that HB1007 will be heard again on Monday. If you recall, our only bill today came over to the Senate thicker than it is now. And what we have before is a study and appropriation for salaries and wages and copie machines for PERS. Let us talk about this.

**Sparb Collins**, Executive Director of PERS (0.03.00) along with me is Sharon Schiermeister, Chief Operating Officer, testified in favor of HB1023 and provided written Testimony attached #1 Testimony of NDPERS. And explained the contents of his testimony to the committee.

**Chairman Holmberg:** Your 50% includes the higher education people.

**Mr. Collins:** Yes. In higher education they do parse it, though. They have their administrative staff and faculty staff are in the TIAA Defined contribution plan which is half of their employees. The other half are in our system.

**Chairman Holmberg:** They can elect to go either way?

**Mr. Collins:** No, they go in the other. That is a policy that is set by the higher ed board not PERS board. He continued with page 5 (0.07.41) of his testimony. In 2015, there was a spike in the number of retirements. That resulted from the affordable care act, we got out of the pre-Medicare. Before, people had preexisting clauses so they went out to the market place, but they had trouble finding insurance. If they were healthy, no problems. Employers got out of that during Affordable Care Act because they could go out and do that. before Medicare. When we moved out of that we gave people a lot of notice. You see that spike, that is you got in before a certain date, you could stay in PERS. It does give you an idea how changes in retirement policy affects people's decisions. He continued with page 7, a

chart that shows Deferred Compensation Plan Membership, this is a supplemental savings. On page 8, is the group insurance program. As you will note, the largest responsibility in this area is the health plan. Page 9 shows the chart for health Plan Membership. On page 10 – Life Insurance plan includes Dental, Vision, Long-Term Care. We change vendors pretty regularly here.

**Senator Robinson:** (0.13.26) Were there ever any consideration of allowing employees, who retire, to maintain that insurance coverage? And make their premium on their own?

**Mr. Collins:** That is part of our bid right now. Trying to make the retiree portion portable so they can try and maintain it. We have bids back we will be reviewing next Thursday.

**Senator Robinson:** You give all of that up when you walk away from employment.

(0.15.20) **Mr. Collins:** on page 11. Shows NDPERS Flexcomp Participation. On page 12, is a continuation. On page 13 – Participating Employees (all programs) on page 14, we try to monitor to see how we are doing. You can see what are scores are. I will turn it over to Sharon to go over the budget. (16.54) Questions?

**Sharon Schiermeister**, Chief Finance Officer for NDPERS: (17.09) testified in favor of HB 1023 and continued her portion of the testimony starting on page 14 – 16, you will see some work efforts that we have accomplished over the last two years. We changed our provider two years ago, so that was a big change. She continued on work efforts, pages 14-16. Moving on to the PERS Budget on page 16-17 It is all special funds. (0.20.42). On page 17, is a chart showing the proposed budget requests. The House removed one FTE which is reflected on page 17. Moving on to Operating Expenses on pages 18-19. The executive budget allowed on optional request has to do with restructuring our office to provide better security. She went on to explain the House version which includes additional reductions in operating expenses on page 19. There would be a savings if all would use electronic payments.

**Chairman Holmberg:** Do you see a challenge with a person 82 years old?

**Mrs. Schiermeister:** Yes, that is a challenge. We are currently having issues with people not cashing their checks. Some do not cash checks. We usually provide direct deposit forms, with it when we are following up on an uncashed check. She continued with the additional reductions from the House version. The annual benefit is also on-line. It hasn't been significant enough to allow us to stop the services of sending out the annual benefit statements. (0.30.21) She continued with Optional Budget Requests: Cyber risk insurance, office relocation, funding for 2 additional FTE, but not necessary. Moving on, we are requesting the Senate consider the following two changes to the House version: 1. Restore FTE, (page 19-20) if you cannot restore that, we are requesting the FTE authority. We would be able to fund the FE within the appropriation authority that is in the House version. (32.50)

**Chairman Holmberg:** Was there any movement by the House to take that money back?

**Ms. Schiermeister:** No. She continued with the 2<sup>nd</sup> request – Restore printing/postage (page 20) for our employers all their report is done on line. During our annual enrollment process,

we do offer that to be on line as well. So we have realized some savings with that. The agency believes that overtime we can reduce our printing and mailing costs by requiring direct deposit and ACH, however, many of our members do not use electronic devices. We are also requesting we be given to July 1, 2018, instead of July 1, 2017, as proposed by the House. She continued on page 21. These are the tables you asked me about. That concludes her testimony. (0.36.55)

**Chairman Holmberg:** There is a subcommittee of Vice Chairman Krebsbach: Senator Oehlke: and Senator Robinson that will take another look at this bill. Any questions?

**Senator Mathern:** I appreciate all the things you are doing. Is there another step of efficiency in combining some of our programs?

**Ms. Schiermeister:** In a respect, we are doing an administration of those together. Just to give you an idea how we have done that, all our funds are invested in one pool. We account for them. They are lumped into the TFFR. As far as administrative, we keep track of who is eligible for what plan and make sure we follow the law.

**Senator Mathern:** You are saying there are no more efficiencies?

**Sharon:** None that can come up at this point.

**Chairman Holmberg:** We will close the hearing on 1023.

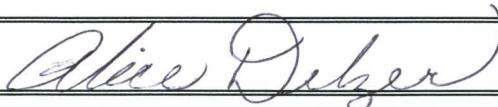
## 2017 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee  
Harvest Room, State Capitol

HB 1023  
3/28/2017  
JOB # 29737

- Subcommittee  
 Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to defray the expenses of PERS.

Minutes:

No testimony was submitted

Chairman Holmberg: called the Committee to order on HB 1023. All committee members were present. Chris Kadomas, Legislative Council and Lori Laschkewitsch, OMB were also present.

**Chairman Holmberg:** The only change which we don't have in front of us that health insurance standard amendment that has been put on all of the budget bills. If you have no problem with going on faith then I would ask that the amendment, remove the standard amendment on health assurance.

**Senator Robinson: Moved the Amendment. 2<sup>nd</sup> by Senator Erbele.**

**Chairman Holmberg:** Discussion on the Amendment on 1023. Would you call the roll on the Amendment on 1023?

**V. Chairman Krebsbach:** I have a couple of other amendments for that bill.

**Chairman Holmberg:** Never mind.

**V. Chairman Krebsbach:** If you recall there were two issues. There was an FTE that they would like to keep and even if there is no funding for it they want to keep the FTE positon available to them. Also in operating they cut out the monies for mailing and informing the people on the programs about what's happening and trying to switch over to electronic means of doing this on a newsletter and so on, but they would like to keep it going for one year. So they would be happy if we could get half of that amount.

**Senator Robinson: Withdrawn his motion and Senator Erbele withdrew his second.**

**Chairman Holmberg** stated they will wait for the amendments before they take any action on this bill. The hearing was closed on HB 1023.

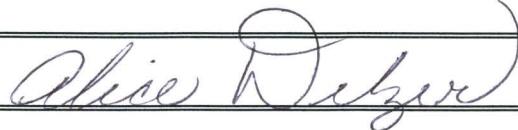
## 2017 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee  
Harvest Room, State Capitol

HB 1023  
3/29/2017  
JOB # 29800

- Subcommittee  
 Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A DO PASS AS AMENDED on NDPERS.

Minutes:

1. Proposed Amendment # 17.0508.02003

**Chairman Holmberg:** called the Committee to order on HB 1023. All committee members were present. Alex Cronquist, Legislative Council and Lori Laschkewitsch, OMB were also present.

**V. Chairman Krebsbach:** Moved the Amendment # 17.0508.02003 and explained the amendment. 2<sup>nd</sup> by Senator Robinson.

**Chairman Holmberg:** Call the roll on the Amendment for HB 1023.

A Roll Call vote was taken on the Amendment: Yea: 14; Nay: 0; Absent: 0.

**V. Chairman Krebsbach:** Moved a Do Pass as Amended. 2<sup>nd</sup> by Senator Robinson.

**Chairman Holmberg:** Call the roll on a Do Pass as Amended on 1023.

A Roll Call vote was taken. Yea: 14; Nay: 0; Absent: 0. V. Chairman Krebsbach will carry the bill.

The hearing was closed on HB 1023.

## PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1023

In lieu of the amendments adopted by the Senate as printed on pages 811-813 of the Senate Journal, Engrossed House Bill No. 1023 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide an appropriation for defraying the expenses of the public employees retirement system; to provide for a transfer; to create and enact a new subsection to section 54-02-04 of the North Dakota Century Code, relating to public employees retirement system payments; to provide for a legislative management study; and to provide for legislative intent.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys from special funds derived from income to the public employees retirement system for the purpose of defraying the expenses of the public employees retirement system, for the biennium beginning July 1, 2017, and ending June 30, 2019, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$6,315,360	\$809	\$6,316,169
Operating expenses	2,753,643	(61,422)	2,692,221
Contingencies	<u>250,000</u>	<u>0</u>	<u>250,000</u>
Total special funds	\$9,319,003	(\$60,613)	\$9,258,390
Full-time equivalent positions	34.50	0.00	34.50

**SECTION 2. HEALTH INSURANCE INCREASE.** The salaries and wages line item in section 1 of this Act includes the sum of \$95,431 from other funds for increases in employee health insurance premiums from \$1,130 to \$1,241 per month.

**SECTION 3. ONE-TIME FUNDING.** The following amounts reflect the one-time funding 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>
Public employees retirement system - temporary salaries	\$100,000	\$0
Desktop support services	<u>77,370</u>	<u>0</u>
Total special funds	\$177,370	\$0

**SECTION 4. APPROPRIATION LINE ITEM TRANSFERS.** The public employees retirement system office may transfer from their contingencies line item in section 1 of this Act to all other line items. The agency shall notify the office of management and budget of each transfer made pursuant to this section.

**SECTION 5.** A new subsection to section 54-52-06 of the North Dakota Century Code is created and enacted as follows:

The board shall establish policies and implement procedures to make and collect payments in the most cost-effective manner, including the use of electronic transfer of funds.

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## SECTION 6. LEGISLATIVE MANAGEMENT STUDY - PUBLIC EMPLOYEES

**RETIREMENT SYSTEM.** During the 2017-18 interim, the legislative management shall consider studying the powers and duties of the public employees retirement system's retirement board, including the board's fiduciary duties; the administrative structure of the public employees retirement system, including the feasibility and desirability of changing this structure; the powers and duties of the employee benefits programs committee, including the feasibility and desirability of increasing the committee's oversight of the public employees retirement system; the feasibility and desirability of implementing a self-funded insurance plan; and the feasibility and desirability of changing the contract bidding process to every two years. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

## SECTION 7. LEGISLATIVE INTENT - ELECTRONIC DISTRIBUTION OF

**MATERIALS.** It is the intent of the sixty-fifth legislative assembly that, by July 1, 2018, the public employees retirement system office create operating efficiencies when feasible by discontinuing the distribution of paper materials, including newsletters and benefit statements. It is further the intent of the sixty-fifth legislative assembly that the public employees retirement system office:

- Develop procedures to electronically distribute materials or provide access to materials through member self-service website applications.
- Consider options to charge members a fee for continued distribution of paper materials to that member."

Renumber accordingly

### STATEMENT OF PURPOSE OF AMENDMENT:

#### House Bill No. 1023 - Public Employees Retirement System - Senate Action

	Base Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$6,315,360	\$6,323,623	(\$7,454)	\$6,316,169
Operating expenses	2,753,643	2,620,799	71,422	2,692,221
Contingencies	250,000	250,000		250,000
Total all funds	\$9,319,003	\$9,194,422	\$63,968	\$9,258,390
Less estimated income	9,319,003	9,194,422	63,968	9,258,390
General fund	\$0	\$0	\$0	\$0
FTE	34.50	33.50	1.00	34.50

#### Department No. 192 - Public Employees Retirement System - Detail of Senate Changes

	Adjusts Funding for Health Insurance Increases <sup>1</sup>	Restores back FTE position <sup>2</sup>	Restores Funding for Operating Expenses <sup>3</sup>	Total Senate Changes
Salaries and wages	(\$7,454)			(\$7,454)
Operating expenses			71,422	71,422
Contingencies				

CH  
3/29/17  
3 of 3

Total all funds				
Less estimated income	(7,454)	0	71,422	63,968
General fund	\$0	\$0	\$0	\$0
FTE	0.00	1.00	0.00	1.00

<sup>1</sup> Funding for employee health insurance is adjusted to reflect the updated premium amount of \$1,241 per month. Section 2 is also adjusted to reflect the change.

<sup>2</sup> One FTE position removed by the House is restored.

<sup>3</sup> A portion of the funding reduced by the House for operating expenses is restored as follows:

	Other Funds
Printing and postage costs for newsletter	\$29,752
Printing and postage costs for annual benefit statements	\$33,220
Other postage, printing, and supplies	\$8,450

This amendment also:

- Removes a section that limited the use of funding in the health insurance reserve fund for reducing health insurance premium amounts.
- Removes various sections of North Dakota Century Code that were amended relating to providing for the Director of the Public Employees Retirement System to be appointed by the Governor, removing the Public Employees Retirement System Board, and adjusting the membership and duties of the Employee Benefits Programs Committee.
- Adjusts a section of legislative intent relating to charging members a fee for paper materials.

Date: 3-29-17

Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1023

Senate Appropriations Committee

Subcommittee

Amendment LC# or Description: 17.0508.02003

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar

Other Actions:  Reconsider   

Motion Made By Krebsbach Seconded By Robinson

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Mathern	✓	
Vice Chair Krebsbach	✓		Senator Grabinger	✓	
Vice Chair Bowman	✓		Senator Robinson	✓	
Senator Erbele	✓				
Senator Wanzek	✓				
Senator Kilzer	✓				
Senator Lee	✓				
Senator Dever	✓				
Senator Sorvaag	✓				
Senator Oehlke	✓				
Senator Hogue	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 3-29-17

Roll Call Vote #: 2

**2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1023**

Senate Appropriations Committee

Subcommittee

Amendment LC# or Description:

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Recession

Other Actions:  Reconsider

Motion Made By Krebsbach Seconded By Kolinson

Total (Yes) 12 No 0

Absent O

Floor Assignment \_\_\_\_\_ Krebsbach

If the vote is on an amendment, briefly indicate intent:

#### REPORT OF STANDING COMMITTEE

**HB 1023, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1023, as amended, was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the Senate as printed on pages 811-813 of the Senate Journal, Engrossed House Bill No. 1023 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide an appropriation for defraying the expenses of the public employees retirement system; to provide for a transfer; to create and enact a new subsection to section 54-02-04 of the North Dakota Century Code, relating to public employees retirement system payments; to provide for a legislative management study; and to provide for legislative intent.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys from special funds derived from income to the public employees retirement system for the purpose of defraying the expenses of the public employees retirement system, for the biennium beginning July 1, 2017, and ending June 30, 2019, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$6,315,360	\$809	\$6,316,169
Operating expenses	2,753,643	(61,422)	2,692,221
Contingencies	<u>250,000</u>	<u>0</u>	<u>250,000</u>
Total special funds	\$9,319,003	(\$60,613)	\$9,258,390
Full-time equivalent positions	34.50	0.00	34.50

**SECTION 2. HEALTH INSURANCE INCREASE.** The salaries and wages line item in section 1 of this Act includes the sum of \$95,431 from other funds for increases in employee health insurance premiums from \$1,130 to \$1,241 per month.

**SECTION 3. ONE-TIME FUNDING.** The following amounts reflect the one-time funding 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>
Public employees retirement system - temporary salaries	\$100,000	\$0
Desktop support services	<u>77,370</u>	<u>0</u>
Total special funds	\$177,370	\$0

**SECTION 4. APPROPRIATION LINE ITEM TRANSFERS.** The public employees retirement system office may transfer from their contingencies line item in section 1 of this Act to all other line items. The agency shall notify the office of management and budget of each transfer made pursuant to this section.

**SECTION 5.** A new subsection to section 54-52-06 of the North Dakota Century Code is created and enacted as follows:

The board shall establish policies and implement procedures to make and collect payments in the most cost-effective manner, including the use of electronic transfer of funds.

**SECTION 6. LEGISLATIVE MANAGEMENT STUDY - PUBLIC EMPLOYEES RETIREMENT SYSTEM.** During the 2017-18 interim, the legislative management shall consider studying the powers and duties of the public employees retirement system's retirement board, including the board's fiduciary duties; the

administrative structure of the public employees retirement system, including the feasibility and desirability of changing this structure; the powers and duties of the employee benefits programs committee, including the feasibility and desirability of increasing the committee's oversight of the public employees retirement system; the feasibility and desirability of implementing a self-funded insurance plan; and the feasibility and desirability of changing the contract bidding process to every two years. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

#### **SECTION 7. LEGISLATIVE INTENT - ELECTRONIC DISTRIBUTION OF MATERIALS.**

**MATERIALS.** It is the intent of the sixty-fifth legislative assembly that, by July 1, 2018, the public employees retirement system office create operating efficiencies when feasible by discontinuing the distribution of paper materials, including newsletters and benefit statements. It is further the intent of the sixty-fifth legislative assembly that the public employees retirement system office:

- Develop procedures to electronically distribute materials or provide access to materials through member self-service website applications.
- Consider options to charge members a fee for continued distribution of paper materials to that member."

Renumber accordingly

#### **STATEMENT OF PURPOSE OF AMENDMENT:**

#### **House Bill No. 1023 - Public Employees Retirement System - Senate Action**

	Base Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$6,315,360	\$6,323,623	(\$7,454)	\$6,316,169
Operating expenses	2,753,643	2,620,799	71,422	2,692,221
Contingencies	250,000	250,000		250,000
Total all funds	\$9,319,003	\$9,194,422	\$63,968	\$9,258,390
Less estimated income	9,319,003	9,194,422	63,968	9,258,390
General fund	\$0	\$0	\$0	\$0
FTE	34.50	33.50	1.00	34.50

#### **Department No. 192 - Public Employees Retirement System - Detail of Senate Changes**

	Adjusts Funding for Health Insurance Increases <sup>1</sup>	Restores back FTE position <sup>2</sup>	Restores Funding for Operating Expenses <sup>3</sup>	Total Senate Changes
Salaries and wages	(\$7,454)			(\$7,454)
Operating expenses			71,422	71,422
Contingencies				
Total all funds	(\$7,454)	\$0	\$71,422	\$63,968
Less estimated income	(7,454)	0	71,422	63,968
General fund	\$0	\$0	\$0	\$0
FTE	0.00	1.00	0.00	1.00

<sup>1</sup> Funding for employee health insurance is adjusted to reflect the updated premium amount of \$1,241 per month. Section 2 is also adjusted to reflect the change.

<sup>2</sup> One FTE position removed by the House is restored.

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Printing and postage costs for newsletter	\$29,752
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This amendment also:

- Removes a section that limited the use of funding in the health insurance reserve fund for reducing health insurance premium amounts.
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Renumber accordingly

#### **STATEMENT OF PURPOSE OF AMENDMENT:**

#### **House Bill No. 1023 - Public Employees Retirement System - Senate Action**

	Base Budget	House Version	Senate Changes	Senate Version
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General fund	\$0	\$0	\$0	\$0
FTE	34.50	33.50	1.00	34.50

#### **Department No. 192 - Public Employees Retirement System - Detail of Senate Changes**

	Adjusts Funding for Health Insurance Increases <sup>1</sup>	Restores back FTE position <sup>2</sup>	Restores Funding for Operating Expenses <sup>3</sup>	Total Senate Changes
Salaries and wages	(\$7,454)		71,422	(\$7,454) 71,422
Operating expenses				
Contingencies				
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- Removes a section that limited the use of funding in the health insurance reserve fund for reducing health insurance premium amounts.
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- Adjusts a section of legislative intent relating to charging members a fee for paper materials.

**2017 CONFERENCE COMMITTEE**

**HB 1023**

# 2017 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee – Government Operations Division  
Medora Room, State Capitol

HB1023  
4/14/2017  
Recording Job# 30150

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the public employees retirement system; and to provide for a transfer.

Minutes:

Attachment A

**Chairman Vigesaa:** Opened the conference committee on HB1023.

**Senator Krebsbach:** Explained the changes made by the Senate to the budget. See attachment A.

**Chairman Vigesaa:** It appears that you added section 4 that provides for line item transfer authority. Was there any discussion with the agency whether or not they intended to use that line item authority to transfer monies into the FTE area; so that they can fund that FTE that you restored?

**Senator Krebsbach:** I don't recall. They have to notify OMB for each transfer that would be made pursuant to that section.

Senator Krebsbach continued with her explanation.

**Chairman Vigesaa:** Could you explain section 6 that you added with regard to the management study?

Senator Krebsbach continued with her explanation.

**Chairman Vigesaa:** Was there any talk about the fact that it's listed as a "shall consider" study? So management wouldn't actually have to pick this particular study?

**Senator Krebsbach:** It's listed that way as most of our study issues are. I feel that agency will take a serious look at this and include it as a study.

**Chairman Vigesaa:** Our appropriation for this next biennium, for just the health insurance, is going to be about \$477 million. I think the House position has always been as we are getting into this kind of a dollar figure, we need to have a lot of legislative involvement when we're spending this kind of money. We need to have a little more involvement in designing plans and setting budgets. A lot of what we've tried to propose over the last two biennia is to have a little more involvement from the legislature in that process. Could the Senate explain their version to having more legislative involvement in this process where we're now approaching \$500 million in expenditures?

Senator Krebsbach continued with her explanation.

**Representative Keiser:** I would like to hear more about the one FTE that was added back in. On the one hand we put in one FTE back in without funding; but then we allowed the transfer of funds. Is that a shell game we're playing? Either we have the FTE and we fund it or we don't have the FTE and we don't fund it. How many departments are we willing to do that to? To give departments extra FTE's and they don't have the funding; but if they can figure out a way to do it, we'll give them transfer authority. Is that the way we normally operate?

**Senator Krebsbach:** No, but there are often departures in the area. They may want to bring someone in early to train in that position.

**Sparb Collins, Director, ND Public Employee Retirement System:** The transfer authority has been there for a long time, it hasn't been added this session. On the FTE, last legislative session we came to you and stated that one of the challenges we face is that our FTE's are all very low on the pay grades. We requested from you an equity pool to provide funding to try to get to the average of other agencies; and that was approved. We did do part of that equity increase; and it was my decision to do it in two parts. Our second year Governor Dalrymple requested across the board reductions of general fund agencies. Our need was there but it wasn't the appropriate time for me to be authorizing equity increases for our staff. We had those carry over funds and when we talked to the Senate about adding in the FTE, we said we could do this without additional funds because we didn't use that equity pool.

**Representative Kaiser:** If we were to put wording in, you could have an FTE for one year? Right now you have salary increases driving the decision for an FTE.

**Sparb Collins:** That FTE was originally funded in our budget. The House took out the funding for that FTE; but we're saying because we didn't do the equity package we would be able to fund that FTE.

**Chairman Vigesaa:** Is there a specific position you're looking to have restored?

**Sparb Collins:** No, it's just a position. Our agency is fully staffed and all our positions are full.

**Chairman Vigesaa:** If the FTE is removed then someone has to be relieved?

**Sparb Collins:** We have to let someone go.

**Representative Kaiser:** If you use the excess equity funding for the position, you will still have an equity issue.

**Sparb Collins:** Yes.

**Representative Kaiser:** Sometime in the future we're going to have to address that. In other words, we could address it with those dollars right now or we could fund another full-time position and you'll come back to us at some point and say now we need an equity adjustment.

**Sparb Collins:** Conceivably, yes. We're not moving up in the comp ratio. If everyone else drops in the comp ratio, maybe we won't be out of line.

**Senator Krebsbach:** I would offer, if you would feel more comfortable, in section 6 that we change the wording in the first and second line to remove the word "consider" and it will be "shall study".

**Chairman Vigesaa:** I think there were three House bills that came from the House; HB1406, HB1407 and HB1436, which dealt with changing the date of the contract so we have the number for the appropriation ahead of the session. One was changing how often it's sent for bidding and then the health insurance issue.

**Senator Krebsbach:** We would hope that the study would ferret out these issues. The Senate was just not comfortable to make that drastic of a change at this particular time.

**Chairman Vigesaa:** We make big changes every session that we're here. We have major decisions to make in all areas of government and all areas of the state. We make very big decisions and these are important because the dollars are getting extremely high. We're looking after the best interest of our state employees.

**Senator Krebsbach:** I couldn't agree more. We do have the situation where we are taking care of thousands of state employees and thousands of political subdivisions employees. To do that without further knowing how it's going to impact; that's where we were coming from.

**Senator Oehlke:** From my personal perspective, I think that self-insurance is probably a good idea. I don't feel that this is the appropriate moment to make that change. Part of the reason is that the risk for the legislature and for the state has gone away. If there's money loss in the next couple of years; it's all at the policy insurer's risk. The other side is that was risk for possible legal action that might have dragged us into more money spent by the state.

**Chairman Vigesaa:** You mentioned potential legal action. Who gave you that legal advice that if we went to a self-insurance plan or altered any of the other provisions of current contract, that we could be held liable or there maybe could be a lawsuit involved?

**Senator Oehlke:** No one had to tell me. I've seen how issues can happen and a lawsuit can come out that is not anybody's fault. You still get dragged into it and it still costs you money, time and effort. I would rather have us avoid that type of potential at this point.

**Senator Robinson:** I would echo the comments that my two colleagues have shared where the Senate is coming from on this issue. I think there is very little support in the Senate at this juncture to move in this direction without the benefit of a comprehensive study over the course of the interim. I sense in the Senate that the study is a must before we go down this road.

**Chairman Vigesaa:** One of the senators mentioned that we have to take good care of employees and their families. By not being totally involved in the process of deciding the contracts, I think that House would like to have more involvement; we're already affecting our employees. We've had the deductibles raised for this next year, the co-insurance has raised; we've had a very significant increase in the premiums and we've proposed to take half of our reserves to get to that point. Already our employees, in some cases, are going to be pretty severely affected by the amount of deductibles and copays that will be in place. We already had a proposal from our current governor to have the employees start to pay part of the premium; and both chambers said we're not ready for that yet. We're fearing on the House side if we continue down where we're going without more involvement that when he comes with his next proposal for the next biennium, there could be a significant contribution from the employees.

**Senator Robinson:** I don't think that the Senate disagrees with that at all. The issues with the increases and deductibles are happening across the country and I don't think our involvement is going to have much impact on that. This is a major issue and it's a high priority for employees across the state. That's one more reason to have this study and be prepared before we go down this road.

**Senator Oehlke:** Representative Kaiser and I would remember one of the interim committees we were on for the affordable care act. I recall legislators that didn't realize we'd been on the affordable care act for two years. The general populace, that includes most legislators, don't have a firm grasp of health insurance.

**Chairman Vigesaa:** One of the bills had an adjusting of the contract dates. If we go this way, nothing is going to change and we will be back here in two years with no ability to have a say as to what the next contract is going to look like.

**Chairman Vigesaa:** Closed the conference committee.

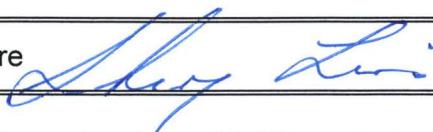
# 2017 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee – Government Operations Division  
Medora Room, State Capitol

HB1023  
4/21/2017  
Recording Job# 30268

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the public employees retirement system; and to provide for a transfer.

**Minutes:**

Attachments A through E

**Chairman Vigesaa:** Opened the conference committee on HB1023.

**Chairman Vigesaa:** Discussed attachment A.

**Chairman Vigesaa:** Discussed attachment B.

**Chairman Vigesaa:** Discussed attachment C.

**Representative Boehning:** I just talked to higher ed and they estimated that we would have to take off their share of health insurance of about \$212 million.

**Chairman Vigesaa:** Discussed attachment D.

**Representative Keiser:** The handout clearly shows the change in the copays and deductibles. Because we are increasing our member's participation in the funding of this, what is the projected amount of savings? Did the employee benefits review this and have that particular information?

**Senator Krebsbach:** I don't recall that that particular subject has come up. Over the years there have been changes in the insurance plan; and always have participated in deductibles and so on. I've always considered that to be their share of participation. I think we need to sort all of this out in a study.

**Representative Keiser:** This is just cost shifting and I do agree that we have done it in the past. I think it's important that we recognize as we're looking at the cost of program that this is a real cost; it's just being transferred to our participants. As a result, instead of 17% if we had kept the same benefits, what would that increased percentage have been?

**Chairman Vigesaa:** Based on averages of expenses that the employees pay and the change in increase of their share; could you give us that information?

**Sparb Collins, Director, ND Public Employees Retirement System:** We did have some information put together and the actual savings that's being transferred to the employees depends on how you calculate. If you take the 17.4% increase, subtract the benefit changes; that's going to change it by 5.1%. If you calculate it against the total, it would be 4.4%. If you look at the 17.4% and subtract the 5.1%; that's going to get you down to what the plan design cost is after the benefit changes. About 2.4% of that is being bought down from the PERS reserves; and at the end it's not quite 8%.

**Representative Keiser:** How many dollars?

**Sparb Collins:** The plan design changes for state employees would be \$11.1 million and \$4.2 million for the political subdivisions.

**Chairman Vigesaa:** Discussed attachments A and E.

**Senator Oehlke:** On page 2 of the amendment, I see three places where it talks this committee being able to do things that wouldn't require legislative approval. Are those things that someone can do right now that doesn't require legislative approval?

**Chairman Vigesaa:** That is current language with the employee benefits program committee; that's already what they do with the committee.

**Senator Oehlke:** That is a programs committee.

**Chairman Vigesaa:** This is a current committee. With regard to the uniform group insurance program, this new committee would not deal with the vision or dental or any other part of what would be considered the uniform group insurance.

**Senator Krebsbach:** I do need to understand more fully the two different committees and their functions. In section 7, you are directing a self-insurance and I thought the study was to take place before any direction would be done.

**Chairman Vigesaa:** I will agree that the employee benefits committee has had that role; but during the session it can be very cumbersome sometimes.

**Senator Krebsbach:** There is a process setup in the whole committee function and how it deals with the bills that come forward. That process seems to have been ignored during this session. I think we need to address that as well.

**Chairman Vigesaa:** There was a lot concerning insurance this session. With regard to the study, the amendments call for this to begin July 1, 2019. The study is here that could be begun immediately after this session and there would be nearly a two year period where it could be studied and then move to the self-insurance plan after this upcoming biennium.

**Senator Robinson:** The concern we have is that you're almost circumventing the process; we're going to study it, but we're going to do it. The study might reveal that we don't want to go down that road.

**Chairman Vigesaa:** Closed the conference committee.

# 2017 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee – Government Operations Division  
Medora Room, State Capitol

HB1023  
4/24/2017  
Recording Job# 30277

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the public employees retirement system; and to provide for a transfer.

**Minutes:**

Attachment A.

**Chairman Vigesaa:** Opened the conference committee on HB1023.

**Sparb Collins, Director, Public Employees Retirement System:** See attachment A.

**Chairman Vigesaa:** How would that equate into dollars?

**Sparb Collins:** If you look on the dollar side, the total increase from last biennium to this biennium; the 17.4% would have been \$196.16. That's what the increase if the premium paid the full price of the plan design. The plan design is proposed to be changed. The value of that change reduces that cost by \$58.24. The other suggestion has been to use the PERS funds to buy down part of the premium; the value of that is about \$27.32 per month.

Sparb Collins continued with his explanation.

**Representative Matheron:** Is that a single or family?

**Sparb Collins:** The state uses that flat rate; that's the average rate between the single and family and 75% to 80% were family and 20% were single.

Sparb Collins continued with his explanation.

**Chairman Vigesaa:** The total potential cost for the FTE or state employee is \$22.2 million over the course of the biennium. Would that be correct?

**Sparb Collins:** Yes. We're cost shifting about \$58.24 a month. In reality, that's the average. There are people who don't use the plan, aren't going to have any deductible or co-insurance. Those that are subject to more, will have a little more.

**Representative Keiser:** Based on the \$58.24 one could say that's a cost shift of \$698.88 per year to the employees; but all of these variables are utilization variables. We know from our long term experience that about 20-25% of the people account for about 80% of the cost. Did Deloitte do any analysis based on what the impact would be to those folks who are the high utilizers versus the low utilizers? Did the employee benefits ask for that information to see what the impact on our employees would be?

**Sparb Collins:** What we did in terms of impact was the average.

**Representative Keiser:** You just said that the average doesn't work.

**Sparb Collins:** It gives you the perspective of what the average is. We didn't do a dispersion analysis.

**Representative Keiser:** What was the PERS board's discussion on this issue? Given that we're not offering raises, if you came to me and told me I'm going to have a \$3,000.00 head on my healthcare this coming year; that's significant.

**Sparb Collins:** This is not the PERS board's proposal. Last fall when we submitted that information to the executive budget office, we mailed all of you the same information on what the options were. All the board does is present options so that it can be passed along in the decision process between the executive branch and the legislature.

**Representative Boehning:** Before you said that it was only going to cost \$50.00/month per employee and now it's going to \$60.00/month per employee. Where did the plan change from this time to that time?

**Sparb Collins:** That was updated in the last part of December to 5.1%. There was a misunderstanding between Sanford and us on how that 4.4% was reduced from the 17%. In late December we sent out a new one to the legislative council; which balances out to the 5.2%.

**Representative Boehning:** How many options did you present to the executive branch for insurance options?

**Sparb Collins:** The options we presented were the maximum changes that could be done without losing the grandfathered status of the plan. If you go \$1.00 over, you lose the grandfathered status; and that means that there is another 3% of things we have to add back in. We suggested 5% to employee contribution premium payments; that was \$2.3 million. We suggested creating an in-state network. We could save money also if we only allowed in-state service; instead of going out of state. We could put in higher amounts to go Mayo; but if that can be done at St. A's just as effectively; those are the types of things that we outlined and were not carried forward.

**Representative Keiser:** Grandfather status may go away by itself. There are two ways you lose it, you increase what the employees have to have pay as a co-pay. On the benefit side there are also limits. How close do these changes bring to the wall where we don't have the

flexibility to make those additional increases next time to accommodate the premium change?

**Sparb Collins:** These will take you to the wall; except in some of the benefit ones in how the equation is figured, there is a medical inflation that would allow it. You might be able to move things \$1.00. This is going to represent 98% of your ability to move.

**Representative Keiser:** What you're saying is that the participation levels of 5.15% take us pretty close to the wall on the benefit side?

**Sparb Collins:** That took us to the wall at the time that this was done; and then there's a CPI type of thing that allows you to do things. It's not going to be much unless there's actual changes from the statutory level at the national level.

**Chairman Vigesaa:** With regard to the discussion over the changes in the plan design. Does that come before the employee benefits committee at all for your approval or suggestions for any kind of changes?

**Senator Krebsbach:** It has not come before us. It comes directly from the board to the executive.

**Chairman Vigesaa:** Closed the conference committee.

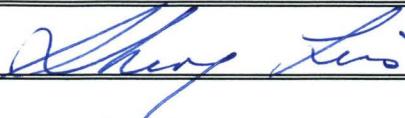
# 2017 HOUSE STANDING COMMITTEE MINUTES

## Appropriations Committee – Government Operations Division Medora Room, State Capitol

HB1023  
4/25/2017  
Recording Job# 30293

- Subcommittee  
 Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the public employees retirement system; and to provide for a transfer.

**Minutes:**

Attachment A

**Chairman Vigesaa:** Opened the conference committee on HB1023,

**Chairman Vigesaa:** Explained amendment 17.0508.02013. Attachment A.

**Senator Krebsbach:** I appreciate the changes that have been made to the bill. There are a couple of things that could be cleaned up a little better. On page 6 section 4, I see where legislation can be introduced and put to a committee. The standing committee would have the authority to do the research that normally goes through the employee benefits committee to grant a recommendation. I think it's a little unfair to have this go directly to a committee and have them do the actuary reports.

**Chairman Vigesaa:** We had some discussion with the other House conferees this afternoon and we feel that for one session we would like it to continue as it is. We've talked about this in previous meetings and the House's position is for this two year program we'd like to keep it the way it's written here.

**Senator Krebsbach:** We have to address their budget bill and the Senate had made some changes.

**Senator Robinson:** You had referenced when we last met that their focus has been on the health side of things and also on the retirement side of things. Are you suggesting for this period of time that committee becomes inactive? Do they continue to meet and address issues involving the retirement side of the spectrum.

**Chairman Vigesaa:** In our initial conversation we had talked about having the employee benefits committee work only during the interim. We removed that in this latest edition. The employee benefits committee is going to continue on as it has been with the exception that anything health insurance related would go to the new committee.

**Representative Keiser:** On item 4 on page 6, it refers to a legislative measure sponsored by a legislator or recommended amendment to a legislative measure. Is that language actually correct? The budgets that the budget sections are looking at are not sponsored by legislators but have significant impact on healthcare costs.

**Senator Robinson:** That clarification should be made because we do have proposals submitted by executive branch agencies. We probably should have a clarification in section 4.

**Representative Keiser:** I would hope that that committee would have the authority to at least look at.

**Jennifer Clark, Legislative Council:** What you're focusing on is during session something is introduced. The way this is designed for your new committee, is that any agency bill, any pre-filed bill; the report would need to be put on ahead of time. You can't pre-file it unless the report is on it. Now we've said that individual legislators don't have to have this report attached to it; but the standing committee has to act on it.

**Chairman Vigesaa:** On page 5 subsection 2 it talks about during the interim between regular legislative session. Is that the section that kind of covers agency bills?

**Jennifer Clark:** Right.

**Senator Robinson:** Are there any circumstances where there might be an exception to that?

**Jennifer Clark:** In practice if we were going to use our employee benefits programs committees; it's filled with exceptions. It deals with it as it happens.

**Representative Boehning:** Does this new committee or employee benefits have to hear any bills that they so choose not to?

**Jennifer Clark:** I think both committees would operate the same way; it's by majority vote to determine whether it would impact. Then they would have a directive to act on it.

**Representative Boehning:** Would that employee benefits committee have to take up the bill and look at them? If the chairman didn't want to take a look at the bills, do they have to take a look at them?

**Jennifer Clark:** The way it's drafted now, employee benefits does not have any jurisdiction over healthcare coverage related bills. We've carved that out so it's not their jurisdiction. If the new committee chose to not take jurisdiction, that's their choice and it doesn't then default over to employee benefits.

**Representative Boehning:** Along those lines employee benefits committee would not have to look at those bills as well? You had some language that you looked at in Century Code

that gave us some discretion one or the other. Do they have to look at any bill that comes through the session?

**Jennifer Clark:** The way it's drafted employee benefits would do exactly what they do now. If a bill comes up during session, they would review it. The way it's drafted today, this new committee would not. It would be a standing committee that steps in and it would be a majority of the members of the standing committee that would make that determination.

**Representative Boehning:** But if employee benefits something came up during the session that would apply, do they have to take the bill up and look at it?

**Jennifer Clark:** Only if it's PERS related other than health insurance. We haven't changed that at all.

**Representative Boehning:** Do they have to take a look at the bill? Do they have to give a recommendation, have a hearing on the bill?

**Jennifer Clark:** Under today's law, yes. Under this bill, yes.

**Senator Krebsbach:** I feel that if during the session a bill is introduced, and if it's going to be this new committee, that they are the ones that should preview that bill before it goes to a standing committee. When we talk about Medicaid expansion, that's been totally handled by the human services department. I think that we're sticking our noses into an area that doesn't belong in employee benefits. It's the elderly people or the Medicaid people that are involved in that. I think we need to look at the makeup of the board. We are looking at six members from the House and six members from the Senate and up to four appointed by the governor. We are about 50% state employees and the other part of this coverage applies to the political subdivisions. Would it not be wise to include in the appointment by governor, that he includes a member of the Association of Counties and one member from the League of Cities?

**Representative Boehning:** So should we put the school board association on and have one board member appointed then? We're carving out the counties and cities, should we carve out the schools also?

**Senator Krebsbach:** If you cover cities and counties you're going to have some crossover with the other areas that would be included.

**Representative Keiser:** Just looking at the counties, there are 38 counties that are part of PERS and 15 counties that are self-insured. Given the nature of our study during this interim, it does seem to me to be beneficial to have representation of both of these groups. It would be nice to have that balance and that perspective come with them.

**Chairman Vigesaa:** That might be good, but I don't want to completely tie the governor's hands where he would only have one person.

**Senator Krebsbach:** Made a motion to include \$71,422.00 in operating and one unfunded FTE, along with the changes for the insurance which was \$7,454.00.

**Senator Robinson:** Seconded the motion.

**Chairman Vigesaa:** As I recall they had some funding that was available to them in their salary line for that FTE?

**Sparb Collins, Director, ND Public Employee Retirement System:** The FTE position that was taken out; there was also taken out \$150,000.00 relating to that FTE. What we proposed to address that was that we would absorb the \$150,000.00 reduction for the FTE and if we could get that FTE back in, we would use some funds that we had in the salaries and wage line item that were associated with equity increases. We split the equity increases into two parts; the first year was done and the second year we didn't do it because the budget situation had changed. Those are funds that we have that we can allocate to this position. We did fill some positions during the interim at a lower level.

**Chairman Vigesaa:** How is your situation with regard to equity? That was given for a specific purpose to bring your people into a proper area with their salary. How are you currently situated in that regard?

**Sparb Collins:** We did make progress because we did do one year of it. We're probably a little bit behind. If we lose the position; for the staff it's going to be a lot of work increase.

**Chairman Vigesaa:** Do you have the breakdown of how much of that \$150,000.00 would be roll up versus equity funding?

**Sparb Collins:** Yes. The undistributed equity was about \$114,000.00 and the roll up was about \$38,000.00; so that brings it up to about \$152,000.00. The reduction that was taken was \$150,000.00.

**Chairman Vigesaa:** Does that exhaust those funds in those two areas?

**Sparb Collins:** I think we'd come out about \$2,000.00 ahead. So pretty close.

**Representative Keiser:** I do have some degree of heartburn over that. We've just enacted a lot of legislation coming out of appropriations where we've cut FTE's consistently across all departments. I wonder if we had asked those departments if they could find operating or equity money that they had in their budget, that we'd give them back the FTE's. We gave you equity funding two years ago, you decided not to use it. We asked Sparb specifically if we gave him this FTE now, does that mean you will be coming back for equity funding next session and his answer was yes. Philosophically, it's a difficult argument for me.

**Senator Krebsbach:** The reason we felt to do this is that they have growing responsibilities and growing membership which needs assistance. They expect this growth to continue and feel strongly that in order to maintain service to the members that they need that extra person.

**Senator Robinson:** We appreciate where you're coming from; but there were exceptions with FTE's. The other issue with salary equity, we have that throughout state government. The allotment caused us to slip backwards again.

**Chairman Vigesaa:** If this \$150,000.00 is allowed to be used from existing roll up or equity dollars, does that build into the base for next biennium's salary and wages line?

**Becky Deichert, Fiscal Analyst, Office of Management and Budget:** Yes, it would.

**Chairman Vigesaa:** Going forward the FTE would be there and the funding associated would be in it and there'd be a cost to continue?

**Becky Deichert:** Correct.

**Representative Boehning:** We've taken a lot of smaller budgets and reduced FTE's. I think we need to leave that FTE out of there. I think that losing one FTE will not hurt the service at all.

**Senator Krebsbach:** I strongly feel that this is an agency that we're not funding with general funds. I don't see a problem with adding one FTE for this particular agency. We've added in other agencies that we felt the need.

**Representative Boehning:** I appreciate Senator Krebsbach's point. I think that all the dollars that go into PERS are all tax dollars at some point; whether it's from our general fund that gets transferred and makes it a special fund or school district funds, county funds. We're already looking at a \$60.00 increase per person with PERS that they're going to have to pay out of their own pocket per month on average.

**Senator Krebsbach:** Withdraw her motion.

**Senator Robinson:** Withdraw his second.

**Chairman Vigesaa:** Closed the conference committee.

# 2017 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee – Government Operations Division  
Medora Room, State Capitol

HB1023  
4/26/2017  
30299

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the public employees retirement system; to provide for a transfer; to create and enact a new subsection to section 54-02-04 of the North Dakota Century Code, relating to public employees retirement system payments; to provide for a legislative management study; and to provide for legislative intent.

## Minutes:

**Chairman Vigesaa:** Opened the conference committee on HB1023. As we left the meeting last time we were discussing amendment .02013 and we also had some discussion on the budget portion of this House bill which the Senate had added in an FTE unfunded. The department had funding available for that position in roll up dollars and equity funding. We also talked about a restoration of \$71,422 of operating expenses. Are there any comments from anyone?

**Senator Krebsbach:** We certainly appreciate your considering to retain those amendments that we put in. I think we can make things work for that budget for them with those amendments.

**Senator Oehlke:** In section 11 of your amendment, we had something in there relative to allow PERS to provide electronic information to PERS members. We had heard that it cost a lot to do that by mail. I would like to make sure we addressed that and got that part back in there.

**Chairman Vigesaa:** The section 11 you mentioned was section 5 in your amendments so that's still there. Did section 7 disappear?

**Jennifer Clark, Legislative Council:** That language is retained in that bill on page 110 section 122. We overstrike everything through line 13 and insert everything after line 20 so we keep that 122 there.

**Representative Keiser:** I have a concern that there has to be a reasonableness about the electronic record. The EOBS I get are totally in favor for them and are totally confusing to

me. Trying to track payments and what is happening in my account is very difficult. In addition to just being electronic it has to be a reasonably functioning electronic system. We don't have an escape for the people if it's a system that is so difficult to work. I am involved with the University of North Dakota system and it is not a simple website to use. I caution the committee on that. I want to make sure that's our intent.

**Senator Krebsbach:** I would be sure they would be working with ITD to make sure it's a good workable system.

**Chairman Vigesaa:** We have HB 1023 before us and I would be ready to accept a motion to adopt that amendment with the incorporation of the items we mentioned with regard to the FTE which would be the restoration of an FTE without funding and a \$71,422 of operating expenses restored.

**Representative Keiser:** Made a motion to move amendment 17.0508.02013.

**Representative Boehning:** Seconded the motion.

**Senator Oehlke:** I don't suspect you would have any stomach for eliminating section 8?

**Chairman Vigesaa:** We talked about having this new committee work with the healthcare coverage issue. If we don't specify it in section 8 then the employee benefits program committee may also deal with the healthcare coverage issue and that conflict could exist. For this two-year period when we have segregated the responsibilities of these two committees we should probably keep that. That could be a gentleman's agreement between committee chairs but depending on who the chairs are and who the committee members are it could be a conflict.

**Senator Oehlke:** On page 5 in section 10 item 2 a and b and on the next page section 4, do we really feel that those two sections are necessary and pertinent?

**Chairman Vigesaa:** This is referring to the new committee, the public employee healthcare coverage committee, item 2 would be during the interim the new committee may solicit draft legislative proposals. I think that's all part of what their responsibilities will be. They will get ideas and legislation from these different branches and the legislature. That's when they will do their analysis of those proposals and do the actuarial work on those pieces of legislation. They would submit their report to legislative management with their observations of how it could benefit our state employees with healthcare coverage. That's part of their duties.

**Senator Oehlke:** I get nervous when I see words like "sole" authority.

**Chairman Vigesaa:** The committee has to make that decision whether or not it is effecting the healthcare coverage.

**Senator Krebsbach:** I'm wondering if we could insert instead of "solicit" the word "accept"?

**Chairman Vigesaa:** That's the similar language for the employee benefits program too. In section 8 subsection 3 it's the same language which is current language. Council is trying to harmonize this so it has similar language.

**Representative Keiser:** There's a difference between solicit and accept. I think solicit is passive as somebody would have to develop it and send it to you then you'd have to accept it versus the ability to solicit information. I think that's an important ability for the committee to be able to do their work. They have to be able to ask for things as well as passively accept them if they become available.

**Chairman Vigesaa:** Since we've had this similar language for a long time with employee benefits I would suspect we should keep it the same for the newly formed committee.

**Senator Krebsbach:** It's a little more favorable in my eyes to accept it rather than have to go out and get it. If you need information you will obtain it.

**Chairman Vigesaa:** To leave the language sometimes we don't quite understand what some of the words mean in a legal sense so I'm going to defer to council that they use proper language there because it's similar to what's been used in prior legislation.

**Senator Krebsbach:** I'm still bothered about section 4 on page 6, an issue be taken directly to a standing committee rather than vetted through the committee that's being created. I don't think it's fair to put all that responsibility on a standing committee when they are dealing with all of the other items they have to deal with.

**Chairman Vigesaa:** Maybe I could have Representative Keiser share what a standing committee does in your eyes. If a bill came before you or before the legislative assembly with regard to healthcare coverage, how would you feel about having to have that go through this newly formed committee first and they attach a recommendation to a bill that's going to be before your standing committee?

**Representative Keiser:** The process has proven to be somewhat difficult. By the time the employee benefit committee gets it, reviews it, and gives their recommendation it's a horse and a cart issue sometimes. I don't think the standing committee that I chair has any more or less ability than any other legislative committee. I have no reservations about receiving a bill that's introduced by a legislator and doing due diligence and justice to it as a standing committee. There would be some duplication of effort. There may be someone on that committee that would have unique expertise that would be a benefit to the committee. If we have a bill of any consequence everybody is there and everybody testifies. I would venture that in the case where the employee benefit committee has heard a bill that was already introduced that we could take the testimony and overlap it so there wouldn't be much difference. It creates a logistical problem a little bit. When we're in session I don't have a problem with the standing committee taking it or not.

**Senator Krebsbach:** Rushing something through a legislative session without being properly vetted and analyzed actuarially and otherwise because that was the intent of the employee benefits from the beginning to prevent something happening that isn't thoroughly studied. Having two sets of eyes on it never hurts.

**Chairman Vigesaa:** If the committee is effective for this biennium then we should give this a try and see if it works for them to have it go through that committee before a standing committee then we could institute that during the next session. Let's have the standing committee take the responsibility of those issues with regard to healthcare.

**Senator Oehlke:** It's probably more critically important for a smaller group like that to dive into it. I have never seen in all the sessions I have been through so much inaccurate information come out on a bill.

**Senator Robinson:** We've had references that the current process is cumbersome and doesn't work well; that's because the legislators haven't followed the process. If we didn't meet deadlines nothing would work and if we didn't have what's in front of us nothing will work, so that's a misstatement. I think all that we've been doing hasn't been bad. We're going to find out in the next year that there's a lot of good here. We're going to find healthcare is expensive and could get more expensive. We need to be careful what we ask for because we might get it.

**Chairman Vigesaa:** The process is in place for a good reason. Sometimes we get in a hurry and we forget there is a process. For this particular time the House feels we should give this a try for this one session then we can add that step in the next time if we want to continue on. There was a comment about that section yesterday and that was when we had it here during a legislative session if a standing committee takes action on a legislative measure sponsored by a legislator or recommends an amendment to a legislative measure. We talked about agency bills, budget bills, because they aren't introduced by a legislator. We said that possibly that was addressed in subsection 2 on page 5 where it talks about the interim and that's when the agency bills are introduced. Is that okay with everyone if we leave the language there or should we line out in section 4 on page 6 sponsored by a legislator or recommends an amendment to a legislative measure? Then it would say, "During a legislative session if a standing committee takes action on a legislative measure which would affect the healthcare coverage..." If it would happen to be an agency bill or a pre-filed bill we're not prohibiting that from going forward. Section 13 is the expiration date so on July 31, 2019 if nothing is acted upon during the next session this committee would go away and the process reverts back to its normal process. We have a motion before us. Is there any further discussion?

**Representative Boehning:** Are they going to have enough money in there for the IT cost? Representative Keiser talked about having a good website. We took out money for a mobile app in there because it wasn't needed, so is that something we need to take a look at to allow them to have extra for IT?

**Senator Oehlke:** If they don't think it's a good idea because they can't afford it, that's one thing but if they can afford it because they can charge an appropriate fee to make it work, that's another thing. If they want to come back next session asking for money to make it work, then that's another item. I think we'll get by.

**Chairman Vigesaa:** That \$71,422 of operating expenses added back in on this amendment may help with that issue as well.

**Representative Keiser:** On that section 122 do we need to add the language that they may charge a fee? If we're going to allow them to do it then we should take the responsibility for it. Right now, as it reads, they can do it but it doesn't say that they may charge a fee. Should we give them the specific authority to charge a fee or let them go ahead and charge the fee?

**Senator Krebsbach:** Our intention on that was to allow them to charge a fee if they so choose to do it.

**Representative Keiser:** I'm asking whether or not that language should be added so we're taking the responsibility for the fee not PERS.

**Senator Krebsbach:** It's going to be a transitional thing for them to do this. If it isn't fully addressed in the language that was added and the intent that they can, I doubt they would be doing anything like that in the next two years anyway.

**Roll Call Vote: 5 Yeas 1 Nay 0 Absent**

**Motion Carried.**

**Representative Keiser:** Made a motion that the Senate recede from its amendments and amend with 17.0508.02016.

**Representative Boehning:** Seconded the motion.

**Roll Call Vote: 6 Yeas 0 Nays 0 Absent.**

**Motion Carried.**

Closed the conference committee.

**PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1023**

That the Senate recede from its amendments as printed on pages 1579-1581 of the House Journal and pages 1293-1296 of the Senate Journal and that Engrossed House Bill No. 1023 be amended as follows:

Page 1, line 3, remove "amend and reenact subdivision j of subsection 2"

Page 1, remove lines 4 through 23

Page 1, line 24, replace "legislative intent" with "provide for solicitations of bids for the public employee health benefits coverage; to provide for a study; to create and enact sections 54-35-02.9 and 54-35-02.10 and a new subsection to section 54-52-04 of the North Dakota Century Code, relating to the public employee health care coverage committee and the authority of the retirement board; to amend and reenact sections 54-35-02.4 and 54-52.1-08.2, relating to the employee benefits programs committee; and to provide an expiration date"

Page 2, remove lines 27 through 31

Remove pages 3 through 109

Page 110, remove lines 1 through 13

Page 110, after line 20, insert:

**"SECTION 6. PUBLIC EMPLOYEE HEALTH INSURANCE PLANS -  
SOLICITATION OF BIDS AND CONTRACTING.**

1. During the 2017-18 interim, in consultation with the public employee health care coverage committee and based on the recommendations of the legislative management, the retirement board shall design requests for proposals and shall solicit bids under section 54-52.1-04 for hospital, medical, and prescription drug benefits coverage for the active employee plan for the 2019-21 biennium. The board's primary bid must be for a self-insurance plan under section 54-52.1-04.2, and in accordance with section 54-52.1-04.2, the solicitation for bids must include a request for proposals for a fully insured plan or hybrid fully insured plan, or both.
2. Notwithstanding contrary provisions of law, in response to bids received under subsection 1, the board shall select the carrier or carriers and shall contract for the plan or plans that best serve the interests of the state and its eligible employees. In considering the interests of the state and its employees, the board's considerations must include consideration of flexibility of plan design, employee out-of-pocket costs, and premium. Except as otherwise provided by the sixty-sixth legislative assembly, the contract entered by the board under this subsection is effective for a term of two years and is subject to renewal and rebidding as provided under chapter 54-52.1.
3. A uniform group insurance program contract for hospital, medical, and prescription drug benefits coverage for active employees in effect for the

period July 1, 2017, through June 30, 2019, terminates on June 30, 2019, after which the plan entered under subsection 2 becomes effective.

Notwithstanding any law to the contrary, the uniform group insurance program contract for hospital, medical, and prescription drug benefits coverage for active employees entered by the retirement board which becomes effective July 1, 2017, is not subject to renewal for an additional two-year term for the 2019-21 biennium.

## **SECTION 7. PUBLIC EMPLOYEE HEALTH CARE COVERAGE COMMITTEE STUDY - REPORTS.**

1. During the 2017-18 interim, the public employee health care coverage committee shall study, review, and make recommendations regarding the terms of the retirement board's requests for proposals for hospital, medical, and prescription drug benefits coverage for active employees for the 2019-21 biennium as required under section 6 of this Act. In making recommendations, the committee shall consider the interests of the state and its eligible employees, including flexibility of plan design, employee out-of-pocket costs, and premium.
2. Before July 1, 2018, and then again before the end of the interim, the committee shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the legislative management, and the legislative management shall report the findings and recommendations to the retirement board, the public employees retirement system, and the sixty-sixth legislative assembly.

**SECTION 8. AMENDMENT.** Section 54-35-02.4 of the North Dakota Century Code is amended and reenacted as follows:

### **54-35-02.4. Employee benefits programs committee - Powers and duties.**

1. The employee benefits programs committee shall consider and report on ~~these legislative measures and proposals over which it takes the committee exercises jurisdiction and which affect, actuarially or otherwise, the retirement programs of state employees or employees of any political subdivision, and health and retiree health plans of state employees or employees of any political subdivision and the uniform group insurance program.~~ The committee shall make a thorough review of ~~any~~ measure or proposal ~~over which it takes under its~~ the committee exercises jurisdiction, including an actuarial review. The committee shall take jurisdiction over any measure or proposal that authorizes an automatic increase or other change in benefits beyond the ensuing biennium which would not require legislative approval. The committee ~~must~~ shall include in the report of the committee a statement that the proposal would allow future changes without legislative involvement. The committee shall report its findings and recommendations, along with any necessary legislation, to the legislative management and to the legislative assembly.
2. To carry out its responsibilities, the committee, or its designee, may:
  - a. Enter contracts, including retainer agreements, with an actuary or actuarial firm for expert assistance and consultation. Each retirement, insurance, or retiree insurance program shall pay, from its retirement,

- insurance, or retiree health benefits fund, as appropriate, and without the need for a prior appropriation, the cost of any actuarial report required by the committee which relates to that program.
- b. Call on personnel from state agencies or political subdivisions to furnish such information and render such assistance as the committee may from time to time request.
  - c. Establish rules for its operation of the committee, including the submission and review of proposals and the establishing of standards for actuarial review.
3. The committee may solicit draft measures and proposals from interested persons during the interim between legislative sessions, and may also study measures and proposals referred to itthe committee by the legislative assembly or the legislative management.
  4. ~~A copy of the committee's report concerning any legislative measure shall, if that measureif a legislative proposal over which the committee exercised jurisdiction is introduced for consideration by a legislative assembly, a copy of the related committee report must be appended to the copy of that measure which is referred to a standing committee.~~
  5. A legislative measure affecting a public employees retirement program, ~~public employees health insurance program, or public employee retiree health insurance program~~ or uniform group insurance program may not be introduced in either house unless itthe measure is accompanied by a report from the committee. A majority of the members of the committee, acting through the chairman, has sole authority to determine whether anya legislative measure affects a program.
  6. ~~AnyAn~~ amendment made during a legislative session to a legislative measure affect~~ingwhich would affect~~ a public employees retirement program, ~~public employees health insurance program, or public employee retiree health insurance~~ or uniform group insurance program may not be considered by a standing committee unless it is accompanied by a report from the employee benefits programs committee.
  7. Any legislation enacted in contravention of this section is invalid and of no force and effect, and any benefits provided under such legislation must be reduced to the level current prior to enactment.
  8. ~~As used in this section, the term "uniform group insurance plan" does not include a uniform group insurance plan for hospital, medical, or prescription drug benefits coverage. The scope of the subject matter over which this committee has jurisdiction does not include legislative proposals or measures over which the public employee health care coverage committee has jurisdiction under section 54-35-02.10.~~

**SECTION 9.** Section 54-35-02.9 of the North Dakota Century Code is created and enacted as follows:

**54-35-02.9. Public employee health care coverage committee - Appointment.**

1. During each interim, the public employee health care coverage committee must be appointed as follows:
  - a. Four members of the senate appointed by the majority leader of the senate;
  - b. Two members of the senate appointed by the minority leader of the senate;
  - c. Four members of the house of representatives appointed by the majority leader of the house of representatives;
  - d. Two members of the house of representatives appointed by the minority leader of the house of representatives; and
  - e. No more than four nonvoting members appointed by the governor.
2. The legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees. However, a committee member appointed by the governor is not entitled to per diem and is entitled to mileage and expenses as provided by law for state officers and employees which is to be paid by the governor or by the employing agency if that member is an employee of the state.
3. The committee shall meet at least quarterly during the interim between regular legislative sessions.

**SECTION 10.** Section 54-35-02.10 of the North Dakota Century Code is created and enacted as follows:

**54-35-02.10. Public employee health care coverage committee - Powers and duties - Standing committees - Legislative management.**

1. During the interim between regular legislative sessions, the public employee health care coverage committee shall:
  - a. Receive from the public employees retirement system quarterly reports on the activities of the retirement board and the public employees retirement system relating to the health care coverage, including the status of and any implemented or proposed changes to the health care coverage. The quarterly report must include status reports on contracts and contract negotiations relating to the health care coverage.
  - b. Monitor the health care coverage, which may include receipt of public or aggregate utilization data, wellness initiative reports, and customer satisfaction surveys.
  - c. Investigate the feasibility and desirability of making changes to the health care coverage and related contracts for future bienniums and prepare and recommend legislation to pursue any recommended changes.

- d. Study the health care coverage contract bidding and renewal process.
  - e. Receive reports regarding the impact of federal law on the health care coverage and the impact federal law may have on any proposed changes to the health care coverage.
  - f. Before each regular legislative session, receive from the public employees retirement system the executive budget proposals relating to the health care coverage for the upcoming biennium.
  - g. Consider and report on legislative proposals sponsored by the executive branch, judicial branch, and legislative management as provided under subsection 2.
  - h. Conduct studies as directed by the legislative assembly or the legislative management.
  - i. Report to the legislative management the committee's findings and recommendations, along with any legislation necessary to implement the committee's recommendations. During the interim, the committee may make multiple reports to the legislative management.
- 2. During the interim between regular legislative sessions, the committee may solicit draft legislative proposals from the executive branch, judicial branch, and legislative management. A legislative measure affecting the health care coverage may not be submitted by the executive branch, judicial branch, or legislative management for introduction in either house unless the measure is accompanied by a report from the committee. A majority of the members of the committee, acting through the chairman, has sole authority to determine whether a legislative proposal affects the health care coverage.
  - a. If the committee determines a legislative proposal affects the health care coverage, either actuarially or otherwise, the committee shall conduct a thorough review of the proposal and shall prepare a report with the committee's recommendation regarding the legislative proposal. The review may include an actuarial report or other report of a third party.
  - b. If a legislative proposal for which the committee conducts a review under this subsection is introduced for consideration by the legislative assembly, a copy of the related committee report must be appended to the copy of that measure which is referred to a standing committee.
- 3. To carry out the committee's responsibilities, the committee may:
  - a. Through the legislative management, enter a contract with an actuary or actuarial firm or other expert for expert assistance and consultation. The committee shall notify the public employees retirement system of a contract entered under this subsection and, without need for a prior appropriation, the public employees retirement system shall pay the cost of the third-party assistance provided under the contract.
  - b. Direct the public employees retirement system to provide the committee with an actuarial report or other analysis. Without the need for a prior appropriation, the public employees retirement system shall pay the cost of the report or analysis.

- c. Call on personnel from state agencies or political subdivisions to furnish the information and render the assistance the committee may from time to time request.
- d. Establish rules for operation of the committee, including the submission and review of legislative proposals and the establishing of standards for actuarial review.
4. During a legislative session, if a standing committee takes action on a legislative measure sponsored by a legislator or recommends an amendment to a legislative measure which would affect the health care coverage, the standing committee shall consider the impact, actuarily or otherwise, of the amendment or measure and may request the public employees retirement system provide an actuarial report or other analysis of the impact of the measure or amendments. If the public employees retirement system provides an analysis or other report under this subsection, the public employees retirement system may pay for the analysis or other report in the same manner as provided under subdivision b of subsection 3.
5. Upon receipt of findings and recommendations of the committee, the legislative management may make recommendations to the retirement board and the public employees retirement system.
6. This section does not require the retirement board or the public employees retirement system to disclose to the committee confidential or exempt information or records. However, upon request of the committee, the retirement board or public employees retirement system shall provide the committee with aggregate information as appropriate.
7. As used in this section, the term "health care coverage" means a uniform group insurance plan for hospital, medical, or prescription drug benefits coverage for an eligible employee which is provided under section 54-52.1-02.

**SECTION 11.** A new subsection to section 54-52-04 of the North Dakota Century Code is created and enacted as follows:

The board shall establish policies and implement procedures to make and collect payments in the most cost-effective manner, including the use of electronic transfer of funds.

**SECTION 12. AMENDMENT.** Section 54-52.1-08.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-08.2. Uniform group insurance program - Compliance with federal requirements - Group purchasing arrangements.**

If the board determines that any section or the phraseology of any section of this chapter does not comply with applicable federal statutes or rules, the board shall adopt appropriate terminology with respect to that section to comply with the federal statutes or rules, subject to the approval of the legislative management's employee benefits programs committee. If the board seeks the approval of the employee benefits programs committee under this section, the board shall notify the public employee health care coverage committee. The board may assume responsibility for group

purchasing arrangements as provided by federal law. Any A plan modifications made by the board under this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

**SECTION 13. EXPIRATION DATE.** Section 8, 9, 10, and 12 of this Act are effective through July 31, 2019, and after that date are ineffective."

Renumber accordingly

#### PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1023

That the Senate recede from its amendments as printed on pages 1579-1581 of the House Journal and pages 1293-1296 of the Senate Journal and that Engrossed House Bill No. 1023 be amended as follows:

Page 1, line 2, remove "to provide a continuing appropriation; to limit the use of health insurance"

Page 1, line 3, remove "program reserves;"

Page 1, line 3, remove "amend and reenact subdivision j of subsection 2"

Page 1, remove lines 4 through 23

Page 1, line 24, replace "legislative intent" with "provide for solicitations of bids for the public employee health benefits coverage; to provide for a study; to create and enact sections 54-35-02.9 and 54-35-02.10 and a new subsection to section 54-52-04 of the North Dakota Century Code, relating to the public employee health care coverage committee and the authority of the retirement board; to amend and reenact sections 54-35-02.4 and 54-52.1-08.2 of the North Dakota Century Code, relating to the employee benefits programs committee; and to provide an expiration date"

Page 2, replace lines 9 through 13 with:

"Salaries and wages	\$6,315,360	\$809	\$6,316,169
Operating expenses	2,753,643	(61,422)	2,692,221
Contingencies	250,000	0	250,000
Total special funds	\$9,319,003	(\$60,613)	\$9,258,390
Full-time equivalent positions	34.50	0.00	34.50"

Page 2, line 15, replace "\$102,885" with "\$95,431"

Page 2, line 16, replace "\$1,249" with "\$1,241"

Page 2, remove lines 27 through 31

Remove pages 3 through 109

Page 110, remove lines 1 through 13

Page 110, after line 20, insert:

#### **"SECTION 6. PUBLIC EMPLOYEE HEALTH INSURANCE PLANS - SOLICITATION OF BIDS AND CONTRACTING.**

1. During the 2017-18 interim, in consultation with the public employee health care coverage committee and based on the recommendations of the legislative management, the retirement board shall design requests for proposals and shall solicit bids under section 54-52.1-04 for hospital, medical, and prescription drug benefits coverage for the active employee plan for the 2019-21 biennium. The board's primary bid must be for a self-insurance plan under section 54-52.1-04.2, and in accordance with

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section 54-52.1-04.2, the solicitation for bids must include a request for proposals for a fully insured plan or hybrid fully insured plan, or both.

2. Notwithstanding contrary provisions of law, in response to bids received under subsection 1, the board shall select the carrier or carriers and shall contract for the plan or plans that best serve the interests of the state and its eligible employees. In considering the interests of the state and its employees, the board's considerations must include consideration of flexibility of plan design, employee out-of-pocket costs, and premium. Except as otherwise provided by the sixty-sixth legislative assembly, the contract entered by the board under this subsection is effective for a term of two years and is subject to renewal and rebidding as provided under chapter 54-52.1.
3. A uniform group insurance program contract for hospital, medical, and prescription drug benefits coverage for active employees in effect for the period July 1, 2017, through June 30, 2019, terminates on June 30, 2019, after which the plan entered under subsection 2 becomes effective. Notwithstanding any law to the contrary, the uniform group insurance program contract for hospital, medical, and prescription drug benefits coverage for active employees entered by the retirement board which becomes effective July 1, 2017, is not subject to renewal for an additional two-year term for the 2019-21 biennium.

## **SECTION 7. PUBLIC EMPLOYEE HEALTH CARE COVERAGE COMMITTEE STUDY - REPORTS.**

1. During the 2017-18 interim, the public employee health care coverage committee shall study, review, and make recommendations regarding the terms of the retirement board's requests for proposals for hospital, medical, and prescription drug benefits coverage for active employees for the 2019-21 biennium as required under section 6 of this Act. In making recommendations, the committee shall consider the interests of the state and its eligible employees, including flexibility of plan design, employee out-of-pocket costs, and premium.
2. Before July 1, 2018, and then again before the end of the interim, the committee shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the legislative management, and the legislative management shall report the findings and recommendations to the retirement board, the public employees retirement system, and the sixty-sixth legislative assembly.

**SECTION 8. AMENDMENT.** Section 54-35-02.4 of the North Dakota Century Code is amended and reenacted as follows:

### **54-35-02.4. Employee benefits programs committee - Powers and duties.**

1. The employee benefits programs committee shall consider and report on ~~these legislative measures and proposals over which it takes the committee exercises jurisdiction and which affect, actuarially or otherwise, the retirement programs of state employees or employees of any political subdivision, and health and retiree health plans of state employees or employees of any political subdivision and the uniform group insurance~~

program. The committee shall make a thorough review of any measure or proposal over which it takes under its the committee exercises jurisdiction, including an actuarial review. The committee shall take jurisdiction over any measure or proposal that authorizes an automatic increase or other change in benefits beyond the ensuing biennium which would not require legislative approval. The committee ~~must~~shall include in the report of the committee a statement that the proposal would allow future changes without legislative involvement. The committee shall report its findings and recommendations, along with any necessary legislation, to the legislative management and to the legislative assembly.

2. To carry out its responsibilities, the committee, or its designee, may:
  - a. Enter contracts, including retainer agreements, with an actuary or actuarial firm for expert assistance and consultation. Each retirement, insurance, or retiree insurance program shall pay, from its retirement, insurance, or retiree health benefits fund, as appropriate, and without the need for a prior appropriation, the cost of any actuarial report required by the committee which relates to that program.
  - b. Call on personnel from state agencies or political subdivisions to furnish such information and render such assistance as the committee may from time to time request.
  - c. Establish rules for its operation of the committee, including the submission and review of proposals and the establishing of standards for actuarial review.
3. The committee may solicit draft measures and proposals from interested persons during the interim between legislative sessions, and may also study measures and proposals referred to itthe committee by the legislative assembly or the legislative management.
4. A copy of the committee's report concerning any legislative measure shall, if that measureif a legislative proposal over which the committee exercised jurisdiction is introduced for consideration by a legislative assembly, a copy of the related committee report must be appended to the copy of that measure which is referred to a standing committee.
5. A legislative measure affecting a public employees retirement program, public employees health insurance program, or public employee retiree health insurance program or uniform group insurance program may not be introduced in either house unless itthe measure is accompanied by a report from the committee. A majority of the members of the committee, acting through the chairman, has sole authority to determine whether any legislative measure affects a program.
6. AnAny amendment made during a legislative session to a legislative measure affectingwhich would affect a public employees retirement program, public employees health insurance program, or public employee retiree health insurance or uniform group insurance program may not be considered by a standing committee unless it is accompanied by a report from the employee benefits programs committee.

7. Any legislation enacted in contravention of this section is invalid and of no force and effect, and any benefits provided under such legislation must be reduced to the level current prior to enactment.
8. As used in this section, the term "uniform group insurance plan" does not include a uniform group insurance plan for hospital, medical, or prescription drug benefits coverage. The scope of the subject matter over which this committee has jurisdiction does not include legislative proposals or measures over which the public employee health care coverage committee has jurisdiction under section 54-35-02.10.

**SECTION 9.** Section 54-35-02.9 of the North Dakota Century Code is created and enacted as follows:

**54-35-02.9. Public employee health care coverage committee - Appointment.**

1. During each interim, the public employee health care coverage committee must be appointed as follows:
  - a. Four members of the senate appointed by the majority leader of the senate;
  - b. Two members of the senate appointed by the minority leader of the senate;
  - c. Four members of the house of representatives appointed by the majority leader of the house of representatives;
  - d. Two members of the house of representatives appointed by the minority leader of the house of representatives; and
  - e. No more than four nonvoting members appointed by the governor.
2. The legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees. However, a committee member appointed by the governor is not entitled to per diem and is entitled to mileage and expenses as provided by law for state officers and employees which is to be paid by the governor or by the employing agency if that member is an employee of the state.
3. The committee shall meet at least quarterly during the interim between regular legislative sessions.

**SECTION 10.** Section 54-35-02.10 of the North Dakota Century Code is created and enacted as follows:

**54-35-02.10. Public employee health care coverage committee - Powers and duties - Standing committees - Legislative management.**

1. During the interim between regular legislative sessions, the public employee health care coverage committee shall:

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- a. Receive from the public employees retirement system quarterly reports on the activities of the retirement board and the public employees retirement system relating to the health care coverage, including the status of and any implemented or proposed changes to the health care coverage. The quarterly report must include status reports on contracts and contract negotiations relating to the health care coverage.
  - b. Monitor the health care coverage, which may include receipt of public or aggregate utilization data, wellness initiative reports, and customer satisfaction surveys.
  - c. Investigate the feasibility and desirability of making changes to the health care coverage and related contracts for future bienniums and prepare and recommend legislation to pursue any recommended changes.
  - d. Study the health care coverage contract bidding and renewal process.
  - e. Receive reports regarding the impact of federal law on the health care coverage and the impact federal law may have on any proposed changes to the health care coverage.
  - f. Before each regular legislative session, receive from the public employees retirement system the executive budget proposals relating to the health care coverage for the upcoming biennium.
  - g. Consider and report on legislative proposals sponsored by the executive branch, judicial branch, and legislative management as provided under subsection 2.
  - h. Conduct studies as directed by the legislative assembly or the legislative management.
  - i. Report to the legislative management the committee's findings and recommendations, along with any legislation necessary to implement the committee's recommendations. During the interim, the committee may make multiple reports to the legislative management.
2. During the interim between regular legislative sessions, the committee may solicit draft legislative proposals from the executive branch, judicial branch, and legislative management. A legislative measure affecting the health care coverage may not be submitted by the executive branch, judicial branch, or legislative management for introduction in either house unless the measure is accompanied by a report from the committee. A majority of the members of the committee, acting through the chairman, has sole authority to determine whether a legislative proposal affects the health care coverage.
    - a. If the committee determines a legislative proposal affects the health care coverage, either actuarially or otherwise, the committee shall conduct a thorough review of the proposal and shall prepare a report with the committee's recommendation regarding the legislative proposal. The review may include an actuarial report or other report of a third party.

- ✓ ✓
- b. If a legislative proposal for which the committee conducts a review under this subsection is introduced for consideration by the legislative assembly, a copy of the related committee report must be appended to the copy of that measure referred to a standing committee.
  - 3. To carry out the committee's responsibilities, the committee may:
    - a. Through the legislative management, enter a contract with an actuary or actuarial firm or other expert for expert assistance and consultation. The committee shall notify the public employees retirement system of a contract entered under this subsection and, without need for a prior appropriation, the public employees retirement system shall pay the cost of the third-party assistance provided under the contract.
    - b. Direct the public employees retirement system to provide the committee with an actuarial report or other analysis. Without the need for a prior appropriation, the public employees retirement system shall pay the cost of the report or analysis.
    - c. Call on personnel from state agencies or political subdivisions to furnish the information and render the assistance the committee may from time to time request.
    - d. Establish rules for operation of the committee, including the submission and review of legislative proposals and the establishing of standards for actuarial review.
  - 4. During a legislative session, if a standing committee takes action on a legislative measure sponsored by a legislator or recommends an amendment to a legislative measure which would affect the health care coverage, the standing committee shall consider the impact, actuarially or otherwise, of the amendment or measure and may request the public employees retirement system provide an actuarial report or other analysis of the impact of the measure or amendments. If the public employees retirement system provides an analysis or other report under this subsection, the public employees retirement system may pay for the analysis or other report in the same manner as provided under subdivision b of subsection 3.
  - 5. Upon receipt of findings and recommendations of the committee, the legislative management may make recommendations to the retirement board and the public employees retirement system.
  - 6. This section does not require the retirement board or the public employees retirement system to disclose to the committee confidential or exempt information or records. However, upon request of the committee, the retirement board or public employees retirement system shall provide the committee with aggregate information as appropriate.
  - 7. As used in this section, the term "health care coverage" means a uniform group insurance plan for hospital, medical, or prescription drug benefits coverage for an eligible employee which is provided under section 54-52.1-02.

**SECTION 11.** A new subsection to section 54-52-04 of the North Dakota Century Code is created and enacted as follows:

The board shall establish policies and implement procedures to make and collect payments in the most cost-effective manner, including the use of electronic transfer of funds.

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**SECTION 12. AMENDMENT.** Section 54-52.1-08.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-08.2. Uniform group insurance program - Compliance with federal requirements - Group purchasing arrangements.**

If the board determines that any section or the phraseology of any section of this chapter does not comply with applicable federal statutes or rules, the board shall adopt appropriate terminology with respect to that section to comply with the federal statutes or rules, subject to the approval of the legislative management's employee benefits programs committee. If the board seeks the approval of the employee benefits programs committee under this section, the board shall notify the public employee health care coverage committee. The board may assume responsibility for group purchasing arrangements as provided by federal law. Any plan modifications made by the board under this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

**SECTION 13. EXPIRATION DATE.** Sections 8, 9, 10, and 12 of this Act are effective through July 31, 2019, and after that date are ineffective."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1023 - Public Employees Retirement System - Conference Committee Action**

	Base Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Salaries and wages	\$6,315,360	\$6,323,623	(\$7,454)	\$6,316,169	\$6,316,169	
Operating expenses	2,753,643	2,620,799	71,422	2,692,221	2,692,221	
Contingencies	250,000	250,000		250,000	250,000	
Total all funds	\$9,319,003	\$9,194,422	\$63,968	\$9,258,390	\$9,258,390	\$0
Less estimated income	9,319,003	9,194,422	63,968	9,258,390	9,258,390	0
General fund	\$0	\$0	\$0	\$0	\$0	\$0
FTE	34.50	33.50	1.00	34.50	34.50	0.00

**Department No. 192 - Public Employees Retirement System - Detail of Conference Committee Changes**

	Adjusts Funding for Health Insurance Increases <sup>1</sup>	Restores FTE Position <sup>2</sup>	Restores Funding for Operating Expenses <sup>3</sup>	Total Conference Committee Changes
Salaries and wages	(\$7,454)			(\$7,454)
Operating expenses			71,422	71,422
Contingencies				
Total all funds	(\$7,454)	\$0	\$71,422	\$63,968
Less estimated income	(7,454)	0	71,422	63,968
	\$0	\$0	\$0	\$0

General fund				
FTE	0.00	1.00	0.00	1.00

40  
40

<sup>1</sup> Funding for employee health insurance is adjusted to reflect the updated premium amount of \$1,241 per month. Section 2 is also adjusted to reflect the change, the same as the Senate version.

<sup>2</sup> One FTE position removed by the House is restored, the same as the Senate version.

<sup>3</sup> A portion of the funding reduced by the House for operating expenses is restored, the same as the Senate version. Funding is restored as follows:

	Other Funds
Printing and postage costs for newsletter	\$29,752
Printing and postage costs for annual benefit statements	33,220
Other postage, printing, and supplies	8,450

This amendment also:

Removes sections:

- Limiting the use of funding in the health insurance reserve fund for reducing health insurance premium amounts; and
- Amending North Dakota Century Code to provide the Director of the Public Employees Retirement System be appointed by the Governor, changing the Public Employees Retirement System Board to an advisory board, and adjusting the membership and duties of the Employee Benefits Programs Committee.

Adds sections to:

- Establish, effective through July 31, 2019, a Public Employee Health Care Coverage Committee.
- Assign, effective through July 31, 2019, powers and duties to the Public Employee Health Care Coverage Committee.
- Amend, effective through July 31, 2019, the powers and duties of the Employee Benefits Programs Committee.
- Provide for a Public Employee Health Care Coverage Committee study and reports.

Date:  
Roll Call Vote #:

## 2017 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB1023 as (re) engrossed

### House Appropriations – Government Operations Division Committee

- Action Taken
- HOUSE accede to Senate Amendments**
  - HOUSE accede to Senate Amendments and further amend**
  - SENATE recede from Senate amendments**
  - SENATE recede from Senate amendments and amend as follows**
  - Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Representatives	4/14	4/21	4/24	Yes	No	Senators	4/14	4/21	4/24	Yes	No
Chairman Vigesaa	X	X	X			Senator Krebsbach	X	X	X		
Representative Keiser	X	X	X			Senator Oehlke	X	X	X		
Representative Boehning	X	X	X			Senator Robinson	X	X	X		
Total Rep. Vote						Total Senate Vote					

Vote Count Yes: \_\_\_\_\_ No: \_\_\_\_\_ Absent: \_\_\_\_\_

House Carrier \_\_\_\_\_ Senate Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

**2017 HOUSE CONFERENCE COMMITTEE  
ROLL CALL VOTES**

BILL/RESOLUTION NO. HB1023 as (re) engrossed

**House Appropriations – Government Operations Division Committee**

**Action Taken**

- HOUSE accede to Senate Amendments**
- HOUSE accede to Senate Amendments and further amend**
- SENATE recede from Senate amendments**
- SENATE recede from Senate amendments and amend as follows**
- Adopt amendment*
- Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Representative Keiser Seconded by: Representative Boehning

Representatives	4/26			Yes	No	Senators	4/26			Yes	No
Chairman Vigesaa	X			X		Senator Krebsbach	X			X	
Representative Keiser	X			X		Senator Oehlke	X			X	
Representative Boehning	X			X		Senator Robinson	X				X
Total Rep. Vote				3		Total Senate Vote				2	1

Vote Count Yes: 5 No: 1 Absent: 0

House Carrier \_\_\_\_\_ Senate Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ . \_\_\_\_\_ of amendment

LC Number 17.0508.02013 . \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment  
Motion carried.

Date: 4/26/2017  
Roll Call Vote #: 2

**2017 HOUSE CONFERENCE COMMITTEE  
ROLL CALL VOTES**

BILL/RESOLUTION NO. HB1023 as (re) engrossed

**House Appropriations – Government Operations Division Committee**

- Action Taken       **HOUSE accede to Senate Amendments**  
 **HOUSE accede to Senate Amendments and further amend**  
 **SENATE recede from Senate amendments**  
 **SENATE recede from Senate amendments and amend as follows**  
  
 **Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Representative Keiser Seconded by: Representative Boehning

Representatives	4/26			Yes	No	Senators	4/26			Yes	No
Chairman Vigesaa	X			X		Senator Krebsbach	X			X	
Representative <u>Boehning</u>	X			X		Senator Oehlke	X			X	
Representative <u>Keiser</u>	X			X		Senator Robinson	X			X	
Total Rep. Vote				3		Total Senate Vote				3	

Vote Count      Yes: 6      No: 0      Absent: 0

House Carrier    Representative Vigesaa    Senate Carrier    Senator Krebsbach

LC Number    17.0508.02016 . \_\_\_\_\_ of amendment

LC Number    \_\_\_\_\_ . 05000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Motion Carried

### REPORT OF CONFERENCE COMMITTEE

**HB 1023, as engrossed:** Your conference committee (Sens. Krebsbach, Oehlke, Robinson and Reps. Vigesaa, Boehning, Keiser) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1579-1581, adopt amendments as follows, and place HB 1023 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1579-1581 of the House Journal and pages 1293-1296 of the Senate Journal and that Engrossed House Bill No. 1023 be amended as follows:

Page 1, line 2, remove "to provide a continuing appropriation; to limit the use of health insurance"

Page 1, line 3, remove "program reserves;"

Page 1, line 3, remove "amend and reenact subdivision j of subsection 2"

Page 1, remove lines 4 through 23

Page 1, line 24, replace "legislative intent" with "provide for solicitations of bids for the public employee health benefits coverage; to provide for a study; to create and enact sections 54-35-02.9 and 54-35-02.10 and a new subsection to section 54-52-04 of the North Dakota Century Code, relating to the public employee health care coverage committee and the authority of the retirement board; to amend and reenact sections 54-35-02.4 and 54-52.1-08.2 of the North Dakota Century Code, relating to the employee benefits programs committee; and to provide an expiration date"

Page 2, replace lines 9 through 13 with:

"Salaries and wages	\$6,315,360	\$809	\$6,316,169
Operating expenses	2,753,643	(61,422)	2,692,221
Contingencies	<u>250,000</u>	0	<u>250,000</u>
Total special funds	\$9,319,003	(\$60,613)	\$9,258,390
Full-time equivalent positions	34.50	0.00	34.50"

Page 2, line 15, replace "\$102,885" with "\$95,431"

Page 2, line 16, replace "\$1,249" with "\$1,241"

Page 2, remove lines 27 through 31

Remove pages 3 through 109

Page 110, remove lines 1 through 13

Page 110, after line 20, insert:

#### **"SECTION 6. PUBLIC EMPLOYEE HEALTH INSURANCE PLANS - SOLICITATION OF BIDS AND CONTRACTING.**

1. During the 2017-18 interim, in consultation with the public employee health care coverage committee and based on the recommendations of the legislative management, the retirement board shall design requests for proposals and shall solicit bids under section 54-52.1-04 for hospital, medical, and prescription drug benefits coverage for the active employee plan for the 2019-21 biennium. The board's primary bid must be for a self-insurance plan under section 54-52.1-04.2, and in accordance with section 54-52.1-04.2, the solicitation for bids must include a request for proposals for a fully insured plan or hybrid fully insured plan, or both.

2. Notwithstanding contrary provisions of law, in response to bids received under subsection 1, the board shall select the carrier or carriers and shall contract for the plan or plans that best serve the interests of the state and its eligible employees. In considering the interests of the state and its employees, the board's considerations must include consideration of flexibility of plan design, employee out-of-pocket costs, and premium. Except as otherwise provided by the sixty-sixth legislative assembly, the contract entered by the board under this subsection is effective for a term of two years and is subject to renewal and rebidding as provided under chapter 54-52.1.
3. A uniform group insurance program contract for hospital, medical, and prescription drug benefits coverage for active employees in effect for the period July 1, 2017, through June 30, 2019, terminates on June 30, 2019, after which the plan entered under subsection 2 becomes effective. Notwithstanding any law to the contrary, the uniform group insurance program contract for hospital, medical, and prescription drug benefits coverage for active employees entered by the retirement board which becomes effective July 1, 2017, is not subject to renewal for an additional two-year term for the 2019-21 biennium.

**SECTION 7. PUBLIC EMPLOYEE HEALTH CARE COVERAGE COMMITTEE STUDY - REPORTS.**

1. During the 2017-18 interim, the public employee health care coverage committee shall study, review, and make recommendations regarding the terms of the retirement board's requests for proposals for hospital, medical, and prescription drug benefits coverage for active employees for the 2019-21 biennium as required under section 6 of this Act. In making recommendations, the committee shall consider the interests of the state and its eligible employees, including flexibility of plan design, employee out-of-pocket costs, and premium.
2. Before July 1, 2018, and then again before the end of the interim, the committee shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the legislative management, and the legislative management shall report the findings and recommendations to the retirement board, the public employees retirement system, and the sixty-sixth legislative assembly.

**SECTION 8. AMENDMENT.** Section 54-35-02.4 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-02.4. Employee benefits programs committee - Powers and duties.**

1. The employee benefits programs committee shall consider and report on those legislative measures and proposals over which it takes the committee exercises jurisdiction and which affect, actuarially or otherwise, the retirement programs of state employees or employees of any political subdivision, and health and retiree health plans of state employees or employees of any political subdivision and the uniform group insurance program. The committee shall make a thorough review of any measure or proposal over which it takes under its the committee exercises jurisdiction, including an actuarial review. The committee shall take jurisdiction over any measure or proposal that authorizes an automatic increase or other change in benefits beyond the ensuing biennium which would not require legislative approval. The committee must shall include in the report of the committee a statement that the

proposal would allow future changes without legislative involvement. The committee shall report its findings and recommendations, along with any necessary legislation, to the legislative management and to the legislative assembly.

2. To carry out its responsibilities, the committee, or its designee, may:
  - a. Enter contracts, including retainer agreements, with an actuary or actuarial firm for expert assistance and consultation. Each retirement, insurance, or retiree insurance program shall pay, from its retirement, insurance, or retiree health benefits fund, as appropriate, and without the need for a prior appropriation, the cost of any actuarial report required by the committee which relates to that program.
  - b. Call on personnel from state agencies or political subdivisions to furnish such information and render such assistance as the committee may from time to time request.
  - c. Establish rules for its operation of the committee, including the submission and review of proposals and the establishing of standards for actuarial review.
3. The committee may solicit draft measures and proposals from interested persons during the interim between legislative sessions, and may also study measures and proposals referred to itthe committee by the legislative assembly or the legislative management.
4. ~~A copy of the committee's report concerning any legislative measure shall, if that measure if a legislative proposal over which the committee exercised jurisdiction is introduced for consideration by a legislative assembly, a copy of the related committee report must be appended to the copy of that measure which is referred to a standing committee.~~
5. A legislative measure affecting a public employees retirement program, public employees health insurance program, or public employee retiree health insurance program or uniform group insurance program may not be introduced in either house unless ifthe measure is accompanied by a report from the committee. A majority of the members of the committee, acting through the chairman, has sole authority to determine whether anya legislative measure affects a program.
6. ~~An amendment made during a legislative session to a legislative measure affecting which would affect a public employees retirement program, public employees health insurance program, or public employee retiree health insurance or uniform group insurance program may not be considered by a standing committee unless it is accompanied by a report from the employee benefits programs committee.~~
7. Any legislation enacted in contravention of this section is invalid and of no force and effect, and any benefits provided under such legislation must be reduced to the level current prior to enactment.
8. ~~As used in this section, the term "uniform group insurance plan" does not include a uniform group insurance plan for hospital, medical, or prescription drug benefits coverage. The scope of the subject matter over which this committee has jurisdiction does not include legislative proposals or measures over which the public employee health care coverage committee has jurisdiction under section 54-35-02.10.~~

**SECTION 9.** Section 54-35-02.9 of the North Dakota Century Code is created and enacted as follows:

**54-35-02.9. Public employee health care coverage committee - Appointment.**

1. During each interim, the public employee health care coverage committee must be appointed as follows:
  - a. Four members of the senate appointed by the majority leader of the senate;
  - b. Two members of the senate appointed by the minority leader of the senate;
  - c. Four members of the house of representatives appointed by the majority leader of the house of representatives;
  - d. Two members of the house of representatives appointed by the minority leader of the house of representatives; and
  - e. No more than four nonvoting members appointed by the governor.
2. The legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees. However, a committee member appointed by the governor is not entitled to per diem and is entitled to mileage and expenses as provided by law for state officers and employees which is to be paid by the governor or by the employing agency if that member is an employee of the state.
3. The committee shall meet at least quarterly during the interim between regular legislative sessions.

**SECTION 10.** Section 54-35-02.10 of the North Dakota Century Code is created and enacted as follows:

**54-35-02.10. Public employee health care coverage committee - Powers and duties - Standing committees - Legislative management.**

1. During the interim between regular legislative sessions, the public employee health care coverage committee shall:
  - a. Receive from the public employees retirement system quarterly reports on the activities of the retirement board and the public employees retirement system relating to the health care coverage, including the status of and any implemented or proposed changes to the health care coverage. The quarterly report must include status reports on contracts and contract negotiations relating to the health care coverage.
  - b. Monitor the health care coverage, which may include receipt of public or aggregate utilization data, wellness initiative reports, and customer satisfaction surveys.
  - c. Investigate the feasibility and desirability of making changes to the health care coverage and related contracts for future bienniums and

prepare and recommend legislation to pursue any recommended changes.

- d. Study the health care coverage contract bidding and renewal process.
  - e. Receive reports regarding the impact of federal law on the health care coverage and the impact federal law may have on any proposed changes to the health care coverage.
  - f. Before each regular legislative session, receive from the public employees retirement system the executive budget proposals relating to the health care coverage for the upcoming biennium.
  - g. Consider and report on legislative proposals sponsored by the executive branch, judicial branch, and legislative management as provided under subsection 2.
  - h. Conduct studies as directed by the legislative assembly or the legislative management.
  - i. Report to the legislative management the committee's findings and recommendations, along with any legislation necessary to implement the committee's recommendations. During the interim, the committee may make multiple reports to the legislative management.
2. During the interim between regular legislative sessions, the committee may solicit draft legislative proposals from the executive branch, judicial branch, and legislative management. A legislative measure affecting the health care coverage may not be submitted by the executive branch, judicial branch, or legislative management for introduction in either house unless the measure is accompanied by a report from the committee. A majority of the members of the committee, acting through the chairman, has sole authority to determine whether a legislative proposal affects the health care coverage.
  - a. If the committee determines a legislative proposal affects the health care coverage, either actuarially or otherwise, the committee shall conduct a thorough review of the proposal and shall prepare a report with the committee's recommendation regarding the legislative proposal. The review may include an actuarial report or other report of a third party.
  - b. If a legislative proposal for which the committee conducts a review under this subsection is introduced for consideration by the legislative assembly, a copy of the related committee report must be appended to the copy of that measure referred to a standing committee.
3. To carry out the committee's responsibilities, the committee may:
  - a. Through the legislative management, enter a contract with an actuary or actuarial firm or other expert for expert assistance and consultation. The committee shall notify the public employees retirement system of a contract entered under this subsection and, without need for a prior appropriation, the public employees retirement system shall pay the cost of the third-party assistance provided under the contract.

- b. Direct the public employees retirement system to provide the committee with an actuarial report or other analysis. Without the need for a prior appropriation, the public employees retirement system shall pay the cost of the report or analysis.
  - c. Call on personnel from state agencies or political subdivisions to furnish the information and render the assistance the committee may from time to time request.
  - d. Establish rules for operation of the committee, including the submission and review of legislative proposals and the establishing of standards for actuarial review.
4. During a legislative session, if a standing committee takes action on a legislative measure sponsored by a legislator or recommends an amendment to a legislative measure which would affect the health care coverage, the standing committee shall consider the impact, actuarially or otherwise, of the amendment or measure and may request the public employees retirement system provide an actuarial report or other analysis of the impact of the measure or amendments. If the public employees retirement system provides an analysis or other report under this subsection, the public employees retirement system may pay for the analysis or other report in the same manner as provided under subdivision b of subsection 3.
5. Upon receipt of findings and recommendations of the committee, the legislative management may make recommendations to the retirement board and the public employees retirement system.
6. This section does not require the retirement board or the public employees retirement system to disclose to the committee confidential or exempt information or records. However, upon request of the committee, the retirement board or public employees retirement system shall provide the committee with aggregate information as appropriate.
7. As used in this section, the term "health care coverage" means a uniform group insurance plan for hospital, medical, or prescription drug benefits coverage for an eligible employee which is provided under section 54-52.1-02.

**SECTION 11.** A new subsection to section 54-52-04 of the North Dakota Century Code is created and enacted as follows:

The board shall establish policies and implement procedures to make and collect payments in the most cost-effective manner, including the use of electronic transfer of funds.

**SECTION 12. AMENDMENT.** Section 54-52.1-08.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-08.2. Uniform group insurance program - Compliance with federal requirements - Group purchasing arrangements.**

If the board determines that any section or the phraseology of any section of this chapter does not comply with applicable federal statutes or rules, the board shall adopt appropriate terminology with respect to that section to comply with the federal statutes or rules, subject to the approval of the legislative management's employee benefits programs committee. If the board seeks the approval of the employee benefits programs committee under this section, the board shall notify the

public employee health care coverage committee. The board may assume responsibility for group purchasing arrangements as provided by federal law. Any~~A~~ plan modifications~~modification~~ made by the board under this section are~~s~~ effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

**SECTION 13. EXPIRATION DATE.** Sections 8, 9, 10, and 12 of this Act are effective through July 31, 2019, and after that date are ineffective."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1023 - Public Employees Retirement System - Conference Committee Action**

	Base Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Salaries and wages	\$6,315,360	\$6,323,623	(\$7,454)	\$6,316,169	\$6,316,169	
Operating expenses	2,753,643	2,620,799	71,422	2,692,221	2,692,221	
Contingencies	250,000	250,000		250,000	250,000	
Total all funds	\$9,319,003	\$9,194,422	\$63,968	\$9,258,390	\$9,258,390	\$0
Less estimated income	9,319,003	9,194,422	63,968	9,258,390	9,258,390	0
General fund		\$0	\$0	\$0	\$0	\$0
FTE	34.50	33.50	1.00	34.50	34.50	0.00

**Department No. 192 - Public Employees Retirement System - Detail of Conference Committee Changes**

	Adjusts Funding for Health Insurance Increases <sup>1</sup>	Restores FTE Position <sup>2</sup>	Restores Funding for Operating Expenses <sup>3</sup>	Total Conference Committee Changes
Salaries and wages	(\$7,454)		71,422	(\$7,454) 71,422
Operating expenses				
Contingencies				
Total all funds	(\$7,454)	\$0	\$71,422	\$63,968
Less estimated income	(7,454)	0	71,422	63,968
General fund	\$0	\$0	\$0	\$0
FTE	0.00	1.00	0.00	1.00

<sup>1</sup> Funding for employee health insurance is adjusted to reflect the updated premium amount of \$1,241 per month. Section 2 is also adjusted to reflect the change, the same as the Senate version.

<sup>2</sup> One FTE position removed by the House is restored, the same as the Senate version.

<sup>3</sup> A portion of the funding reduced by the House for operating expenses is restored, the same as the Senate version. Funding is restored as follows:

	Other Funds
Printing and postage costs for newsletter	\$29,752
Printing and postage costs for annual benefit statements	33,220
Other postage, printing, and supplies	8,450

This amendment also:

Removes sections:

- Limiting the use of funding in the health insurance reserve fund for reducing health insurance premium amounts; and
- Amending North Dakota Century Code to provide the Director of the Public Employees Retirement System be appointed by the Governor, changing the Public Employees Retirement System Board to an advisory board, and adjusting the membership and duties of the Employee Benefits Programs Committee.

Adds sections to:

- Establish, effective through July 31, 2019, a Public Employee Health Care Coverage Committee.
- Assign, effective through July 31, 2019, powers and duties to the Public Employee Health Care Coverage Committee.
- Amend, effective through July 31, 2019, the powers and duties of the Employee Benefits Programs Committee.
- Provide for a Public Employee Health Care Coverage Committee study and reports.

Engrossed HB 1023 was placed on the Seventh order of business on the calendar.

**2017 TESTIMONY**

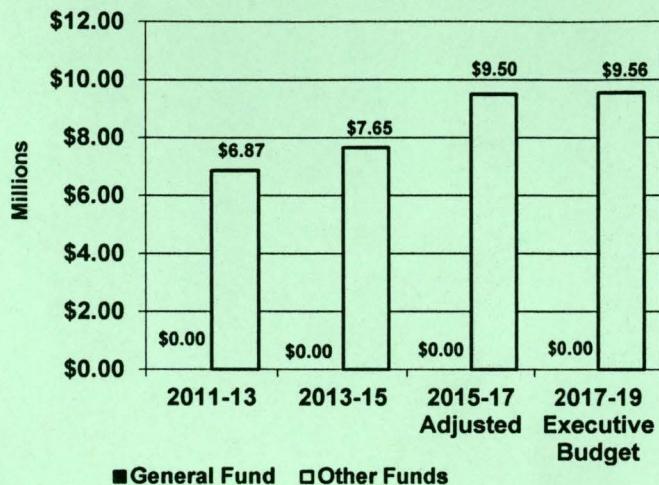
**HB 1023**

**Department 192 - Public Employees Retirement System**  
**House Bill Nos. 1023 and 1083**

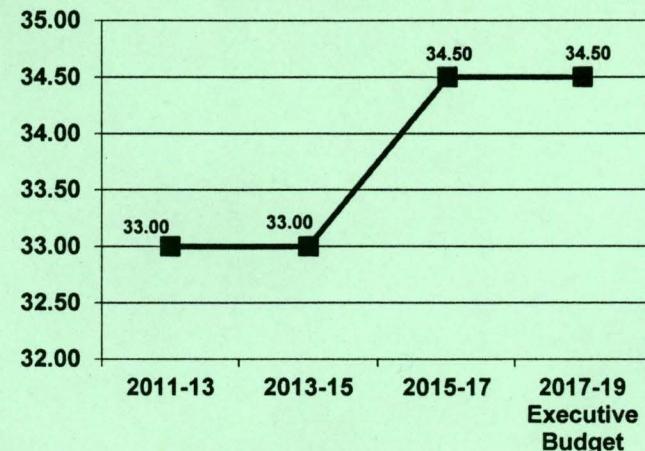
**Executive Budget Comparison to Prior Biennium Appropriations**

	FTE Positions	General Fund	Other Funds	Total
2017-19 Executive Budget	34.50	\$0	\$9,556,106	\$9,556,106
2015-17 Adjusted Legislative Appropriations	34.50	0	9,496,373	9,496,373

**Agency Funding**



**FTE Positions**



**Executive Budget Comparison to Base Level**

	General Fund	Other Funds	Total
2017-19 Executive Budget	\$0	\$9,556,106	\$9,556,106
2017-19 Base Level	0	9,319,003	9,319,003

**Executive Budget Highlights**

- |  | General Fund | Other Funds | Total     |
|--|--------------|-------------|-----------|
| 1. Provides funding for state employee salary and benefit increases, of which \$25,900 is for salary increases and \$102,885 is for health insurance increases | \$0          | \$128,785   | \$128,785 |
| 2. Adjusts funding for operating expenses  |              | \$23,000    | \$23,000  |
| 3. Adds funding for office remodel   |              | \$30,000    | \$30,000  |

**Other Bill Sections Recommended to be Added in the Executive Budget  
(As Detailed in House Bill No. 1083)**

**Contingencies line item** - Section 2 provides, upon approval of the board, the Public Employees Retirement System may transfer from the contingencies line item in section 1 of the bill to all other line items.

**Continuing Appropriations**

**Public Employees Retirement System** - Various sections - For benefit payments, investments, and actuarial and technical consulting for each program area.

**Significant Audit Findings**

The audit for the Public Employees Retirement System conducted by CliftonLarsonAllen LLP, Certified Public Accountants, for the period ending June 30, 2015, identified one significant audit finding relating to census data reconciliation requirements.

The schedule of employer allocations and pension amounts by employer prepared for the Public Employees Retirement System and audited by CliftonLarsonAllen LLP, Certified Public Accountants, for the period ending June 30, 2015, identified one significant audit finding related to review of current process to determine completeness and accuracy of census data.

### **Major Related Legislation**

**House Bill No. 1053** - Provides for a 1 percent employer and employee contribution increase under the Public Employees Retirement System defined benefit and defined contribution plans, and a 2 percent increase for temporary employees.

**Senate Bill No. 2053** - Provides changes relating to the definitions of retirement and retirement board, decreased employee contributions under the Public Employees Retirement System for peace officers employed by the Bureau of Criminal Investigation, eligibility for disability retirement and early retirement benefits under the Public Employees Retirement System, employee enrollment, billing for the retiree health insurance credit, failure to maintain a health savings account when the high-deductible health plan is elected, payment of administrative expenses of the defined contribution plan, and penalties for employers failing to pay contributions under the defined contribution plan.

**Senate Bill No. 2107** - Provides health insurance coverage for National Guard service members performing state active duty in response to state emergencies.

**Public Employees Retirement System - Budget No. 192**  
**House Bill Nos. 1023 and 1083**  
**Base Level Funding Changes**

<b>Executive Budget Recommendation</b>			
	<b>FTE Position</b>	<b>General Fund</b>	<b>Other Funds</b>
			<b>Total</b>
<b>2017-19 Biennium Base Level</b>	34.50	\$0	\$9,319,003
<b>2017-19 Ongoing Funding Changes</b>			
Base payroll changes			\$55,378
Salary increase - Performance			25,900
Health insurance increase			102,885
Adjusts funding for operating expense			23,000
Adjusts funding for temporary salaries			(60)
Adds funding for office remodel			30,000
Total ongoing funding changes	0.00	\$0	\$237,103
<b>One-time funding items</b>			
No one-time funding items			\$0
Total one-time funding changes	0.00	\$0	\$0
<b>Total Changes to Base Level Funding</b>	0.00	\$0	\$237,103
<b>2017-19 Total Funding</b>	34.50	\$0	\$9,556,106

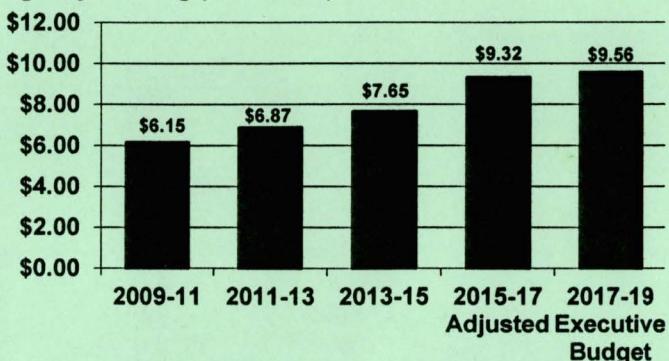
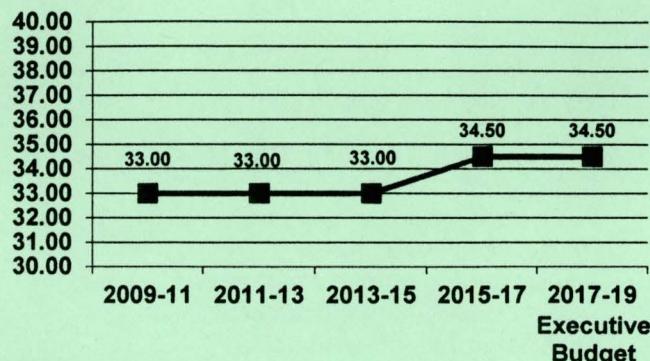
**Other Sections in Public Employees Retirement System - Budget No. 192**

**Executive Budget Recommendation**

Contingencies line item transfers

Section 2 provides, upon approval of the Public Employees Retirement System Board, the Public Employees Retirement System office may transfer from the contingencies line item in section 1 of the bill to all other line items.

## Department 192 - Public Employees Retirement System

**Historical Appropriations Information****Ongoing Other Funds Appropriations Since 2009-11****Agency Funding (in Millions)****FTE Positions****Ongoing Other Funds Appropriations**

	2009-11	2011-13	2013-15	2015-17 Adjusted	2017-19 Executive Budget
Total fund appropriations	\$6,146,488	\$6,867,890	\$7,650,450	\$9,319,003	\$9,556,106
Increase (decrease) from previous biennium	N/A	\$721,402	\$782,560	\$1,668,553	\$237,103
Percentage increase (decrease) from previous biennium	N/A	11.7%	11.4%	21.8%	2.5%
Cumulative percentage increase (decrease) from 2009-11 biennium	N/A	11.7%	24.5%	51.6%	55.5%

**Major Increases (Decreases) in Total Fund Appropriations****2011-13 Biennium**

1. Added funding for changes in the agency information technology plan to support PERSLink \$447,348

**2013-15 Biennium**

1. Added funding for information technology activities included in the agency's IT Strategic Plan \$281,130

**2015-17 Biennium**

1. Added funding for 1 chief financial officer FTE position \$216,069
2. Added funding for 0.50 benefit support FTE position \$51,346
3. Added funding for additional workload due to the portability of retiree health credit \$43,052
4. Added funding for general operating expenses increases \$134,470
5. Added funding for PERSLink system refinements \$147,000
6. Added funding for website redesign \$90,080
7. Added funding for a secure reception area \$27,500
8. Added funding for additional temporary support salaries \$122,352
9. Added funding for desktop support services \$75,580

**2017-19 Biennium (Executive Budget Recommendation)**

1. Adjusts funding for operating expenses, including:
  - Inflationary increases \$35,489;
  - Desktop support services \$77,370;
  - Licensing fees of new PERSLink mobile app \$77,531;
  - Postage and printing for board elections \$29,492;
  - Lower telephone call volume (\$735);
  - Reduced information technology contractual services for PERSLink and system refinements (\$142,140); and
  - Discontinued fees, including Blue Cross Blue Shield file fees, IRS determination letters, temporary phone support for retiree health insurance credit portability and health carrier transition, and service fees (\$54,007).
2. Adds funding for office remodel \$30,000

January 3, 2017

*January 5, 2017*

*HB1023, HB1083 Attachment A*

## TESTIMONY OF NDPERS

### HOUSE BILL 1023/1083

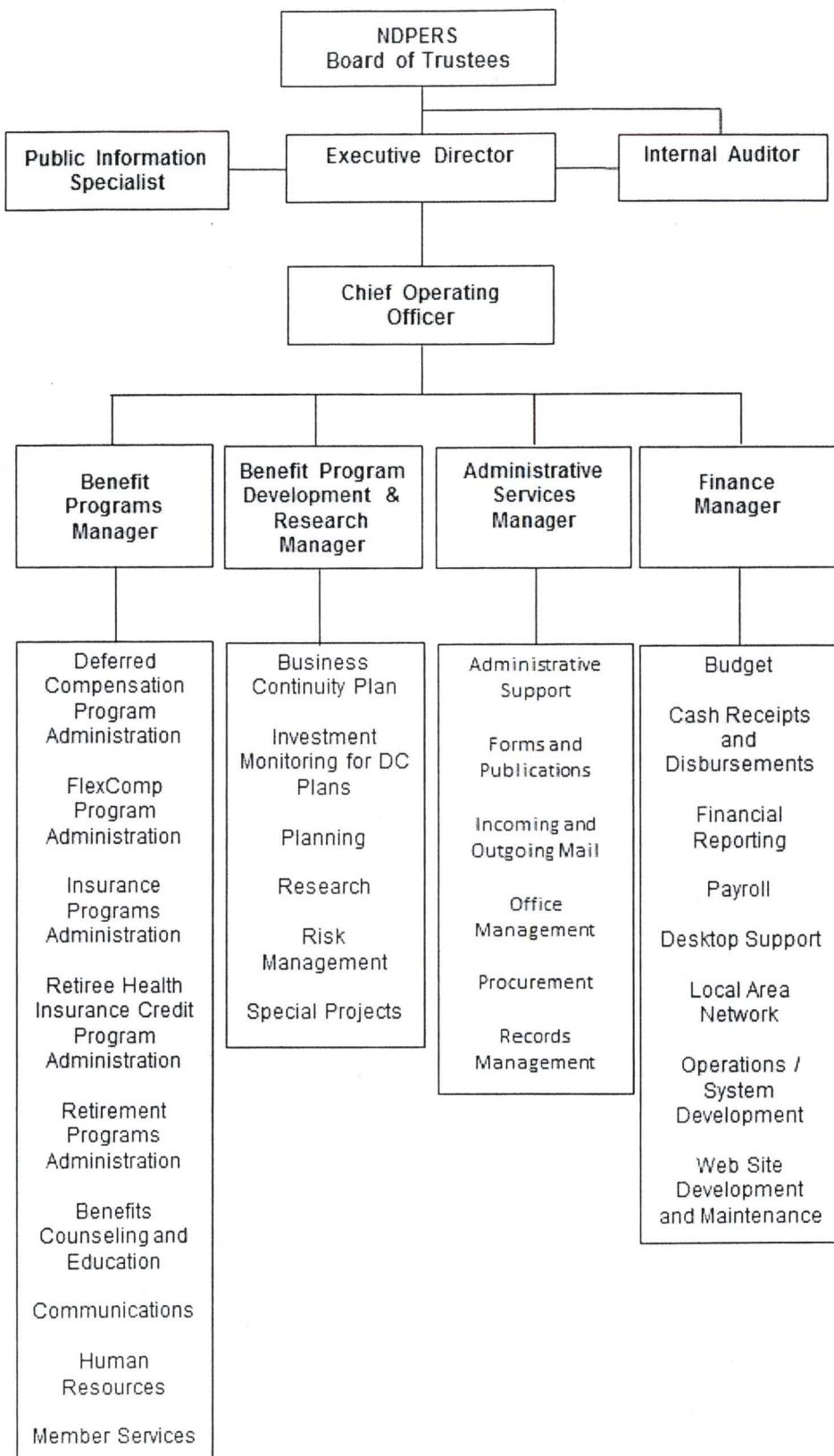
Mr. Chairman, members of the committee, good morning my name is Sparb Collins. I am the Executive Director of the North Dakota Public Employees Retirement System or PERS. Today I appear before you to give you an overview of our agency, our work efforts and our budget request.

#### Agency Overview

First let me start by providing an overview of our agency. PERS is directed by a Board composed of the following members:

Chair (appointed by Governor)	Jon Strinden
Appointed by Attorney General	Troy Seibel
State Health Officer or Deputy	Arvy Smith
Elected	Kim Wassim
Elected	Casey Goodhouse
Elected	Mike Sandal
Elected Retiree	Yvonne Smith
Legislative Appointee	Senator Dick Dever
Legislative Appointee	Representative Pam Anderson

Administratively PERS is organized as illustrated:



The PERS program responsibilities fall under two broad categories – retirement and group insurance. Section 54-52-02 states the overall mission for the retirement program as: "...to provide for the payment of benefits to state and political subdivision employees or to their beneficiaries thereby enabling the employees to care for themselves and their dependents and which by its provisions will improve state and political subdivision employment, reduce excessive personnel turnover, and offer career employment to high grade men and women". Similarly, state statute establishes the overall mission for the group insurance plan as: "In order to promote the economy and efficiency of employment in the states service, reduce personnel turnover, and offer an incentive to high grade men and women to enter and remain in state service, there is hereby created a uniform group insurance program".

Concerning the retirement programs, the following table gives you an overview of the programs and some statistical information:

January 2016

## RETIREMENT PROGRAMS MANAGED AND ADMINISTERED BY NDPERS

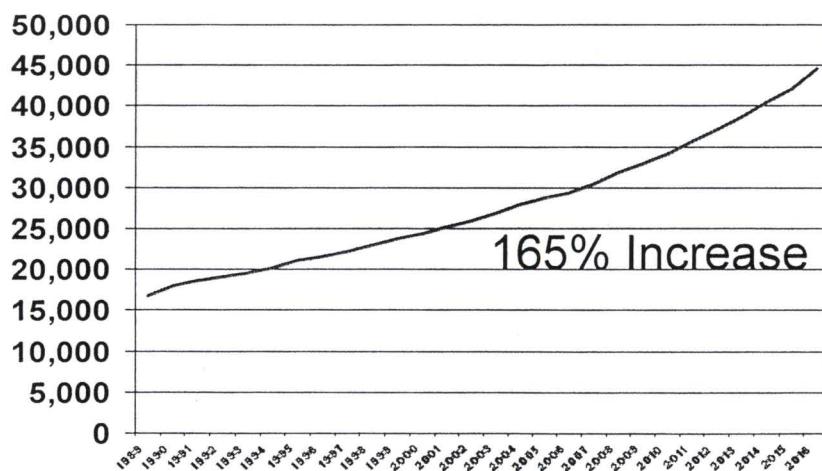
	<b>TOTAL RETIREMENT</b>	<b>Main System</b>	<b>Judges</b>	<b>Law Enforcement</b>	<b>Highway Patrol</b>	<b>Job Service</b>	<b>D.C. 401(a)</b>	<b>DEFERRED COMP</b>	<b>HEALTH CREDIT</b>
<b>PARTICIPATION</b>									
<b>AGENCY</b>									
State	95	95	1	2	1	1	95	95	95
Counties	50	50		16				35	50
School Dist	119	119						21	119
Cities	86	85		11				34	86
Others	77	76						34	77
	<b>427</b>						<b>219</b>	<b>427</b>	
<b>EMPLOYEES</b>									
State	11,227	10,783	56	68	160	9	151	5,554	11,227
Counties	4,187	3,741		446				767	4,187
School Dist	6,420	6,419		1				81	6,420
Cities	2,012	1,928		84				256	2,012
Others	662	662						228	662
Retirees	9,611	9,291	34	65	92	129			5,212
	<b>34,119</b>	<b>32,824</b>		<b>90</b>	<b>664</b>	<b>252</b>	<b>138</b>	<b>151</b>	<b>6,886</b>
									<b>29,720</b>

As you will note, our agency is responsible for the administration of 9 different retirement plans. The Law Enforcement Plan is divided into two plans, those with past

service and those without. Several of the above plans were assigned to our agency by the 2001 and 2003 legislative session. Those were the Job Service Retirement Plan and the Law Enforcement Plans for political subdivisions. The Law Enforcement Plan has since been expanded to certain State employees. The 401(a) plan or optional defined contribution plan for non-classified state employees was assigned to our agency in 1999. Eligibility for this plan was expanded to provide new State employees with this option effective August 1, 2013 through July 31, 2017. The other retirement programs have been a part of PERS since the 1980's. You will note the largest retirement plan we administer is the Main/Hybrid retirement system which provides services to not only the State, but also to political subdivisions. In this plan about 50% of the active members are State employees and 50% are political subdivision employees. School districts are our second largest group followed by counties and cities.

Some historical statistics about the retirement plan include membership:

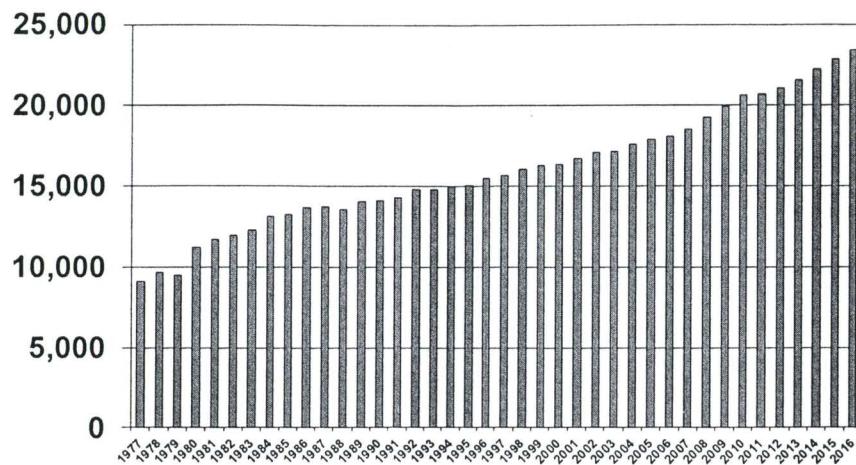
## NDPERS Retirement Plan Membership



Of this, the number of active members has grown:

## NDPERS Retirement Actives

(Main System, Judges & Law Enforcement Systems)

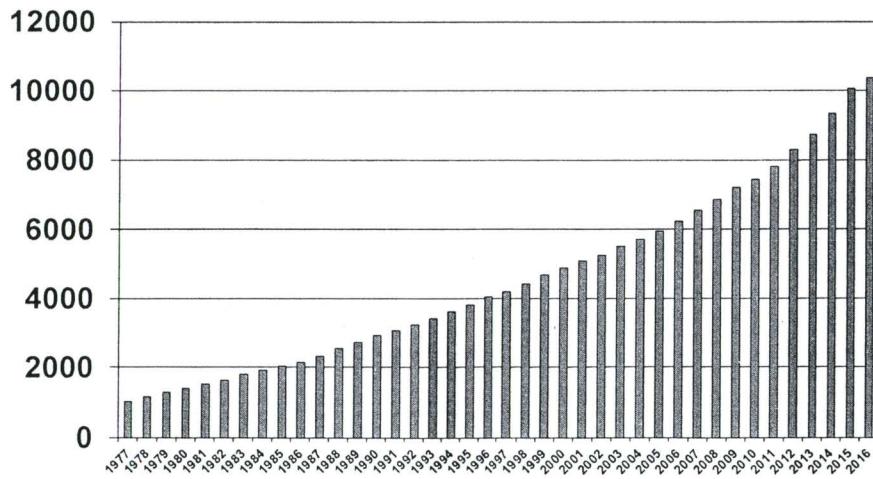


1

The number of retired members has grown as well and at an even greater rate than our active members:

## NDPERS Retirement Retirees

(Main System, Judges & Law Enforcement Systems)



2

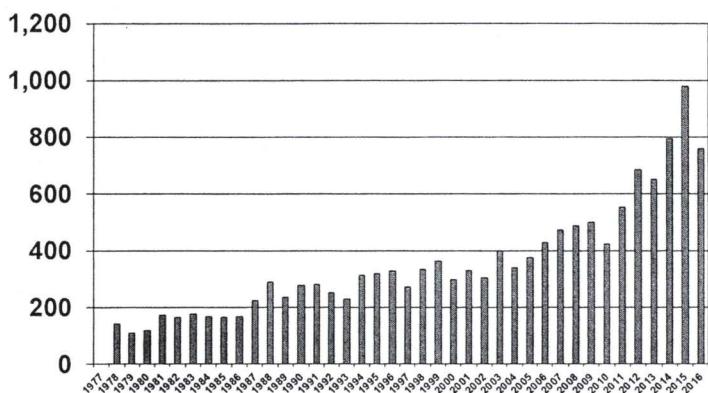
Another interesting statistic about the retirement plan is since 1977 the PERS plan has received approximately \$1.67 billion in contributions and as of the last fiscal year (July

2016) we had \$2.41 billion in assets. During that same period we paid out about \$1.64 billion in benefits.

The number of new retirees each year continues to grow. The table below shows that in the last three fiscal years (July – June) there were 793, 980 and 760 new retirees.

## NDPERS New Pensions

(Main System, Judges & Law Enforcement Systems)

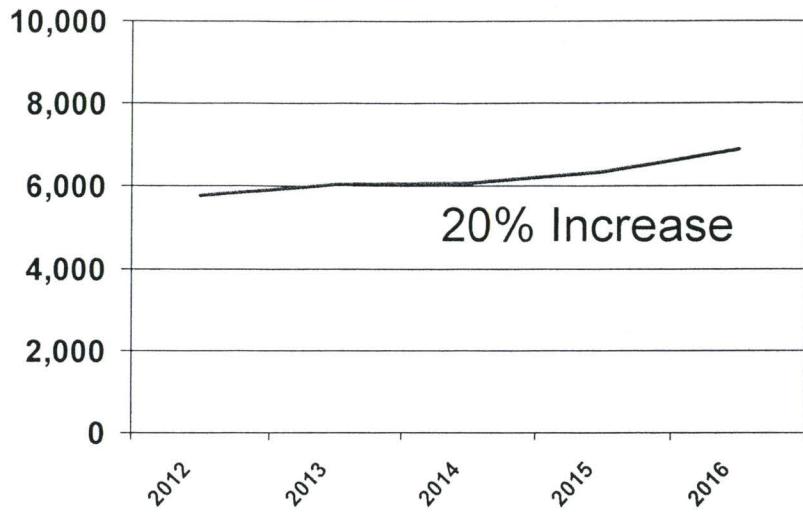


As we look to the future, we see the retired membership continuing to grow and the number of active members remaining about the same. Servicing the present and future needs of the retired membership is a growing challenge for PERS.

In addition to the administration of the traditional retirement plans, PERS administers the state's supplemental savings program as well. The membership in that program has also grown over the years (this shows both active and inactive accounts):

# NDPERS

## Deferred Compensation Plan Membership



We are pleased by this growth since it is important that our members save for retirement. In 1999 the legislature started the Portability Enhancement Provision, or PEP, in our retirement plan, thereby turning the Main plan into a hybrid plan to encourage employees to do supplemental savings.

Deferred Compensation offers our members the following 8 providers to choose from in addition to the PERS Companion Plan (presently with TIAA):

American Trust Center	Jackson National
AXA Equitable	Nationwide Life
Bank of North Dakota	VALIC
Mass Mutual	Waddell & Reed

The investment and recordkeeping contract for the PERS Companion Plan and the 401(a) defined contribution plan is currently out for bid as the contract with TIAA will be ending June 30, 2017. The Companion Plan is currently out to bid. This program originally started with Valic as the provider. Fidelity then won the bid and about 5 years ago TIAA won the bid. With each change the cost of this program has gone down or the services has increased.

Concerning the group insurance programs, the following gives you an overview of the programs and some statistical information:

January 2016

## GROUP INSURANCE PROGRAMS MANAGED AND ADMINISTERED BY NDPERS

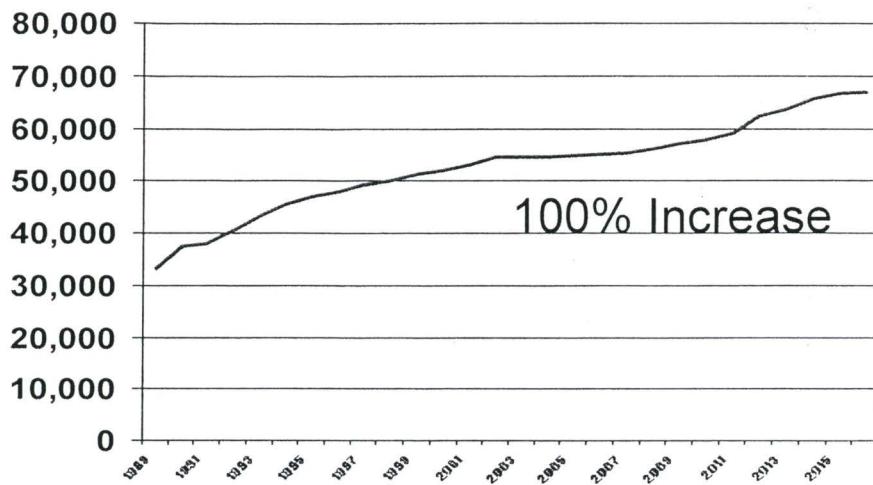
PARTICIPATION	HEALTH	LIFE	DENTAL	VISION	EAP	FLEXCOMP	LT Care
<b>AGENCY</b>							
State	95	95	95	95	95	90	95
Counties	45	33					
School Dist	30	14					
Cities	47	29					
Others	60	34	20	20	20	20	20
	<b>277</b>	<b>205</b>	<b>115</b>	<b>115</b>	<b>115</b>	<b>110</b>	<b>115</b>
<b>EMPLOYEES</b>							
State	15,283	16,221	7,158	8,322	16,150	2,657	55
Counties	2,360	2,540					
School Dist	1,165	91					
Cities	1,919	259					
Others	613	388			257		
Legislators	136						
Retirees	7,378	3,207	2,115	1,885			
COBRA	494		61	66			
	<b>29,348</b>	<b>22,706</b>	<b>9,334</b>	<b>10,273</b>	<b>16,407</b>	<b>2,657</b>	<b>55</b>

As you will note, the largest responsibility in this area is the health plan. In this program about 52% of members are state employees and 48% are political subdivisions or other groups such as retirees. We continue to focus on compliance with the Affordable Care Act (ACA) which includes maintaining the grandfathered status of the plan, assisting our participating employers with compliance and conducting a special enrollment each year for temporary employees.

The following table shows the history of the membership in the health plan:

## NDPERS

### Health Plan Membership



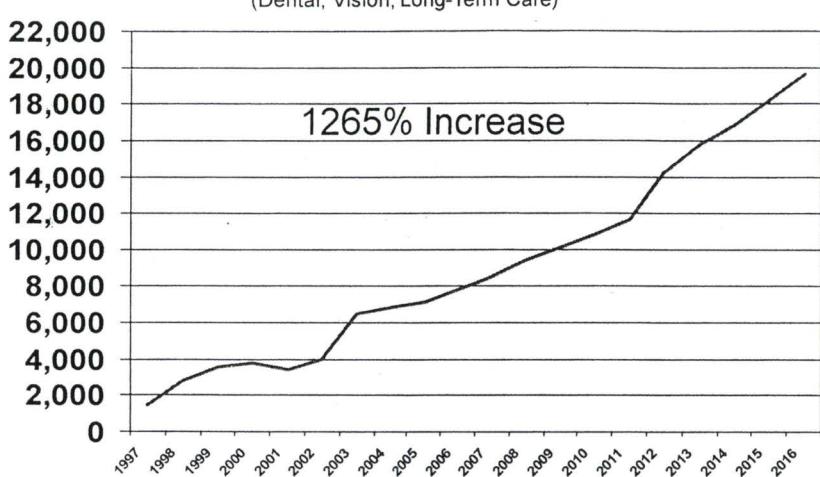
This plan went to bid last in 2015 and the plan was changed from BCBS to Sanford.

In the late 1990's the Employee Assistance Program, Long Term Care Plan, Dental Plan & Vision Plan were added to PERS. The other group insurance programs have been a part of the agency since before 1990. The following table is the history of those programs (not including the EAP):

# NDPERS

## Voluntary Insurance Plans Membership

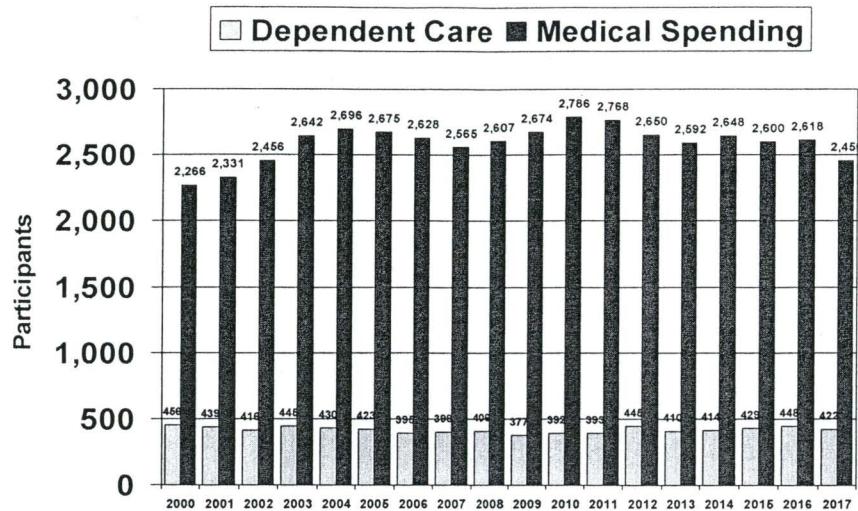
(Dental, Vision, Long-Term Care)



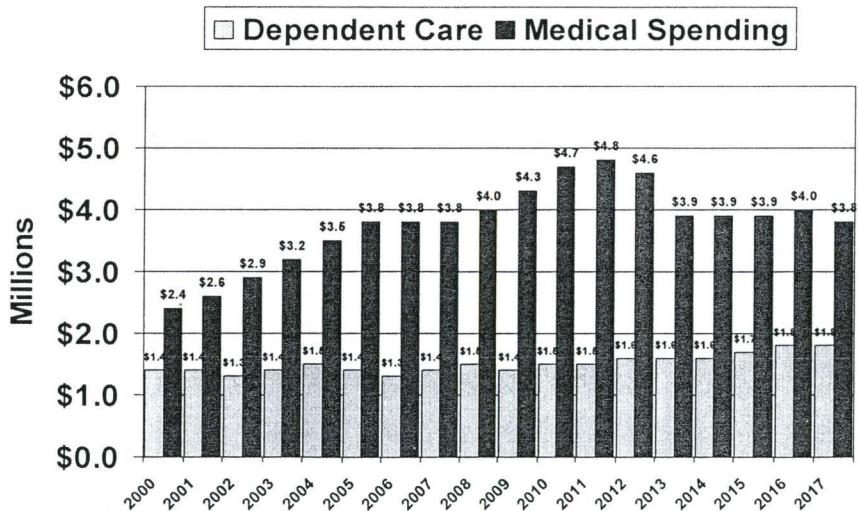
The life insurance plan is currently out for bid, as the contract with the current carrier will end June 30, 2017. The vision plan will be going out for bid in 2017 and the dental plan will be bid in 2018.

The Flex Comp Program which has been a part of the agency since 1989 allows members to pretax certain insurance premiums, dependent care expenses and medical expenses. The following tables show the history of the number of members and deferrals:

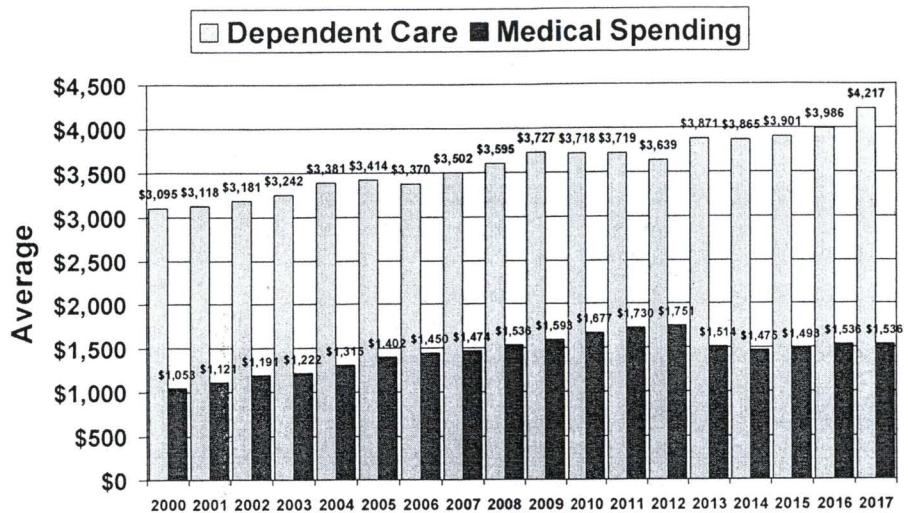
## NDPERS Flexcomp Participation



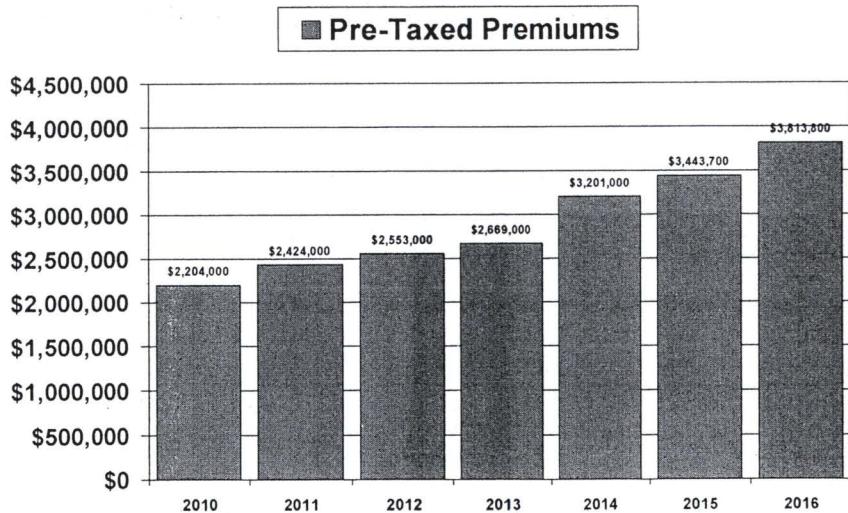
## NDPERS Flexcomp Participation



## NDPERS Flexcomp Participation



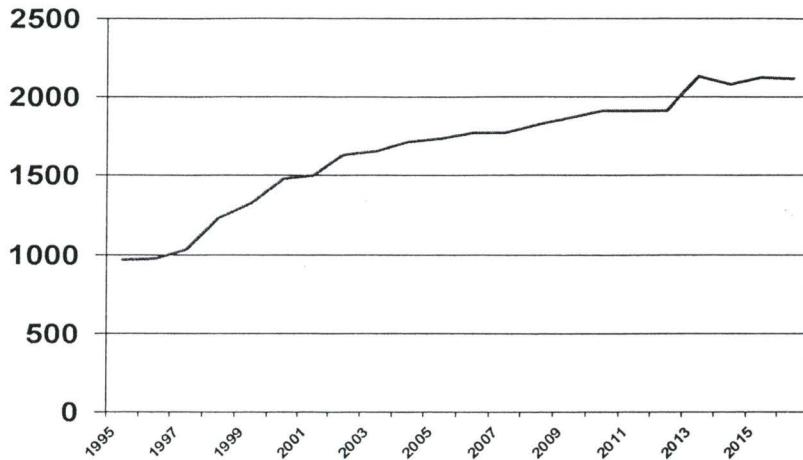
## NDPERS Flexcomp Participation



While we have been serving more members in more programs over time, we have also been serving more employers as they join PERS. The following table shows each

employer relationship for each program (an employer in more than one program would count more than once):

## NDPERS Participating Employers (All Programs)



As shown above, PERS has faced two challenges over the years. First, is the growth of program responsibilities. Second, is the growing membership needs for assistance.

We are also concerned with maintaining the quality of what we do. To that extent, we have sought national review of our systems and other reviews as noted in the following:

- We have received the Public Pension Achievement Award and the Recognition Award for Administration.
- We have received the Certificate of Achievement for Excellence in Financial Reporting for the past 20 years (1996-2015).
- We have had unqualified audit opinions for over 26 years.

In addition, we send out report cards to members who request information from our office to evaluate our customer service. Our average ratings for the past 2 years show overall satisfaction with our customer service. The ratings are shown below based on a scale of 1-4, with 4 being the most satisfied:

Year	# of responses	Courtesy received from NDPERS Staff.	Promptness of NDPERS response.	Information easy to understand.	How well did we review and explain the information.
2015	464	3.82	3.67	3.62	3.73
2016	478	3.83	3.73	3.62	3.75

## Work Efforts

Following are some of the major work efforts since we last reported to you in the 2015 session:

- Group Insurance
  - Transitioned the health plan to a new carrier effective July 1, 2015 and also transitioned the retiree prescription drug plan to a new carrier January 1, 2016.
  - Implemented legislation passed in the 2013 session to close the non-Medicare health insurance group to new retirees after June 30, 2015. This substantially reduced the implicit liability associated with offering this coverage to terminating active employees from \$65 million in 2011 to \$7 million in 2015.
  - Renewed contracts with the existing carriers for the health, dental and vision plans.
  - Continued to work with our participating employers on the implementation of the provision of the Affordable Care Act.
  - Pursuant to legislative direction, began studying the merits of telehealth for the group health insurance plan.
  - Worked with the Department of Health, Department of Human Services and Indian Affairs Department to prepare a report for the legislature on the status of diabetes efforts in North Dakota

- Prepared and issued a request for proposal for the life insurance plan
  - In the process of preparing a request for proposal for the vision plan
- Retirement
  - Implemented a change passed in the 2013 session to make the retiree health credit portable starting July 2015. This change allows retirees to receive this benefit to apply towards premiums for any medical or prescription drug plan, as well as premiums for the NDPERS sponsored dental, vision and long-term care plans. Prior to this change, approximately 5,212 or 52% of eligible retirees were receiving this benefit; now there are approximately 10,320 or 98% of eligible retirees receiving the benefit.
  - Implemented legislation passed during the 2015 session which included transferring current and newly eligible members of the National Guard system into the Law Enforcement System effective August 1, 2015; a new benefit tier for employees hired after January 1, 2016; and allowing a special election opportunity for members in the NDPERS Defined Contribution Plan to elect to rejoin the NDPERS Defined Benefit Plan.
  - Completed an actuarial experience study and implemented actuarial assumption changes in the annual actuarial valuations for July 2015.
  - Issued a request for proposal for retirement actuarial and consulting services and selected Gabriel Roeder Smith & Company as the new plan actuary in 2016.
  - Worked with the plan actuary and our audit firm to prepare financial information for participating employers in the pension plans pursuant to Governmental Accounting Standards Board (GASB) Statement Number 68. GASB 68 requires each participating employer to report a proportionate share of the pension liability on their financial statements.
  - Completed an Asset Liability Study and approved a modified asset allocation which will be implemented in fiscal year 2017.
  - Conducted an IRS compliance review and submitted an application to the IRS for a determination letter for the PERS and Highway Patrol plans. To

date, we have received a positive determination letter for the Highway Patrol plan and the PERS Main Plan.

- Prepared and issued a request for proposal for the 457 Companion Plan and 401(a) defined contribution plan.
- Administrative Accomplishments
  - Started exploring external communication channels that include social media and a mobile app. The agency went live with a mobile app for the PERSLink business system in July 2016 and launched a Facebook page in the summer of 2016.
  - Developed and implemented the Financial Essentials Workshop (FEW), a new educational program for members in the early to mid-career stage to assist members with financial planning and retirement savings goals.
  - Began working with a website design firm on the website redesign project. The new website will be launched in the first quarter of 2017.
  - Transitioned the agency's desktop support to ITD in February 2016.

## **PERS Budget**

The proposed budget before you today is all special funds.

The following is a summary comparing the current budget to the Governor's Recommendation.

	2015-17 Appropriation	One-time Funding	2015-17 Base Level	Adjustments	2017-19 Governor's Recommendation
Salaries & Wages	6,415,360	(100,000)	6,315,360	184,103	6,499,463
Operating Expenses	2,831,013	(77,370)	2,753,643	53,000	2,806,643
Contingencies	250,000		250,000		250,000
Total Special Funds	9,496,373	(177,370)	9,319,003	237,103	9,556,106
FTE	34.5		34.5		34.5

### **Salaries and Wages**

The salaries and wages line item accounts for 68% of the base level budget and includes funding for 34.5 FTE. The base budget also includes funding for 2 temporary staff; a full-time temporary position to assist the benefits division with compliance reviews of retirement accounts for new retirees and a part-time intern to assist the PERS Internal Audit division with implementing expanded audit steps to verify payroll data provided by employers, as a result of new GASB 67/68 financial statement reporting requirements.

The increase of \$184,103 consists of \$25,900 for the Governor's salary package, \$102,885 for the health insurance increase and \$89,614 cost to continue the 2<sup>nd</sup> year of the biennium salary increase and payments to new Board members. These increases are offset by a reduction in salaries due to positions being classified at a lower grade than what was originally projected.

### **Operating Expenses**

Operating expenses account for 30% of the base level budget. Information technology costs account for 60% of the operating expense line item, which is a combination of fees paid to a software vendor to support the agency's PERSLink system, and fees paid to ITD for hosting, desktop support, disaster recovery, network and email access, document storage in FileNet and telecommunications. Postage, printing, office rent and operating fees and services represent 32% of the operating line item. The benefits programs administered by the agency serve over 40,000 active and retired members and over 400 employer groups, therefore, communication is a substantial portion of the printing and postage expenses.

The increase of \$53,000 consists of the following. Inflation increases of \$107,500 were included primarily for office rent, software licensing fees and support costs for the PERSLink system, data processing fees paid to ITD and central service cost allocation. IT Software/Hardware was increased by \$62,700 for the mobile app licensing fee and

Printing was increased \$12,500 and Postage increased \$14,800 for board elections that will be occurring throughout the biennium. These increases were offset by a decrease of \$147,000 in the PERSLink system and \$27,500 by not moving forward with our security project to our entry area. PERS was given appropriation authority in the 15-17 budget for this project to improve privacy when discussing confidential information with our members and to increase our office security; however, the decision was made to defer this expense until it is determined whether or not there would be an opportunity for the agency to relocate to the WSI building. Funding of \$30,000 (increased for inflation) was requested as an optional request and included in the Governor's recommendation to allow us to move forward with this project, in the event we do not relocate our office. This is essentially moving unused appropriation authority from the current biennium into next biennium to allow us to move forward on this project.

### **Optional Budget Requests**

The following optional budget requests were not included in the Governor's recommendation:

1. Cyber risk insurance
2. Office relocation to the WSI building
3. Funding for 2 additional FTE and related operating expenses in the event the health plan was awarded on a self-insured arrangement.

### **Additional Requested Information**

The following information is provided as requested:

1. Any financial audit findings included in the most recent audit of your department and action taken to address each finding.

**Response: There were no audit findings for the June 30, 2016 audit**

2. The major components making up the "base level" amounts for your department.

**Response: Covered in testimony above (pages 17-18)**

3. Major ongoing funding increases or decreases approved by the 2013 or 2015 Legislative Assemblies for your department.

**Response: None**

4. The effects of the budget reductions approved during the August 2016 special legislative session on the 2015-17 budget and estimate 2015-17 biennium spending compared to the adjusted 2015-17 appropriations by line item, explaining any major variances.

**Response: Not applicable**

5. A listing of the proposed budget reductions identified by your department to meet the Governor's 90% budget request guideline.

**Response: Not applicable**

6. 2017-19 budget changes recommended by the Governor to the "base level" identifying each increase or decrease with explanations or justification for each change

**Response: Covered in testimony above (pages 17-18)**

7. Any known or potential changes in the level of federal funding to be received by your department and your department's plan to address the changes.

**Response: Not applicable**

February 1, 2017

HB1023/1073

Attachment 9

## North Dakota Public Employees Retirement System – 192 Budget Reductions

### HB 1083

This is Governor Dalrymple's recommendation. This includes the agency's original budget request plus funding for the optional request to enhance the security of the office reception area, and includes funding for the 1% salary increase and health insurance increase.

### HB 1023 Adjustments – (\$237,103)

1. Salaries and wages – (\$184,103)  
Removing the cost to continue amounts, 1% salary increase and health insurance increase.
2. Operating expenses – (\$53,000)  
Reducing out of state travel and related conference registration fees and removing the funding for the office reception area improvements.

### Cost to Continue - \$65,638

1. Salaries and Wages are increased by \$55,318 for the cost of funding the 2<sup>nd</sup> year of the biennium salary increase and payments to new Board members, and funding for temporary staff. This is offset by adjustments to our pay plan to reflect positions filled at lower salary levels than anticipated and a reduction in overtime.
2. Operating expenses are increased by \$10,320 for cost to continue desktop support through ITD.

### Health Insurance - \$102,885

This is the amount that Governor Dalrymple included in HB 1083 for the increase in health premiums

### Governor Burgum's reduction – (\$150,000)

The Governor proposed a reduction of \$150,000 from this line item and one FTE. PERS would meet this reduction in spending by reducing its salary and wages without having to remove an FTE; therefore, PERS is requesting that the FTE be retained.

### Operating Expenses Reduction – (\$285,684)

As requested, NDPERS furthered reviewed its operating line item to meet a 10% reduction and has identified the following:

1. Require direct deposit/ACH – (\$16,900)\*  
Reduction in postage, printing and supplies as a result of requiring all retirement checks to be paid through direct deposit and all individual insurance premiums to be deducted from a bank account.
2. Electronic newsletters – (\$59,504)\*  
Newsletters would only be made available on the NDPERS website, instead of printing newsletters and mailing to all active and retired members. This would reduce printing and postage costs.
3. Discontinue annual statements – (\$66,440)\*  
Annual benefit statements for active and retired members of NDPERS would no longer be printed and mailed. Members would need to access this information on-line through member self service. Discontinuing this service would prevent the agency from receiving the Public Pension Coordinating Council Award. This would reduce printing and postage costs.

4. Move desktop support in-house – (\$99,840)\*\*

Last session, legislation was passed which moved desktop support for state agencies, including NDPERS, under ITD. If we were able to bring this back in-house, fees paid to ITD would be reduced, offset by an increase in software costs.

5. Reduce servers for Mobile App – (\$43,000)\*\*\*

We are anticipating that the number of servers that have been dedicated for our mobile app can be reduced, without impacting performance. This would result in a reduction in hosting costs paid to ITD.

\*Since these reductions directly affect the members served by NDPERS, a statement of legislative intent would be helpful

\*\*It is our understanding that this would require legislation

\*\*\*We have approached our software vendor to discuss ways to save costs for supporting our business system. The infrastructure for the mobile app was identified as a potential area, however, this is contingent on final discussions with our vendor.

February 1, 2017

HB1023/HB1073

Attachment B

North Dakota Public Employees Retirement System - 192  
Budget Reduction Options for 17-19 biennium

	HB 1083	Adjustments	HB 1023	Cost to Continue	Health Insurance	Gov Burgum's Reduction	10% Operating Reduction
<b>Salaries &amp; Wages:</b>							
Salaries and Benefits	\$ 6,499,463	\$ (184,103)	\$ 6,315,360	\$ 55,318	\$ 102,885	\$ (150,000)	
<i>Want to Retain Employee</i>							
<b>Operating:</b>							
Travel	\$ 61,000	\$ (19,647)	\$ 41,353				
Supplies - IT Software	\$ 577,396	\$	\$ 577,396			\$	
Supply/Material-Professional	\$ 4,100	\$	\$ 4,100				
Office Supplies	\$ 50,225	\$	\$ 50,225			\$	
Postage	\$ 309,700	\$	\$ 309,700			\$	(1)
Printing	\$ 86,003	\$	\$ 86,003			\$	
IT Equip under \$5,000	\$ 6,000	\$	\$ 6,000				
Office Equip & Furniture-Under	\$ 11,970	\$	\$ 11,970				
Insurance	\$ 2,500	\$	\$ 2,500				
Rentals/Leases-Equip & Other	\$ 18,000	\$	\$ 18,000				
Rentals/Leases - Bldg/Land	\$ 366,130	\$	\$ 366,130				
Repairs	\$ 42,605	\$ (30,000)	\$ 12,605				
IT - Data Processing	\$ 553,050	\$	\$ 553,050	\$ 10,320		\$	(1)
IT-Communications	\$ 45,800	\$	\$ 45,800				
IT - Contractual Services/Repairs	\$ 476,161	\$	\$ 476,161				
Professional Development	\$ 49,923	\$ (3,353)	\$ 46,570				
Operating Fees and Services	\$ 112,136	\$	\$ 112,136				
Fees - Professional Services	\$ 33,944	\$	\$ 33,944				
Total Operating	\$ 2,806,643	\$ (53,000)	\$ 2,753,643	\$ 10,320	\$ -	\$ -	(2)
<b>Contingency</b>							
Special Line	\$ 250,000	\$	\$ 250,000				
Total Appropriation	\$ 9,556,106	\$ (237,103)	\$ 9,319,003	\$ 65,638	\$ 102,885	\$ (150,000)	(2)
Full-time Equivalent Positions	34.5		34.5				

Twoth Bem 383  
Houral Positions Filled

North Dakota Public Employees Retirement System - 192

Salary & Wage Analysis for 17-19 biennium

1% Salary Increase	\$ 25,900	
Health Insurance Increase	\$ 102,885	
Cost to Continue Increase	\$ 80,626	
Cost to Continue Board	\$ 8,988	Funding for 2 additional board members we didn't receive additional appropriation on
Salary/Benefit Adjustments Due to Reclassifying Positions at Lower Pay Levels	\$ (78,804)	
Overtime Reduction - Internal Staff Absorbed the Temp Money by Working OT	\$ (30,644)	These were one time charges unique to our agency for RHIC portability and health carrier change. Staff shouldn't have to work as much OT next biennium
Increase in Temporary Staffing from Where We will end this biennium	\$ 75,152	Continued funding for a full time temporary position and part time intern
	<u>\$ 184,103</u>	
Total Salaries & Wage Adjustments	\$ 184,103	
Health Insurance Increase	\$ (102,885)	
1% Salary Increase	\$ (25,900)	
Cost to Continue	<u>\$ 55,318</u>	

## North Dakota Public Employees Retirement System - 192

## Budget Reduction Options for 17-19 biennium

	Require direct deposit/ACH	Discontinue printing newsletters	Discontinue Annual Statements	Move Desktop Support In-house	Mobile App Servers	Total
Travel					\$	-
Supplies - IT Software				\$ 4,200	\$	4,200
Supply/Material-Professional					\$	-
Office Supplies	\$ (2,047)				\$	(2,047)
Postage	\$ (14,248)	\$ (45,120)	\$ (54,376)		\$	(113,745)
Printing	\$ (605)	\$ (14,383)	\$ (12,064)		\$	(27,052)
IT Equip under \$5,000					\$	-
Office Equip & Furniture-Under					\$	-
Insurance					\$	-
Rentals/Leases-Equip & Other					\$	-
Rentals/Leases - Bldg/Land					\$	-
Repairs					\$	-
IT - Data Processing			\$ (104,040)	\$ (43,000)	\$	(147,040)
IT-Communications					<i>Checking</i> \$	-
IT - Contractual Services/Repairs					<i>on with us</i> \$	-
Professional Development					<i>compmnt</i> \$	-
Operating Fees and Services					\$	-
Fees - Professional Services					\$	-
Total	\$ (16,900)	\$ (59,504)	\$ (66,440)	\$ (99,840)	\$ (43,000)	\$ (285,684)

February 10, 2017

HB1023 / HB1083

attachment A

Prepared by the Legislative Council staff  
for House Appropriations - Government Operations  
February 10, 2017

HOUSE BILL NO. 1023  
LISTING OF PROPOSED CHANGES TO BASE LEVEL

Department - Public Employees Retirement System

Proposed funding changes:	FTE	General Fund	Special Funds	Total
<b>Description</b>				
1 Base payroll changes (Governor's Recommendation)		\$0	\$55,378	\$55,378
2 Health insurance increases (Governor's Recommendation)		\$0	\$102,885	\$102,885
4 Adjusts funding for operating expenses (Governor's Recommendation)		\$0	\$23,000	\$23,000
5 Adjusts funding for temporary salaries (Governor's Recommendation)		\$0	(\$60)	(\$60)
6 Adds funding for office remodel (Governor's Recommendation)		\$0	\$30,000	\$30,000
7 Removes 1 FTE position (Governor's Recommendation)	(1.00)	\$0	(\$150,000)	(\$150,000)
8 Removes funding for centralized desktop support services from the Information Technology Department (furthur reductions identified by agency)		\$0	(\$75,580)	(\$75,580)
9 Reduces postage, printing, and supplies by requiring all retirement checks to be paid through direct deposit and all individual insurance premiums to be deducted from a bank account (furthur reductions identified by agency)		\$0	(\$16,900)	(\$16,900)
10 Reduces printing and postage costs by eliminating paper copies of newsletters and only posting electronic newsletters on the agency website (furthur reductions identified by agency)		\$0	(\$59,504)	(\$59,504)
11 Reduces printing and postage costs by eliminating paper copies of annual benefit statements for active and retired members (furthur reductions identified by agency)		\$0	(\$66,440)	(\$66,440)

12 Reduces hosting costs paid to the Information Technology Department reducing the number of servers dedicated to the mobile app (further reductions identified by agency)	\$0	(\$43,000)	(\$43,000)
Total proposed funding changes	<u>(1.00)</u>	<u>\$0</u>	<u>(\$200,221)</u>

**Other proposed changes:**

- 1 Upon approval of the retirement board, the public employees retirement system may transfer from their contingencies line item in section 1 of this Act to all other line items. The agency shall notify the office of management and budget of each transfer made pursuant to this section.
- 2 Amends North Dakota Century Code Section 54-52-04 to require the board to establish policies to implement procedures to make and collect payments in the most cost-effective manner, including use of electronic transfers of funds.
- 3 Amends section 54-59-22.1 to remove the Public Employees Retirement System from the list of state agencies required to obtain centralized desktop support services from the Information Technology Department.
- 4 Adds legislative intent language that the department discontinue printing and mailing paper copies of newsletters, and that the department post all newsletters electronically on the deaprtment's website.
- 5 Adds legislative intent language that the department discontinue printing and mailing paper copies of annual benefit statements for active and retired members, and that the department ensure all members are able to access the annual benefit statements online through member self service.

February 10, 2017

HB1023/HB1083

Attachment B

Public Employees Retirement System - Budget No. 192

House Bill No. 1023

Base Level Funding Changes

	Burgum Executive Budget Recommendation (Changes to Dalrymple Budget in Bold)				House Version				House Changes to Revised Executive Budget					
	FTE Position	General Fund	Other Funds	Total	FTE Position	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total		
	34.50	\$0	\$9,319,003	\$9,319,003	34.50	\$0	\$9,319,003	\$9,319,003	0.00	\$0	\$0	\$0		
2017-19 Biennium Base Level														
2017-19 Ongoing Funding Changes														
Base payroll changes			\$55,378	\$55,378			\$55,378	\$55,378				\$0		
<b>Salary increase - Performance</b>			<b>0</b>	<b>0</b>								0		
Health insurance increase			102,885	102,885			102,885	102,885				0		
<b>Employee portion of health insurance</b>			<b>(52,398)</b>	<b>(52,398)</b>							52,398	52,398		
Adjusts funding for operating expense			23,000	23,000			23,000	23,000				0		
Adjusts funding for temporary salaries			(60)	(60)			(60)	(60)				0		
Adds funding for office remodel			30,000	30,000			30,000	30,000				0		
<b>Remove 1 FTE position</b>	<b>(1.00)</b>		<b>(150,000)</b>	<b>(150,000)</b>	(1.00)		(150,000)	(150,000)				0		
Remove funding for desktop support services			0	0			(75,580)	(75,580)			(75,580)	(75,580)		
Reduce postage, printing, and supplies and requiring ACH payments			0	0			(16,900)	(16,900)			(16,900)	(16,900)		
Reduce printing and postage costs for newsletters			0	0			(59,504)	(59,504)			(59,504)	(59,504)		
Reduce printing and postage costs for annual benefit statements			0	0			(66,440)	(66,440)			(66,440)	(66,440)		
Reduce hosting costs for the mobile app			0	0			(43,000)	(43,000)			(43,000)	(43,000)		
Total ongoing funding changes			(1.00)	\$0			(1.00)	\$0			0.00	\$0	(\$209,026)	(\$209,026)
One-time funding items														
No one-time funding items				\$0								\$0		
Total one-time funding changes			0.00	\$0			0.00	\$0			0.00	\$0	\$0	\$0
<b>Total Changes to Base Level Funding</b>											0.00	\$0	(\$209,026)	(\$209,026)
2017-19 Total Funding			33.50	\$0			33.50	\$0			0.00	\$0	(\$209,026)	(\$209,026)
											-2.2%	-2.2%		

Other Sections in Public Employees Retirement System - Budget No. 192

	(Changes to Dalrymple Budget in Bold)	House Version
Health insurance increase		Section 3 provides the appropriation in section 1 includes \$102,885 from other funds for increases in employee health insurance premiums from \$1,130 to \$1,249 per month.
Contingencies line item transfers	Section 3 provides, upon approval of the Public Employees Retirement System Board, the Public Employees Retirement System office may transfer from the contingencies line item in section 1 of the bill to all other line items.	Section 4 provides, upon approval of the Public Employees Retirement System Board, the Public Employees Retirement System office may transfer from the contingencies line item in section 1 of the bill to all other line items.

Other Sections in Public Employees Retirement System - Budget No. 192

(Changes to Dalrymple Budget in Bold)

House Version

Use of electronic transfers of funds	Section 5 amends North Dakota Century Code Section 54-52-04 to require the board to establish policies to implement procedures to make and collect payments in the most cost-effective manner, including use of electronic transfers of funds.
Centralized desktop support services	Section 6 amends section 54-59-22.1 to remove the Public Employees Retirement System from the list of state agencies required to obtain centralized desktop support services from the Information Technology Department.
Discontinuation of paper copies of newsletters	Section 7 adds legislative intent language that the department discontinue printing and mailing paper copies of newsletters, and that the department post all newsletters electronically on the department's website.
Discontinuation of paper copies of annual benefit statements	Section 8 adds legislative intent language that the department discontinue printing and mailing paper copies of annual benefit statements for active and retired members, and that the department ensure all members are able to access the annual benefit statements online through member self service.

February 10, 2017

HB1023 / HB1083

attachment C

17.0508.01002

Title.

Prepared by the Legislative Council staff for  
Representative Carlson

February 3, 2017

#### PROPOSED AMENDMENTS TO HOUSE BILL NO. 1023

Page 1, line 2, after the semicolon insert "to limit the use of health insurance program reserves;"

Page 2, after line 2, insert:

#### **"SECTION 4. HEALTH INSURANCE RESERVE FUND - LIMITATIONS.**

Notwithstanding any other provision of law, the public employees retirement system board may not spend any moneys in the fund created under section 54-52.1-06 or from any other source for the purpose of reducing uniform group insurance premium amounts for the biennium beginning July 1, 2017, and ending June 30, 2019."

Renumber accordingly

#### **STATEMENT OF PURPOSE OF AMENDMENT:**

This amendment adds a section prohibiting the use of health insurance reserve funds for reducing health insurance premiums.

February 10, 2017

HB1023/HB1083 Attachment D

17.0508.01001

Title.

Prepared by the Legislative Council staff for  
Representative Carlson

February 8, 2017

### PROPOSED AMENDMENTS TO HOUSE BILL NO. 1023

Page 1, line 2, replace "and" with "to provide a continuing appropriation;"

Page 1, line 2, after "transfer" insert "; and to amend and reenact subdivision j of subsection 2 of section 12-60-24, paragraph 4 of subdivision a of subsection 4 of section 15-10-17, sections 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, subsection 2 of section 39-03.1-09, sections 39-03.1-10.1, 39-03.1-10.2, 39-03.1-11, 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, 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 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, 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, 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, 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, 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, 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, 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, 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, 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, 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, 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, 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, 54-52.6-18, 54-52.6-19, 54-52.6-20, and 54-52.6-21 of the North Dakota Century Code, relating to the public employees retirement board, the public employees retirement system, and the membership of the employee benefits programs committee"

Page 2, after line 2, insert:

**"SECTION 4. AMENDMENT.** Subdivision j of subsection 2 of section 12-60-24 of the North Dakota Century Code is amended and reenacted as follows:

- j. The North Dakota public employees retirement ~~board~~system office for individuals first employed by the public employees retirement ~~board~~system office after July 31, 2005, who have unescorted physical access to the office or any security-sensitive area of the office as designated by the executive director.

**SECTION 5. AMENDMENT.** Paragraph 4 of subdivision a of subsection 4 of section 15-10-17 of the North Dakota Century Code is amended and reenacted as follows:

- (4) Employees of the university system who are members of the public employees retirement system under chapter 54-52 or 54-52.6 and who become entitled to participate in the alternate retirement program are entitled to a special annuity purchase in the alternate retirement program in accordance with this subdivision. An eligible employee who consents to have that employee's contribution included is entitled to have that employee's contribution and employer's contribution, with

interest, in the public employees retirement system fund, used by the ~~retirement board of the~~ public employees retirement system office to purchase for that employee an annuity in the alternate retirement program in lieu of any other rights under the public employees retirement fund. However, before the employer's contribution may be used for an annuity purchase, the employee's combined years of service with the public employees retirement system and the alternate retirement program must equal or exceed the years of service necessary to be eligible for retirement benefits under the public employees retirement system. An employee who transferred from the public employees retirement system before March 30, 1987, and who received a refund of that employee's contribution is entitled to have the employer's contribution, with interest, used to purchase an annuity even if that employee did not purchase an annuity in the alternate employee program with the employee's contribution. If an employee makes the election allowed under this subdivision, that employee relinquishes all rights the employee or any of the employee's beneficiaries may have had to benefits provided under chapters 54-52 and 54-52.6.

**SECTION 6. AMENDMENT.** Section 21-10-01 of the North Dakota Century Code is amended and reenacted as follows:

**21-10-01. State investment  
board - Membership - Term - Compensation - Advisory council.**

1. The North Dakota state investment board consists of the governor, the state treasurer, the commissioner of university and school lands, the director of workforce safety and insurance, the insurance commissioner, three members of the teachers' fund for retirement board or the board's designees who need not be members of the fund as selected by that board, two of the elected members of the public employees retirement system advisory board as selected by that board, and ~~one member of the public employees retirement system board as selected by that board~~office executive director or the director's designee. The director of workforce safety and insurance may appoint a designee, subject to approval by the workforce safety and insurance board of directors, to attend the meetings, participate, and vote when the director is unable to attend. The teachers' fund for retirement board may appoint an alternate designee with full voting privileges to attend meetings of the state investment board when a selected member is unable to attend. The public employees retirement system advisory board may appoint an alternate designee with full voting privileges from the public employees retirement system advisory board to attend meetings of the state investment board when a selected member is unable to attend. The members of the state investment board, except elected and appointed officials and the director of workforce safety and insurance or the director's designee and the public employees retirement system executive director, are entitled to receive as compensation one hundred forty-eight dollars per day and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09 for attending meetings of the state investment board.

2. The state investment board may establish an advisory council composed of individuals who are experienced and knowledgeable in the field of investments. The state investment board shall determine the responsibilities of the advisory council. Members of the advisory council are entitled to receive the same compensation as provided the members of the advisory board of the Bank of North Dakota and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09.

**SECTION 7. AMENDMENT.** Section 39-03.1-01 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-01. Definitions.**

In this chapter, unless the context or subject matter otherwise requires:

1. "Accumulated deductions" means the total of the amounts deducted from the salary of a contributor and paid into the fund, and standing to the contributor's credit in the fund, and interest credited on those amounts at a rate established by the boardoffice.
2. "~~Board~~" means the North Dakota public employees retirement board.
3. "Contributor" means any person who is a member of the North Dakota highway patrol, is subject to salary deductions to support the fund, and is employed on or after July 1, 1981.
- 4.3. "Fund" means the North Dakota highway patrolmen's retirement fund.
4. "Office" means the public employees retirement system office.
5. "Patrol" means the North Dakota highway patrol.
6. "Salary" means the actual dollar compensation, excluding any bonus, overtime, or expense allowance, paid to or for a contributor for the contributor's services.
7. "Surviving spouse" means that person lawfully married to the contributor at the time of the contributor's death.

**SECTION 8. AMENDMENT.** Section 39-03.1-04 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-04. Administrative expenses.**

The expense of the administration of this chapter, exclusive of the payment of retirement allowances and other benefits, must be paid by the state of North Dakota, by appropriation out of the highway patrol fund, made on the basis of budgets submitted by the boardoffice.

**SECTION 9. AMENDMENT.** Section 39-03.1-06 of the North Dakota Century Code is amended and reenacted as follows:

### **39-03.1-06. Rules and regulations - Actuarial data.**

The ~~board~~office shall, from time to time, establish such rules and regulations for the administration of this chapter as may be deemed necessary. It shall cause to be made periodic actuarial investigations into the mortality and service experience of the contributors to and the beneficiaries of the fund.

**SECTION 10. AMENDMENT.** Section 39-03.1-07 of the North Dakota Century Code is amended and reenacted as follows:

#### **39-03.1-07. Membership.**

Except as otherwise provided, each member of the patrol, including the superintendent and assistant superintendent, shall contribute to the fund, and is eligible to nominate and vote for members of the public employees retirement system advisory board. Personnel of the truck regulatory division of the state highway department transferred to the highway patrol after July 1, 1983, are not required to contribute to the fund. They are members of the public employees retirement system and social security system.

**SECTION 11. AMENDMENT.** Section 39-03.1-08.1 of the North Dakota Century Code is amended and reenacted as follows:

#### **39-03.1-08.1. Purchase of legislative service credit.**

A contributor may, prior to retirement, purchase service credit for the time during each legislative session spent serving as a member of the legislative assembly while a member of the fund. The contributor shall pay for the service credit an amount equal to the required member contributions and the state contributions for that period of time plus interest as established by the ~~board~~office. Service credit for legislative sessions prior to July 1, 1985, must be purchased before January 1, 1986. Service credit for each later legislative session must be purchased within one year after the adjournment of that legislative session.

**SECTION 12. AMENDMENT.** Section 39-03.1-08.2 of the North Dakota Century Code is amended and reenacted as follows:

#### **39-03.1-08.2. Purchase of additional service credit.**

1. The fund may accept rollovers from other eligible plans under rules adopted by the board for the purchase of additional service credit, but only to the extent the transfer is a rollover contribution that meets the requirement of section 408 of the Internal Revenue Code [26 U.S.C. 408].
2. The ~~board~~office may accept trustee-to-trustee transfers as permitted by Internal Revenue Code section 403(b)(13) and section 457(e)(17) from an Internal Revenue Code section 403(b) annuity or Internal Revenue Code section 457 deferred compensation plan for the purchase of permissive service credit, as defined in Internal Revenue Code section 415(n)(3)(A), or as repayment of a cashout from a governmental plan under Internal Revenue Code section 415(k)(3).
3. A contributor may elect to purchase credit for years of service and prior service for which the contributor is not presently receiving credit. A contributor is entitled to purchase additional credit under this section for

the following service or prior service, except this service is not eligible for credit if the years claimed also qualify for retirement benefits from another retirement system:

- a. Except as provided in subsection 3 of section 39-03.1-10.1, up to four years of credit for active employment in the armed forces of the United States.
  - b. Employment as a permanent employee by a public employer either within or outside the state.
  - c. Employment as a permanent employee by the federal government.
4. A contributor may elect to purchase credit for the following absences for which the participating contributor is not receiving service credit:
    - a. Employer-approved leave of absence; and
    - b. Months away from work while participating as a seasonal employee.
  5. The contributor may purchase credit under this section by paying to the boardoffice an amount equal to the actuarial cost to the fund of providing the credit. The boardoffice shall adopt rules governing the purchase of additional credit under this section.
  6. The boardoffice may establish individual retirement accounts and individual retirement annuities as permitted under section 408(q) of the Internal Revenue Code to allow employees to make voluntary employee contributions. The boardoffice may adopt appropriate rules as may be necessary to implement and administer the accounts and annuities under this section.
  7. In addition to service credit identified in this section, a contributor may purchase up to five years of service credit.
  8. Pursuant to rules adopted by the boardoffice, the boardoffice may allow a contributor to purchase service credit with either pretax or aftertax moneys, at the board's discretion of the office. If a contributor elects to purchase service credit using pretax moneys, the requirements and restrictions in subsection 2 of section 39-03.1-09 apply to the purchase arrangement.

SECTION 13. AMENDMENT. Subsection 2 of section 39-03.1-09 of the North Dakota Century Code is amended and reenacted as follows:

2. The state of North Dakota, at its option, may pay the member contributions required by subsection 1 for all compensation earned after June 30, 1983, and may pay the member contributions required to purchase service credit on a pretax basis pursuant to subsection 8 of section 39-03.1-08.2. The amount paid must be paid by the state in lieu of contributions by the member. A member may not receive the contributed amounts directly once the employer has elected to pay the member contributions. If the state decides not to pay the contributions, the amount that would have been paid will continue to be deducted from compensation. If contributions are paid by the state, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the state, they must not be

included as gross income of the member in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The state shall pay these member contributions from the same source of funds used in paying compensation to the members. The state shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a combination of a reduction in gross salary and offset against future salary increases. If member contributions are paid by the state, they must be treated for the purposes of this chapter in the same manner and to the same extent as member contributions made prior to the date the contributions were assumed by the state. The option given employers by this subsection must be exercised in accordance with rules adopted by the boardoffice.

**SECTION 14. AMENDMENT.** Section 39-03.1-10.1 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-10.1. Refund and repurchase of contributions.**

Except as provided in section 39-03.1-10.3, a contributor whose employment has been terminated for at least thirty days is entitled to a refund of or to repurchase contributions as follows:

1.
  - a. If the contributor has less than ten years of service at termination of employment, the refund is payable either on application of the contributor or is automatically payable if within thirty days after termination the contributor has not provided a written statement to the boardoffice waiving the refund and requesting the contributor's account remain in the fund and the contributor has an account balance of less than one thousand dollars.
  - b. If the contributor has at least ten years of service at the date of termination, the contributor may apply for a refund of accumulated deductions instead of retirement benefits. By receiving the refund of accumulated deductions under this subdivision, the contributor forfeits all months of service to the date of refund and cannot use those months for any future benefit calculations.
2. A contributor who was paid a refund under subdivision a of subsection 1 may, upon re-employment, elect to repurchase the forfeited past service for the retirement program and the retiree health benefits program in accordance with the rules adopted by the boardoffice.

**SECTION 15. AMENDMENT.** Section 39-03.1-10.2 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-10.2. Employer service purchases.**

An employer may purchase additional service credit on behalf of a contributor under the following conditions:

1. The contributor may not be given the option to choose between an employer service purchase and an equivalent amount paid in cash.

2. The contributor must meet one of the following conditions at the time the purchase is made:
  - a. The contributor's age plus service credit must be equal to or greater than seventy; or
  - b. The contributor's age must be at least fifty and the contributor must have at least ten years of service credit.
3. The boardoffice must determine the purchase price on an actuarially equivalent basis.
4. The purchase must be completed before the contributor's retirement.
5. The employer may purchase a maximum of five years of service credit on behalf of the contributor.
6. The employer must pay the purchase price for the service credit purchased under this section in a lump sum.

**SECTION 16. AMENDMENT.** Section 39-03.1-11 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-11. Retirement benefit.**

Each contributor whose employment with the highway patrol has been terminated may apply to the boardoffice for retirement benefits according to this section and rules adopted by the boardoffice consistent with this chapter. The following procedures apply:

1. A contributor is entitled to credit for permanent employment or its equivalent from the date eligibility is attained until normal or postponed retirement date, as described in subsection 3.
2. Retirement benefits are based on the contributor's final average salary. Final average salary is the average of the highest salary received by the contributor for any thirty-six months employed during the last one hundred twenty months of employment. For contributors who terminate employment on or after August 1, 2010, final average salary is the average of the highest salary received by the contributor for any thirty-six months employed during the last one hundred eighty months of employment. For contributors who terminate employment between July 31, 2005, and August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the period for which the boardoffice has appropriate and accurate salary records on its electronic database, but that period may not be more than the last one hundred eighty months of employment. Months not employed or months in which employment was not as a permanent employee are excluded in arriving at the thirty-six months to be used for the purpose of computing an average. If the contributor has worked for less than thirty-six months at the postponed retirement date, the final average salary is the average salary for all months of employment.
3. Retirement dates are as follows:

- a. Early retirement date is the first day of the month next following the month in which the contributor attains the age of fifty years and has completed at least ten years of eligible employment.
  - b. Normal retirement date is:
    - (1) The first day of the month next following the month in which the contributor attains the age of fifty-five years and has completed at least ten years of eligible employment; or
    - (2) When the contributor has a combined total of years of service credit and years of age equal to eighty and has not received a retirement benefit under this chapter.
  - c. Postponed retirement date is the first day of the month next following the month in which the contributor attains the age of sixty years.
  - d. Disability retirement date is the first day of the month after a contributor becomes permanently and totally disabled, according to medical evidence called for under the rules of the boardoffice, and has completed at least one hundred eighty days of employment.
4. The boardoffice shall calculate retirement benefits as follows:
- a. Normal retirement benefits for all contributors reaching the normal retirement date are payable monthly, and are:
    - (1) The first twenty-five years of credited service multiplied by three and sixty hundredths percent of final average salary.
    - (2) All years in excess of twenty-five years of credited service multiplied by one and three-fourths percent of final average salary.
    - (3) All contributors who retired before August 1, 2001, or their beneficiaries, are entitled to receive benefits equal to three and sixty hundredths percent of final average salary multiplied by the first twenty-five years of credited service, plus one and three-fourths percent of final average salary multiplied by credited service in excess of twenty-five years, with the increased benefits payable beginning August 1, 2001.
  - b. Early retirement benefits are normal retirement benefits accrued to the date of termination of employment, but actuarially reduced to account for benefit payments beginning before the normal retirement date.
  - c. Postponed retirement benefits, for all contributors reaching the postponed retirement date, are calculated in the same manner as normal retirement benefits.
  - d. Disability retirement benefits are payable monthly and are:
    - (1) Seventy percent of the contributor's final average salary, reduced by any workforce safety and insurance benefits paid. The minimum monthly disability retirement benefit under this subsection is one hundred dollars.

- (2) An individual or that person's beneficiary who, on July 31, 2001, is receiving a disability retirement benefit is entitled to receive an increase in benefits equal to six percent of the individual's present benefits, with the increase payable beginning August 1, 2001.
5. On termination of employment after completing ten years of eligible employment but before the normal retirement date, a contributor who does not elect to receive early retirement benefits is eligible to receive deferred vested retirement benefits. The deferred benefits are payable beginning on the contributor's normal retirement date in one of the forms provided in this section. Contributors who have delayed or inadvertently failed to apply for retirement benefits to commence on their normal retirement date may choose to receive either a lump sum payment equal to the amount of missed payments, or an actuarial increase to the form of benefit the member has selected, which increase must reflect the missed payments. The final average salary used for calculating deferred vested retirement benefits must be increased annually, from the later of the date of termination of employment or July 1, 1991, until the date the contributor begins to receive retirement benefits from the fund, at a rate as determined by the boardoffice not to exceed a rate that would be approximately equal to annual salary increases provided state employees pursuant to action by the legislative assembly.
6. If before retiring a contributor dies after completing ten years of eligible employment, the boardoffice shall pay the contributor's accumulated deductions to the contributor's designated beneficiary as provided in this subsection. If the contributor has designated an alternate beneficiary with the surviving spouse's written consent, the boardoffice shall pay the contributor's account balance to the named beneficiary. If the contributor has named more than one primary beneficiary, the boardoffice shall pay the contributor's account balance to the named primary beneficiaries in the percentages designated by the contributor or, if the contributor has not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the contributor, the boardoffice shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If there are no remaining primary beneficiaries, the boardoffice shall pay the contributor's account balance to the contingent beneficiaries in the same manner. If there are no remaining designated beneficiaries, the boardoffice shall pay the contributor's account balance to the contributor's estate. If the contributor has not designated an alternate beneficiary under this section or the surviving spouse is the beneficiary, the surviving spouse of the contributor may select one of the following optional forms of payment:
- a. A lump sum payment of the contributor's accumulated deductions as of the date of death.
  - b. Payment of a monthly retirement benefit equal to fifty percent of the deceased contributor's accrued normal retirement benefits until the spouse dies.
7. If a contributor not eligible for the benefits of subsection 6 terminates employment for any reason before retirement, the contributor or the

contributor's designated beneficiary is entitled to the contributor's accumulated deductions at termination.

8. The surviving spouse of a member receiving retirement benefits must be the member's primary beneficiary unless there is no surviving spouse or the surviving spouse designates an alternate beneficiary in writing. If a contributor receiving retirement benefits, or a contributor's surviving spouse receiving retirement benefits, dies before the total amount of benefits paid to them equals the amount of the contributor's accumulated deductions at retirement, the difference must be paid to the named beneficiary of the recipient or, if there is no named beneficiary, to the recipient's estate.
9. The ~~board~~office shall adopt rules providing for the receipt of retirement benefits in the following optional forms:
  - a. An actuarially equivalent joint and survivor one hundred percent option.
  - b. An actuarially equivalent life with ten-year or twenty-year certain options.
  - c. An actuarially equivalent partial lump sum distribution option with a twelve-month maximum lump sum distribution.
  - d. An actuarially equivalent graduated benefit option with either a one percent or two percent increase to be applied the first day of January of each year.

Unless a contributor requests that the contributor receive benefits according to one of these options at the time of applying for retirement, all retirement benefits must be in the form of a lifetime monthly pension, with a fifty percent option to the surviving spouse.

**SECTION 17. AMENDMENT.** Section 39-03.1-11.2 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-11.2. Internal Revenue Code compliance.**

The ~~board~~office 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 benefits from all the plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. If the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. This reduction must be made pro rata between the plans, in proportion to the participating member's service in each plan.
2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirements under section 401(a)(9)(G), and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. A member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.
  3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
  4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
  5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.

**SECTION 18. AMENDMENT.** Section 39-03.1-11.3 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-11.3. Supplemental retiree benefit payment.**

If the boardoffice determines that the fund has obtained a total return on investments of nine and six hundredths percent or higher for the fiscal year ending June 30, 2007, or June 30, 2008, the boardoffice shall authorize an additional payment equal to seventy-five percent of the January retirement allowance following the fiscal yearend to each eligible retiree in pay status as of that January, including joint and

survivor and term certain beneficiaries, under this chapter. The ~~board~~office may only make one payment under this section.

**SECTION 19. AMENDMENT.** Section 39-03.1-14.1 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-14.1. Multiple plan membership - Eligibility for benefits - Amount of benefits.**

1. For the purpose of determining eligibility for benefits under this chapter, a member's years of service is the total of the years of service earned under this chapter and the years of service employment or years of service credit earned in any number of the following, the total of which may not exceed twelve months of credit per year:
  - a. The public employees retirement system.
  - b. The teachers' fund for retirement.
  - c. 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.
2. If a member terminates eligible employment under this chapter, if that member has not received a refund of the member's accumulated deductions, and if that member begins eligible employment in a plan described in subdivision a or b of subsection 1, that member may elect to remain an inactive member of the system without refund of the member's accumulated deductions. The election must be made within ninety days after beginning the eligible employment. The ~~board~~office shall terminate the inactive status of a member under this subsection if the member gains eligible employment under this chapter or if the member terminates eligible employment under a plan described in subdivision a or b of subsection 1.
3. Pursuant to rules adopted by the ~~board~~office, a member who has service credit in the system and in any of the alternate plans described in subdivision a or b of subsection 1 is entitled to benefits under this chapter. The employee may elect to have benefits calculated using the benefit formula in section 39-03.1-11 under either of the following calculation methods:
  - a. By using the final average salary as calculated in section 39-03.1-11. 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.
  - b. Using the final average salary as calculated in section 39-03.1-11, with service credit not to exceed one month in any month when combined with the service credit earned in the alternate retirement system.

The ~~board~~office shall calculate benefits for an employee under this subsection by using only those years of service employment earned under this chapter.

**SECTION 20. AMENDMENT.** Section 39-03.1-14.2 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-14.2. Benefit payments to alternate payee under qualified domestic relations order.**

1. The ~~board~~office shall pay retirement benefits in accordance with the applicable requirements of any qualified domestic relations order. The ~~board~~office shall review a domestic relations order submitted to it to determine if the domestic relations order is qualified under this section and under rules established by the ~~board~~office for determining the qualified status of domestic relations orders and administering distributions under the qualified orders. Upon determination that a domestic relations order is qualified, the ~~board~~office shall notify the contributor and the named alternate payee of its receipt of the qualified domestic relations order.
2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of a contributor, is made pursuant to a North Dakota domestic relations law, and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of the benefits payable to the contributor. A qualified domestic relations order may not require the ~~board~~office to provide any type or form of benefit, or any option, not otherwise provided under the retirement system, or to provide increased benefits as determined on the basis of actuarial value. However, a qualified domestic relations order may require the payment of benefits at the early retirement date notwithstanding that the contributor has not terminated eligible employment. A qualified domestic relations order must specify:
  - a. The name and the last-known mailing address of the contributor and the name and mailing address of each alternate payee covered by the order;
  - b. The amount or percentage of the contributor's benefits to be paid by the plan 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 21. AMENDMENT.** Section 39-03.1-25 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-25. Fraud - Correction of errors.**

No person may knowingly make any false statement, or may falsify or permit to be falsified any record or records of the retirement system herein established in any attempt to defraud such system. Should any such change in records fraudulently made or any mistake in records inadvertently made result in any contributor or other beneficiary receiving more or less than the person would have been entitled to had the records been correct, then, on the discovery of such error, the ~~board~~office shall correct such error and shall adjust the payments which shall be made to the contributor in such manner that the benefit to which the contributor was correctly entitled shall be paid.

**SECTION 22. AMENDMENT.** Section 39-03.1-28 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-28. Confidentiality of records.**

All records relating to the retirement benefits of a member or a beneficiary under this chapter are confidential and are not public records. The information and records may be disclosed, under rules adopted by the boardoffice only to:

1. A person to whom the member has given written consent to have the information disclosed.
2. A person legally representing the member, upon proper proof of representation, and unless the member specifically withdraws consent.
3. A person authorized by a court order.
4. A member's participating employer, limited to information concerning the member's years of service credit and years of age. The boardoffice may share other types of information as needed by the employer to validate the employer's compliance with existing state or federal laws. Any information provided to the member's participating employer under this subsection must remain confidential except as provided under subsection 6.
5. The administrative staff of the retirement and investment office for purposes relating to membership and benefits determination.
6. State or federal agencies for purposes of reporting on a service provider's provision of services or when the employer must supply information to an agency to validate the employer's compliance with existing state or federal laws.
7. Member interest groups approved by the boardoffice on a third-party blind list basis, limited to information concerning the member's participation, name, and address.
8. The member's spouse or former spouse, that individual's legal representative, and the judge presiding over the member's dissolution proceeding for purposes of aiding the parties in drafting a qualified domestic relations order under section 39-03.1-14.2. The information disclosed under this subsection must be limited to information necessary for drafting the order.
9. Beneficiaries designated by a participating member or a former participating member to receive benefits after the member's death, but only after the member's death. Information relating to beneficiaries may be disclosed to other beneficiaries of the same member.
10. Any person if the boardoffice determines disclosure is necessary for treatment, operational, or payment purposes, including the completion of necessary documents.
11. The general public, but only after the boardoffice has been unable to locate the member for a period in excess of two years, and limited to the

member's name and the fact that the ~~board~~office has been unable to locate the member.

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 under section 39-03.1-10.2, 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 23. AMENDMENT.** Section 39-03.1-29 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-29. Savings clause - Plan modifications.**

If the ~~board~~office determines that any section of this chapter does not comply with applicable federal statutes or rules, the ~~board~~office shall adopt appropriate terminology with respect to that section as will comply with those federal statutes or rules, subject to the approval of the employee benefits programs committee. Any plan modifications made by the ~~board~~office pursuant to this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

**SECTION 24. AMENDMENT.** Section 52-11-01 of the North Dakota Century Code is amended and reenacted as follows:

**52-11-01. Retirement for certain state employees.**

1. The North Dakota national guard is authorized to establish an employee retirement program by contract with an insurance company, state or national bank and trust company, or an investment company, authorized under the law to do business in this state, the state investment board, or the North Dakota public employees retirement system office. Except for a retirement program established under chapter 54-52, the North Dakota national guard shall prepare specifications of the terms of the retirement program which must be submitted to not less than three companies or agencies with a request for bids upon the retirement program contracts. After the submission of at least three bids, the adjutant general shall compare the bids, and with the approval of the governor, shall execute a contract for the retirement program with the company or agency submitting the lowest and best bid. The public employees retirement system ~~board~~ is ~~authorized to~~office may administer the retirement plan established in 1961 and frozen to new entrants in 1980 for employees of job service North Dakota. The public employees retirement system ~~board~~office shall fund the administrative expenses of administering that retirement plan from the funds in that plan.
2. The employing agency shall be authorized to withhold the employee's share of the contributions required under such retirement program from the

salary paid each employee of such agency. The amount of such withholding must be an adjustable percentage rate of the employee's salary sufficient to provide financing of the required employee's contributions to such retirement plan as such plan was originally contracted and as it has been or will be amended, provided that such percentage rate may not exceed the percentage rate which may be fixed for withholding from federal employees for employee contributions to the federal retirement program under civil service. The employing agency shall be authorized to pay a sum as prescribed in the program contract toward the cost of such retirement program, which sum may not be in excess of the amount approved by the appropriate federal agency supervising the payment or reimbursement of salary and retirement program costs. The amount withheld from the wages due an employee and the amount to be paid by the employing agency must be paid to the company holding such retirement program contract in accordance with the terms of such contract.

3. The employing agency's share of the costs of such retirement program must be paid from any funds made available to it for this purpose by the United States government, and in the case of employees of such agencies for whom the state does not receive federal payments for salary costs, such employer's share may be made from any appropriations made available for the purpose of paying such salaries. Payments may be made for prior service of employees in accordance with the terms of the retirement program contract and in accordance with the availability of funds. The contract must specify the terms and conditions under which employee contributions may be withdrawn from the program and for the crediting of the employer's contributions to future payments due from the employing agency. Provision may be made in the contract for optional payment of benefits to survivors of covered employees. Each agency participating in the retirement program shall be authorized to do all things necessary for the proper administration of the program, but no benefits payable under the terms of the retirement program contract shall ever become an obligation of the state.

**SECTION 25. AMENDMENT.** Section 54-35-02.3 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-02.3. Employee benefits programs  
committee - Appointment - Selection of chairman.**

The legislative management, during each biennium, shall appoint an employee benefits programs committee in the same manner as the legislative management appoints other interim committees. The legislative management shall appoint seven members of the house of representatives and six members of the senate to the committee. The legislative management shall designate the chairman of the committee. The three elected employee members of the retirement system advisory board shall serve as nonvoting members of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees. The public employees retirement system office shall pay the per diem and expenses of the three nonvoting members.

**SECTION 26. AMENDMENT.** Section 54-52-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-01. (Effective through July 31, 2017) Definition of terms.**

As used in this chapter, unless the context otherwise requires:

1. "Account balance" means the total contributions made by the employee, vested employer contributions under section 54-52-11.1, the vested portion of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the ~~board~~office.
2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
3. "Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.
4. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. Eligible employee does not include state employees who elect to become members of the retirement plan established under chapter 54-52.6.
5. "Employee" means any person employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.
6. "Employer" means a governmental unit.
7. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution ~~which the~~ ~~retirement~~ ~~board~~office may select to hold and invest the employers' and members' contributions.
8. "Governmental unit" means the state of North Dakota, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision thereof.
9. "National guard security officer or firefighter" means a participating member who is:
  - a. A security police employee of the North Dakota national guard; or
  - b. A firefighter employee of the North Dakota national guard.
10. "Office" means the public employees retirement system office.

11. "Participating member" means all eligible employees who through payment into the plan have established a claim against the plan.
- 11.12. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the bureau of criminal investigation or by a political subdivision and, notwithstanding subsection 12, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. Participating members of the law enforcement retirement plan created by this chapter who begin employment after August 1, 2005, are ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.
- 12.13. "Permanent employee" means a governmental unit employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least twenty weeks each year of employment.
- 13.14. "Prior service" means service or employment prior to July 1, 1966.
- 14.15. "Prior service credit" means such credit toward a retirement benefit as the ~~retirement board~~office may determine under the provisions of this chapter.
- 15.16. "Public employees retirement system" means the retirement plan and program established by this chapter.
- 16.17. "Retirement" means the acceptance of a retirement allowance under this chapter upon either termination of employment or termination of participation in the retirement plan and meeting the normal retirement date.
- 17.18. "Retirement board" or "board" means the ~~governing authority~~retirement system advisory board created under section 54-52-03.
- 18.19. "Seasonal employee" means a participating member who does not work twelve months a year.
- 19.20. "Service" means employment on or after July 1, 1966.
- 20.21. "Service benefit" means the credit toward retirement benefits as determined by the ~~retirement board~~office under the provisions of this chapter.
- 21.22. "Temporary employee" means a governmental unit employee who is not eligible to participate as a permanent employee, who is at least eighteen years old and not actively contributing to another employer-sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.
- 22.23. "Wages" and "salaries" means the member's earnings in eligible employment under this chapter reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime,

housing allowances, transportation expenses, early retirement incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between the member and participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the ~~board~~office.

**(Effective after July 31, 2017) Definition of terms.** As used in this chapter, unless the context otherwise requires:

1. "Account balance" means the total contributions made by the employee, vested employer contributions under section 54-52-11.1, the vested portion of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the ~~board~~director.
2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
3. "Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.
4. "Director" means the executive director of the public employees retirement system office.
5. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. Eligible employee does not include nonclassified state employees who elect to become members of the retirement plan established under chapter 54-52.6 but does include employees of the judicial branch and employees of the board of higher education and state institutions under the jurisdiction of the board.
- 5.6. "Employee" means any person employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.
- 6.7. "Employer" means a governmental unit.
- 7.8. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution ~~which the retirement board~~the director may select to hold and invest the employers' and members' contributions.

- 8.9. "Governmental unit" means the state of North Dakota, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision thereof.
- 9.10. "National guard security officer or firefighter" means a participating member who is:
- a. A security police employee of the North Dakota national guard; or
  - b. A firefighter employee of the North Dakota national guard.
11. "Office" means the public employees retirement system office.
- 10.12. "Participating member" means all eligible employees who through payment into the plan have established a claim against the plan.
- 11.13. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the bureau of criminal investigation or by a political subdivision and, notwithstanding subsection 12, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. Participating members of the law enforcement retirement plan created by this chapter who begin employment after August 1, 2005, are ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.
- 12.14. "Permanent employee" means a governmental unit employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least twenty weeks each year of employment.
- 13.15. "Prior service" means service or employment prior to July 1, 1966.
- 14.16. "Prior service credit" means such credit toward a retirement benefit as the ~~retirement board~~director may determine under the provisions of this chapter.
- 15.17. "Public employees retirement system" means the retirement plan and program established by this chapter.
- 16.18. "Retirement" means the acceptance of a retirement allowance under this chapter upon either termination of employment or termination of participation in the retirement plan and meeting the normal retirement date.
- 17.19. "Retirement board" or "board" means the ~~seven persons designated by this chapter as the governing authority for the retirement system created~~retirement system advisory board established under section 54-52-03.
- 18.20. "Seasonal employee" means a participating member who does not work twelve months a year.
- 19.21. "Service" means employment on or after July 1, 1966.

- 20.22. "Service benefit" means the credit toward retirement benefits as determined by the ~~retirement board~~director under the provisions of this chapter.
- 21.23. "Temporary employee" means a governmental unit employee who is not eligible to participate as a permanent employee, who is at least eighteen years old and not actively contributing to another employer-sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.
- 22.24. "Wages" and "salaries" means the member's earnings in eligible employment under this chapter reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between the member and participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the ~~board~~office.

**SECTION 27. AMENDMENT.** Section 54-52-02.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-02.1. Political subdivisions authorized to join public employees retirement system.**

1. A political subdivision may, on behalf of its permanent employees, on behalf of its peace officers and correctional officers separately from its other employees, and permanent noncertified employees only in the case of school districts, enter into agreements with the ~~retirement board~~office for the purpose of extending the benefits of the public employees retirement system, as provided in this chapter, to those employees. The agreement may, in accordance with this chapter, contain provisions relating to benefits, contributions, effective date, modification, administration, and other appropriate provisions as the ~~retirement board~~office and the political subdivision agree upon, but the agreement must provide that:
  - a. The political subdivision will contribute on behalf of each eligible employee an amount equal to that provided in section 54-52-06 or 54-52-06.3 for peace officers and correctional officers participating separately from other political subdivision employees.
  - b. A portion of the moneys paid by the political subdivision may be used to pay administrative expenses of the ~~retirement board~~office.
2. Notwithstanding any other provision of law, a political subdivision having an existing police pension plan may merge that plan into the public employees retirement system under rules adopted by and in a manner determined by the ~~board~~office.

3. Notwithstanding any other provision of this chapter, a political subdivision of this state not currently participating in the public employees retirement system may not become a participant in the retirement system until an actuarial study is performed under the direction of the ~~board~~office to calculate the required employer contribution for any past service liability and the required employer contribution must be an amount determined sufficient to amortize and fund any past service liability over a period not to exceed thirty years as determined by the ~~board~~office. Any fees incurred in performing the actuarial study must be paid for by the political subdivision in a manner determined by the ~~board~~office.

**SECTION 28. AMENDMENT.** Section 54-52-02.6 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-02.6. Repurchase of past service upon re-employment.**

An individual who terminates participation in the plan may elect to receive a refund of the member's account balance under subsection 7 of section 54-52-17 and thus forfeit all rights under the retirement plan. An individual upon re-employment may elect to repurchase the forfeited past service for retirement and the retiree health benefits program in accordance with rules established by the ~~board~~office.

**SECTION 29. AMENDMENT.** Section 54-52-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-03. Governing authorityPublic employees retirement system office - Retirement system advisory board.**

1. ~~A state agency~~The public employees retirement system office is hereby created to constitute the governing authority of the public employees retirement system to consist of a board of nine individuals known as the retirement board.
2. A seven-member retirement system advisory board shall advise the director, the governor, and the legislative management in the administration of the public employees retirement system. No more than one elected member of the board may be in the employ of a single department, institution, or agency of the state or in the employ of a political subdivision. An employee of the public employees retirement system office or the state retirement and investment office may not serve on the board.
  1. a. Two members of the legislative assembly must be appointed by the chairman of the legislative management to serve on the board.
    1. (1) If the same political party has the greatest number of members in both the house and senate, one member must be from that majority party and one member from the political party with the next greatest number of members in the house and senate.
    2. (2) If the same political party does not have the greatest number of members in both the house and senate, one member must be from the majority party in the house and one member must be from the majority party in the senate.
  2. b. One member of the board must be appointed by the governor to serve a term of five years. The appointee must be a North Dakota citizen

who is not a state or political subdivision employee and who by experience is familiar with money management. ~~The citizen member is chairman of the board.~~

3. ~~One member of the board must be appointed by the attorney general from the attorney general's legal staff and shall serve a term of five years.~~
4. ~~The state health officer appointed under section 23-01-05 or the state health officer's designee is a member of the board.~~
5.
  - c. Three board members must be elected by and from among the active participating members, members of the retirement plan established under chapter 54-52.6, members of the retirement plan established under chapter 39-03.1, and members of the job service North Dakota retirement plan. Employees who have terminated their employment for whatever reason are not eligible to serve as elected members of the board under this subsection. Board members must be elected to a five-year term pursuant to an election called by the board. Notice of board elections must be given to all active participating members. The time spent in performing duties as a board member may not be charged against any employee's accumulated annual or any other type of leave.
6.
  - d. One board member must be elected by and from among those individuals who are receiving retirement benefits under this chapter. The board shall call the election and must give prior notice of the election to the individuals eligible to participate in the election pursuant to this subsection. The board member shall serve a term of five years.
7.
  - e. The members of the board are entitled to receive one hundred forty-eight dollars per day compensation and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09. This is in addition to any other pay or allowance due the chairman or a member, plus an allowance for expenses they may incur through service on the board.
8.
  - f. A board member shall serve a five-year term and until the board member's successor qualifies. Each board member is entitled to one vote, and ~~five~~four of the ~~nine~~seven board members constitute a quorum. ~~Five~~Four votes are necessary for resolution or action by the board at any meeting.

**SECTION 30. AMENDMENT.** Section 54-52-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-04. Board authorityAuthority - Continuing appropriation.**

1. ~~The board~~public employees retirement system office shall adopt rules necessary to implement this chapter, and to manage the system, subject to the limitations of this chapter. ~~The board has the powers and privileges of a corporation, including the right to sue and be sued in its own name as the board. The venue of all actions in which the board is a party must be Burleigh County, North Dakota.~~

2. The ~~boardgovernor~~ shall appoint an executive director to serve at ~~its the~~ ~~governor's~~ discretion. ~~The executive director shall perform such duties as assigned by the board.~~
3. The ~~boardoffice~~ shall authorize the creation of whatever employ staff it deemsas necessary for sound and economical administration of the system. ~~The executive director shall hire the staff, subject to the approval of the board.~~
4. The ~~boardoffice~~ shall arrange for actuarial and medical advisers for the system. The ~~boardoffice~~ shall causecontract with a qualified, competent actuary to be retained on a consulting basis. The actuary shall make an annual valuation of the liabilities and reserves of the system and a determination of the contributions required by the system to discharge its liabilities and pay the administrative costs under this chapter, and to recommend to the ~~boardoffice~~ rates of employer and employee contributions required, based upon the entry age normal cost method, to maintain the system on an actuarial reserve basis; once every five years make a general investigation of the actuarial experience under the system including mortality, retirement, employment turnover, and other items required by the ~~boardoffice~~, and recommend actuarial tables for use in valuations and in calculating actuarial equivalent values based on such investigation; and perform other duties as may be assigned by the ~~boardoffice~~.
5. The state shall provide the ~~boardoffice~~ with the ~~retirement systems~~ office or offices to be used for the ~~meetings of the board and for the general purposes of the administrative personnel office.~~
6. The funds necessary for paying prior service and service benefits, consultant fees, and making withdrawal payments and refunds are hereby appropriated from the retirement fund for those purposes. The amount necessary to pay the consulting fees and insurance benefits related to the uniform group insurance program is hereby appropriated from the insurance premiums received by the ~~boardoffice~~.
7. The ~~boardoffice~~ shall administer chapters 39-03.1, 54-52.1, and 54-52.2, and may administer other optional employee benefit programs, including a flexible benefits plan, an optional employee short-term disability plan, a long-term care plan, or other optional employee benefit programs as the ~~boardoffice~~ deems appropriate. The ~~boardoffice~~ shall also administer the retirement plan established in 1961 and frozen to new entrants in 1980 for employees of job service North Dakota under chapter 52-11.
8. ~~The board shall annually~~Annually, the office shall report the investment performance of the fund and distribute a copy to each participant.
9. The ~~boardoffice~~ may distribute the employer contribution and applicable interest for any employee of any development foundation associated with a public institution of higher education in this state who may previously have been included in the public employees retirement system while employed by such foundation. Such employee is entitled to have that employee's contribution and the contribution of the development foundation, with interest.

10. The boardoffice may audit any books, papers, accounts, bills, vouchers, and other documents or property of any and all departments, boards, commissions, political subdivisions, financial institutions, contractors, health care organizations, and consultants relating to their participation in services provided to programs administered by the boardoffice.
11. The boardoffice shall fund the administrative expenses of chapter 54-52.2 from funds collected under chapters 54-52, 54-52.1, and 54-52.3 and from fines and fees collected from deferred compensation services providers, including any fees paid for by participant funds, subject to appropriation by the legislative assembly.
12. Except as provided by section 54-52-17.7, the boardoffice may adjust service and make any correction of member, retiree, or beneficiary records and benefits after an error or inequity has been determined.
13. The boardSubject to appropriation, the office may use any amount credited to the separate uniform group insurance program fund created by section 54-52.1-06 in excess of the costs of administration of the uniform group insurance program to reduce the amount of premium amounts paid monthly by enrolled members of the uniform group insurance program, to reduce any increase in premium amounts paid monthly by enrolled members, or to provide increased insurance coverage to the members, as the boardoffice may determine.
14. The boardoffice may create and implement an Internal Revenue Code section 115 trust health care savings plan for all supreme and district court judges participating in the public employees retirement system if seventy-five percent of the total active participating supreme and district court judges vote to approve the program. If approved, the contribution level specified in the vote applies to all current and future participating supreme and district court judges and must be paid pursuant to the plan document developed by the boardoffice. The contribution level may only be changed by a vote of seventy-five percent of the total active participating supreme and district court judges at that time.

SECTION 31. AMENDMENT. Subsection 3 of section 54-52-05 of the North Dakota Century Code is amended and reenacted as follows:

3. Each employer, at its option, may pay all or a portion of the employee contributions required by subsection 2 and sections 54-52-06.1, 54-52-06.2, 54-52-06.3, and 54-52-06.4 or the employee contributions required to purchase service credit on a pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not receive the contributed amounts directly once the employer has elected to pay the employee contributions. The amount paid must be paid by the employer in lieu of contributions by the employee. If the state determines not to pay the contributions, the amount that would have been paid must continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the employer, they may not be included as gross income of the employee in determining tax treatment under this code and the Internal Revenue Code until they are distributed or

made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee or from the levy authorized by subsection 5 of section 57-15-28.1. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a contribution of a reduction in gross salary and offset against future salary increases. If employee contributions are paid by the employer, they must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made prior to the date on which employee contributions were assumed by the employer. An employer exercising its option under this subsection shall report its choice to the boardoffice in writing.

**SECTION 32. AMENDMENT.** Section 54-52-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06. Employer's contribution to retirement plan.**

Each governmental unit shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Governmental unit contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. 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 boarddirector 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 33. AMENDMENT.** Section 54-52-06.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06.2. Contribution by national guard security officers or firefighters - Employer contribution.**

Each national guard security officer or firefighter who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Member contributions increase by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2014. Effective August 1, 2015, each national guard security officer or firefighter who is a participating member of the plan under this section becomes a participating member of the plan under section 54-52-06.4 and the ~~board~~office shall thereafter manage any account balance associated with those participating members under section 54-52-06.4. After July 31, 2015, a new eligible employee may not become a participating member of the plan under this section. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The national guard security officer's or firefighter's employer shall contribute an amount determined by the ~~board~~office to be actuarially required to support the level of benefits specified in section 54-52-17. The employer's contribution must be paid from funds appropriated for salary or from any other funds available for such purposes. If the security officer's or firefighter's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required national guard security officer's or firefighter's assessment.

**SECTION 34. AMENDMENT.** Section 54-52-06.3 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06.3. Contribution by peace officers and correctional officers employed by political subdivisions - Employer contribution.**

Each peace officer or correctional officer employed by a political subdivision that enters into an agreement with the ~~retirement~~ ~~board~~office on behalf of its peace officers and correctional officers separately from its other employees and who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Peace officer or correctional officer contributions increase by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2014. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's or correctional officer's employer shall contribute an amount determined by the ~~board~~office to be actuarially required to support the level of benefits specified in section 54-52-17. If the peace officer's or correctional officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace officer's or correctional officer's assessment.

**SECTION 35. AMENDMENT.** Section 54-52-06.4 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06.4. Contribution by peace officers employed by the bureau of criminal investigation or security officers employed by the national guard - Employer contribution.**

Each peace officer employed by the bureau of criminal investigation who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Peace officer contributions increase by one percent of the member's monthly salary 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. Effective August 1, 2015, each national guard security officer who is a member of the public employee's retirement system is assessed and monthly shall pay six percent of the employee's monthly salary. National guard security officer contributions decrease by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2016. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's or security officer's employer shall contribute an amount determined by the boardoffice to be actuarially required to support the level of benefits specified in section 54-52-17. The employer's contribution must be paid from funds appropriated for salary or from any other funds available for such purposes. If the peace officer's or security officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace officer's or security officer's assessment.

**SECTION 36. AMENDMENT.** Section 54-52-10 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-10. Allocation of funds.**

The boardoffice shall maintain such funds and accounts as may be necessary to administer the provisions of this chapter. Any and all expenses incurred by or for the operation of the retirement plan must be paid from the funds contributed pursuant to sections 54-52-06 and 54-52-06.1.

**SECTION 37. AMENDMENT.** Section 54-52-10.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-10.1. Payment of benefits and other costs.**

The boardoffice shall use funds under ~~its~~the control of the office both before and after July 1, 1977, to administer this chapter and pay benefits authorized by this chapter.

**SECTION 38. AMENDMENT.** Section 54-52-11.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-11.1. Vesting of employer contributions.**

Except for supreme and district court judges, who are not eligible for benefits under this section, a member's account balance includes vested employer contributions equal to the member's contributions to the deferred compensation plan for public employees under chapter 54-52.2, or member contributions to other participating employer supplemental Internal Revenue Code section 457 or 403(b) retirement programs as approved by the boardoffice, with the minimum member

contribution being twenty-five dollars. However, the vested employer contribution may not exceed:

1. For months one through twelve of service credit, twenty-five dollars or one percent of the member's monthly salary, whichever is greater.
2. For months thirteen through twenty-four of service credit, twenty-five dollars or two percent of the member's monthly salary, whichever is greater.
3. For months twenty-five through thirty-six of service credit, twenty-five dollars or three percent of the member's monthly salary, whichever is greater.
4. For service exceeding thirty-six months, twenty-five dollars or four percent of the member's monthly salary, whichever is greater.
5. The vested employer contribution may not exceed four percent of the member's monthly salary.

Vested employer contributions must be credited monthly to the member's account balance.

**SECTION 39. AMENDMENT.** Section 54-52-14 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-14. Acceptance of money and property by the board.**

The ~~board~~office may take by gift, grant, devise, or bequest, any money or real or personal property or any other thing of value for the benefit of the employees retirement fund, and when received, said property becomes a part of such fund.

**SECTION 40. AMENDMENT.** Section 54-52-14.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-14.2. Interest and earnings attributable to administered funds.**

All interest and earnings on funds administered by the ~~retirement~~  
~~board~~office established under chapters 39-03.1, 54-52, 54-52.1, 54-52.2, and 54-52.3 must be credited to the respective fund.

**SECTION 41. AMENDMENT.** Section 54-52-16 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-16. Insurance contracts - Trust agreements.**

For the purpose of establishing the funding agent or agents, the ~~board~~office may enter ~~into~~ an insurance contract, agreement, or purchase an insurance policy or policies covering all or any part of the retirement plan adopted, provided the assuring company is a North Dakota corporation or authorized to do business in the state of North Dakota, or may enter ~~into~~ a contract with any qualified trust company or companies, or combinations of insurance contracts and trust contracts.

**SECTION 42. AMENDMENT.** Section 54-52-17 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-52-17. Formulation of plan.**

Participating members shall receive benefits according to this section and according to rules adopted by the boardoffice, not inconsistent with this chapter. No person is entitled to receive a prior service benefit if the person was not continuously employed by a governmental unit in North Dakota for a period of not less than two years immediately prior to eligibility for retirement.

1. Participating members shall receive credit for full-time employment or its equivalent from the date they attain eligibility until their normal retirement date, postponed retirement date, or early retirement date, as defined in this section. Part-time employment will be recognized as full-time employment on a prorated basis as the boardoffice may prescribe.
2. Retirement benefits are calculated from the participating member's final average salary, which is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred twenty months of employment. For members who terminate employment on or after August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred eighty months of employment. For members who terminate employment between July 31, 2005, and August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the period for which the boardoffice has appropriate and accurate salary records on its electronic database, but that period may not be more than the last one hundred eighty months of employment. Months not employed are excluded in arriving at the thirty-six months to be used for the purpose of computing an average. If the participating member has worked for less than thirty-six months at the normal retirement date, the final average salary is the average salary for the total months of employment.
3. Retirement dates are defined as follows:
  - a. Normal retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is:
    - (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
    - (2) When the member has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
  - b. Normal retirement date for members first enrolled after December 31, 2015, except for a national guard security officer or firefighter, a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, or a supreme court or district court judge, is:
    - (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
    - (2) When the member has a combined total of years of service credit and years of age equal to ninety and the member attains a

minimum age of sixty and has not received a retirement benefit under this chapter.

- c. Normal retirement date for a national guard security officer or firefighter is:
  - (1) The first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty-five years and has completed at least three eligible years of employment; or
  - (2) When the national guard security officer or firefighter has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- d. Normal retirement date for a peace officer or correctional officer employed by a political subdivision is:
  - (1) The first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty-five years and has completed at least three eligible years of employment; or
  - (2) When the peace officer or correctional officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- e. Normal retirement date for a peace officer employed by the bureau of criminal investigation is:
  - (1) The first day of the month next following the month in which the peace officer attains the age of fifty-five years and has completed at least three eligible years of employment; or
  - (2) When the peace officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- f. Postponed retirement date is the first day of the month next following the month in which the member, on or after July 1, 1977, actually severs or has severed the member's employment after reaching the normal retirement date.
- g. Early retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed three years of eligible employment. For a national guard security officer or firefighter, early retirement date is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty years and has completed at least three years of eligible employment. For a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, early retirement date is the first day of the month next following the month in

which the peace officer or correctional officer attains the age of fifty years and has completed at least three years of eligible employment.

- h. Disability retirement date is the first day of the month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules of the ~~board~~office, and has completed at least one hundred eighty days of eligible employment. For supreme and district court judges, permanent and total disability is based solely on a judge's inability to perform judicial duties arising out of physical or mental impairment, as determined pursuant to rules adopted by the ~~board~~office or as provided by subdivision a of subsection 3 of section 27-23-03. A member is eligible to receive disability retirement benefits only if the member:
  - (1) Became disabled during the period of eligible employment; and
  - (2) Applies for disability retirement benefits within twelve months of the date the member terminates employment.

A member is eligible to continue to receive disability benefits as long as the permanent and total disability continues and the member submits the necessary documentation and undergoes medical testing required by the ~~board~~office, or for as long as the member participates in a rehabilitation program required by the ~~board~~office, or both. If the ~~board~~office determines that a member no longer meets the eligibility definition, the ~~board~~office may discontinue the disability retirement benefit. The ~~board~~office may pay the cost of any medical testing or rehabilitation services ~~if the office deems necessary and these payments are appropriated from the retirement fund for those purposes.~~

4. The ~~board~~office shall calculate retirement benefits as follows:
  - a. Normal retirement benefits for all retirees, except supreme and district court judges, reaching normal retirement date equal an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which is determined as follows:
    - (1) Service benefit equals two percent of final average salary multiplied by the number of years of service employment.
    - (2) Prior service benefit equals two percent of final average salary multiplied by the number of years of prior service employment.
  - b. Normal retirement benefits for all supreme and district court judges under the public employees retirement system reaching normal retirement date equal an annual amount, payable monthly, comprised of a benefit as defined in this chapter, determined as follows:
    - (1) Benefits must be calculated from the time of appointment or election to the bench and must equal three and one-half percent of final average salary multiplied by the first ten years of judicial service, two and eighty hundredths percent of final average salary multiplied by the second ten years of judicial service, and one and one-fourth percent of final average salary multiplied by the number of years of judicial service exceeding twenty years.

- (2) Service benefits must include, in addition, an amount equal to the percent specified in subdivision a of final average salary multiplied by the number of years of nonjudicial employee service and employment.
- c. Postponed retirement benefits are calculated as for single life benefits for those members who retired on or after July 1, 1977.
- d. Early retirement benefits are calculated as for single life benefits accrued to the date of termination of employment, but must be actuarially reduced to account for benefit payments beginning prior to the normal retirement date, which is the earlier of age sixty-five or the age at which current service plus age equals eighty-five. Except for a national guard security officer or firefighter, a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, or a supreme court or district court judge, early retirement benefits for members first enrolled after December 31, 2015, are calculated for single life benefits accrued to the date of termination of employment, but must be reduced by fixed rate of eight percent per year to account for benefit payments beginning before the normal retirement date. A retiree, other than a supreme or district court judge, is eligible for early retirement benefits only after having completed three years of eligible employment. A supreme or district court judge retiree is eligible for early retirement benefits only after having completed five years of eligible employment.
- e. Except for supreme and district court judges, disability retirement benefits are twenty-five percent of the member's final average salary. Disability retirement benefits for supreme and district court judges are seventy percent of final average salary reduced by the member's primary social security benefits and by any workforce safety and insurance benefits paid. The minimum monthly disability retirement benefit under this section is one hundred dollars.
5. Upon termination of employment after completing three years of eligible employment, except for supreme and district court judges, who must complete five years of eligible employment, but before normal retirement date, a member who does not elect to receive early retirement benefits is eligible to receive deferred vested retirement benefits payable commencing on the member's normal retirement date in one of the optional forms provided in subsection 9. Members who have delayed or inadvertently failed to apply for retirement benefits to commence on their normal retirement date may choose to receive either a lump sum payment equal to the amount of missed payments, or an actuarial increase to the form of benefit the member has selected, which increase must reflect the missed payments.
6. If before retiring a member dies after completing three years of eligible employment, except for supreme and district court judges, who must have completed five years of eligible employment, the boardoffice shall pay the member's account balance to the member's designated beneficiary as provided in this subsection. If the member has designated an alternate beneficiary with the surviving spouse's written consent, the boardoffice shall pay the member's account balance to the named beneficiary. If the member has named more than one primary beneficiary, the boardoffice

shall pay the member's account balance to the named primary beneficiaries in the percentages designated by the member or, if the member has not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the member, the boardoffice shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If any beneficiary survives the member, yet dies before distribution of the beneficiary's share, the beneficiary must be treated as if the beneficiary predeceased the member. If there are no remaining primary beneficiaries, the boardoffice shall pay the member's account balance to the contingent beneficiaries in the same manner. If there are no remaining designated beneficiaries, the boardoffice shall pay the member's account balance to the member's estate. If the member has not designated an alternate beneficiary or the surviving spouse is the beneficiary, the surviving spouse of the member may select a form of payment as follows:

- a. If the member was a supreme or district court judge, the surviving spouse may select one of the following optional forms of payment:
    - (1) A lump sum payment of the member's retirement account as of the date of death.
    - (2) Payments as calculated for the deceased member as if the member was of normal retirement age at the date of death, payable until the spouse dies.
  - b. The surviving spouse of all other members may select one of the following options:
    - (1) A lump sum payment of the member's retirement account as of the date of death.
    - (2) Payment of a monthly retirement benefit equal to fifty percent of the deceased member's accrued single life retirement benefits until the spouse dies.
    - (3) If the member dies on or after the member's normal retirement date, the payment of a monthly retirement benefit equal to an amount that would have been paid to the surviving spouse if the member had retired on the day of the member's death and had selected a one hundred percent joint and survivor annuity, payable until the spouse dies. A surviving spouse who received a benefit under this subsection as of July 31, 1995, is entitled to the higher of that person's existing benefit or the equivalent of the accrued benefit available under the one hundred percent joint and survivor provision as if the deceased member were of normal retirement age, with the increase payable beginning August 1, 1995.
7. If a member not coming under the provisions of subsection 6 terminates employment because of death, permanent and total disability, or any voluntary or involuntary reason prior to retirement, the member or the member's designated beneficiary is entitled to the member's account balance at termination. The boardoffice automatically shall refund a member's account balance if the member has completed less than three years of eligible employment, has an account balance of less than one

thousand dollars, and was not a supreme or district court judge. If the member was a supreme or district court judge, the boardoffice automatically shall refund a member's account balance if the member completed less than five years of eligible employment. A member may waive the refund if the member submits a written statement to the boardoffice, within thirty days after termination, requesting that the member's account balance remain in the fund.

8. The surviving spouse of a member receiving retirement benefits must be the member's primary beneficiary unless there is no surviving spouse or the surviving spouse designates an alternate beneficiary in writing. If a member receiving retirement benefits or the member's surviving spouse receiving retirement benefits dies before the total amount of benefits paid to either or both equals the amount of the member's account balance at retirement, the difference must be paid to the named beneficiary of the recipient or, if there is no named beneficiary, to the recipient's estate.
9. The boardoffice shall adopt rules providing for the receipt of retirement benefits in the following optional forms:
  - a. Single life.
  - b. An actuarially equivalent joint and survivor option, with fifty percent or one hundred percent options.
  - c. Actuarially equivalent life with ten-year or twenty-year certain options.
  - d. An actuarially equivalent partial lump sum distribution option with a twelve-month maximum lump sum distribution.
  - e. An actuarially equivalent graduated benefit option with either a one percent or two percent increase to be applied the first day of January of each year.

Except for supreme and district court judges, unless a member specifically requests that the member receive benefits according to one of these options at the time of applying for retirement, all retirement benefits must be in the form of a single life benefit. For supreme and district court judges, unless a member specifically requests that the member receive benefits according to one of these options at the time of applying for retirement, all retirement benefits must be in the form of a lifetime monthly pension with fifty percent of the benefit continuing for the life of the surviving spouse, if any.

10. The fund may accept rollovers from other eligible plans under rules adopted by the boardoffice for the purchase of additional service credit, but only to the extent the transfer is a rollover contribution that meets the requirement of section 408 of the Internal Revenue Code.
11. The boardoffice may accept trustee-to-trustee transfers as permitted by Internal Revenue Code section 403(b)(13) and section 457(e)(17) from an Internal Revenue Code section 403(b) annuity or Internal Revenue Code section 457 deferred compensation plan for the purchase of permissive service credit, as defined in Internal Revenue Code section 415(n)(3)(A) or as repayment of a cashout from a governmental plan under Internal Revenue Code section 415(k)(3).

12. The boardoffice may establish individual retirement accounts and individual retirement annuities as permitted under section 408(q) of the Internal Revenue Code to allow employees to make voluntary employee contributions. The boardoffice may adopt rules to implement and administer the accounts and annuities under this section.

**SECTION 43. AMENDMENT.** Section 54-52-17.2 of the North Dakota Century Code is 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 retirement system is required, then, for purposes of current participation, the employee is a member of each applicable

retirement system. The employer shall pay over to each retirement system the member assessment and employer contributions at the rates currently existing for that retirement system.

- b. If an employee described in subdivision a was employed prior to August 1, 2003, and has dual membership rights, the employee may elect to begin participation in the alternate plan pursuant to the plan provisions on August 1, 2003, or may continue participation according to the plan provisions in effect on July 31, 2003. An employee's election under this subdivision is ineffective unless delivered to the public employees retirement system administrative offices by five p.m. on October 31, 2003. If an election is not received by the public employees retirement system, the participation and benefit calculation requirements in effect on July 31, 2003, apply to that employee.

**SECTION 44. AMENDMENT.** Section 54-52-17.3 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-17.3. Purchase of legislative service credit.**

A member may purchase service credit for the time during each legislative session spent serving as a member of the legislative assembly while holding eligible employment under this chapter. The member shall pay for this service credit an amount equal to the required member assessments and employer contributions plus interest as established by the ~~board~~office. Service credit for legislative sessions prior to July 1, 1985, must be purchased before January 1, 1986. Service credit for each later legislative session must be purchased within one year after the adjournment of that legislative session.

**SECTION 45. AMENDMENT.** Section 54-52-17.4 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-17.4. Purchase of additional credit.**

1. A participating member may elect to purchase credit for years of service and prior service for which the participating member is not presently receiving credit. A participating member is entitled to purchase additional credit under this section for the following service or prior service, except this service is not eligible for credit if the years claimed also qualify for retirement benefits from another retirement system:
  - a. Active prior employment in the armed forces of the United States, except as provided in section 54-52-17.14, for up to four years of credit.
  - b. Employment as a permanent employee by a public employer either within or outside the state of North Dakota.
  - c. Employment as a permanent employee by a political subdivision participating in the public employees retirement system which did not pay the cost of past service benefits under section 54-52-02.1.
  - d. Service the participating member did not elect to repurchase upon re-employment under section 54-52-02.6.

- e. Service of an eligible employee, who exercised the privilege to withdraw from the predecessor plan to the public employees retirement system under subsection 10 of section 54-52-17 as created by section 13 of chapter 499 of the 1977 Session Laws.
  - f. Employment as a permanent employee by the federal government.
2. A participating member may elect to purchase credit for the following absences for which the participating member is not receiving service credit:
  - a. Employer-approved leave of absence; or
  - b. Months away from work while participating as a seasonal employee.
3. Supreme and district court judges under the public employees retirement system may elect to purchase credit for the following years of service:
  - a. Except as provided in section 54-52-17.14, for up to four years of credit for active employment in the armed forces of the United States.
  - b. As a county judge in a county or counties that did not participate in the public employees retirement system under this chapter.
  - c. Participation in the public employees retirement system as a county judge may be converted to credit in the judges' retirement system.
4. The participating member may purchase credit under this section, or the participating member's employer may purchase for the participating member, by paying to the boardoffice an amount equal to the actuarial cost to the fund of providing the credit. If the participating member purchases credit pursuant to subdivision d of subsection 1, the participating member must pay to the boardoffice an amount equal to the greater of the actuarial cost to the fund of providing the credit, or the amount the participating member received upon taking a refund of the participating member's account balance, plus interest at the actuarial rate of return from the time the participating member was issued the refund. If the participating member is not repurchasing all of the credit originally refunded, the participating member must pay a pro rata amount of the refunded amount determined by dividing the refunded amount by the number of months of credit refunded, multiplying that amount times the number of months of credit the participating member seeks to repurchase, and adding interest at the actuarial rate of return. The participating member or the participating member's employer shall also pay to the retiree health benefits fund established under section 54-52.1-03.2 an amount equal to the actuarial cost to that fund for the additional credit. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. The boardoffice shall adopt rules governing the purchase of additional credit under this section.
5. Pursuant to rules adopted by the boardoffice, the boardoffice may allow a participating member to purchase service credit with either pretax or aftertax moneys, at the board's discretion of the office. If the participating member elects to purchase service credit using pretax moneys, the requirements and restrictions in subsection 3 of section 54-52-05 apply to the purchase arrangement.

6. In addition to service credit identified in this section, a vested participating member may purchase up to five years of service credit unrelated to any other eligible service.

**SECTION 46. AMENDMENT.** Section 54-52-17.6 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-17.6. Benefit payments to alternate payee under qualified domestic relations order.**

1. The boardoffice shall pay retirement benefits in accordance with the applicable requirements of any qualified domestic relations order. The boardoffice shall review a domestic relations order submitted to it to determine if the domestic relations order is qualified under this section and under rules established by the boardoffice for determining the qualified status of domestic relations orders and administering distributions under the qualified orders. Upon determination that a domestic relations order is qualified, the boardoffice shall notify the participating member and the named alternate payee of its receipt of the qualified domestic relations order.
2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of a participating member, is made pursuant to a North Dakota domestic relations law, and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of the benefits payable to the participating member. A qualified domestic relations order may not require the boardoffice to provide any type or form of benefit, or any option, not otherwise provided under the public employees retirement system, or to provide increased benefits as determined on the basis of actuarial value. However, a qualified domestic relations order may require the payment of benefits at the early retirement date notwithstanding that the participating member has not terminated eligible employment. A qualified domestic relations order must specify:
  - a. The name and the last-known mailing address of the participating member and the name and mailing address of each alternate payee covered by the order;
  - b. The amount or percentage of the participating member's benefits to be paid by the plan 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 47. AMENDMENT.** Section 54-52-17.11 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-17.11. Judges postretirement adjustments.**

A supreme or district court judge or that person's beneficiary who, on December 31, 2007, is receiving retirement benefits under subdivision b of

subsection 4 of section 54-52-17, is entitled to receive an increase in benefits equal to two percent of the individual's present benefits with the increase payable beginning January 1, 2008. A supreme or district court judge or that person's beneficiary who, on December 31, 2008, is receiving retirement benefits under subdivision b of subsection 4 of section 54-52-17, is entitled to receive an increase in benefits equal to two percent of the individual's present benefits with the increase payable beginning January 1, 2009. The increases allowed by this section may only be given if the ~~public employees retirement board~~office determines there is actuarial margin sufficient to pay the increases.

**SECTION 48. AMENDMENT.** Section 54-52-17.13 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-17.13. Supplemental retiree benefit payment.**

If the boardoffice determines that the fund has obtained a total return on investments of nine and six hundredths percent or higher for the fiscal year ending June 30, 2007, or June 30, 2008, the boardoffice shall authorize an additional payment equal to seventy-five percent of the January retirement allowance following the fiscal yearend to each eligible retiree in pay status as of that January, excluding judicial retirees and beneficiaries, but including joint and survivor and term certain beneficiaries, under this chapter. The boardoffice may only make one payment to each retiree under this section.

**SECTION 49. AMENDMENT.** Section 54-52-23 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-23. Savings clause - Plan modifications.**

If the boardoffice determines that any section of this chapter does not comply with applicable federal statutes or rules, the boardoffice shall adopt appropriate terminology with respect to that section as will comply with those federal statutes or rules, subject to the approval of the employee benefits programs committee. Any plan modifications made by the boardoffice pursuant to this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

**SECTION 50. AMENDMENT.** Section 54-52-26 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-26. Confidentiality of records.**

All records relating to the retirement benefits of a member or a beneficiary under this chapter, chapter 54-52.2, and chapter 54-52.6 are confidential and are not public records. Information and records may be disclosed, under rules adopted by the boardoffice, only to:

1. A person to whom the member has given written consent to have the information disclosed.
2. A person legally representing the member, upon proper proof of representation, and unless the member specifically withdraws consent.
3. A person authorized by a court order.

4. A member's participating employer, limited to information concerning the member's years of service credit and years of age. The boardoffice may share other types of information as needed by the employer to validate the employer's compliance with existing state or federal laws. Any information provided to the member's participating employer under this subsection must remain confidential except as provided under subsection 6.
5. The administrative staff of the retirement and investment office for purposes relating to membership and benefits determination.
6. State or federal agencies for purposes of reporting on a service provider's provision of services or when the employer must supply information to an agency to validate the employer's compliance with existing state or federal laws.
7. Member interest groups approved by the boardoffice on a third-party blind list basis, limited to information concerning the member's participation, name, and address.
8. The member's spouse or former spouse, that individual's legal representative, and the judge presiding over the member's dissolution proceeding for purposes of aiding the parties in drafting a qualified domestic relations order under section 54-52-17.6. The information disclosed under this subsection must be limited to information necessary for drafting the order.
9. Beneficiaries designated by a participating member or a former participating member to receive benefits after the member's death, but only after the member's death. Information relating to beneficiaries may be disclosed to other beneficiaries of the same member.
10. The general public, but only after the boardoffice has been unable to locate the member for a period in excess of two years, and limited to the member's name and 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 51. 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 ~~board~~office 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 benefits from all the plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. If the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. The reduction must be made pro rata between the plans, in proportion to the participating member's service in each plan.
2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirements under section 401(a)(9)(G), and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. A member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.
3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a

direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.

5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.

**SECTION 52. AMENDMENT.** Section 54-52-29 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-29. Employer service purchases.**

A participating employer may purchase additional service credit on behalf of a member under the following conditions:

1. The member may not be given the option to choose between an employer service purchase and an equivalent amount paid in cash.
2. The member must meet one of the following conditions at the time the purchase is made:
  - a. The member's age plus service credit must be equal to or greater than seventy-five; or
  - b. The member's age must be at least fifty-five and the member must have at least three years of service credit.
3. The ~~board~~office must determine the purchase price on an actuarially equivalent basis, taking into account the contributions necessary for both the retirement program and the retiree health benefits fund.
4. The purchase must be completed before the member's retirement.
5. The employer may purchase a maximum of five years of service credit on behalf of the member.
6. The employer must pay the purchase price for the service credit purchased under this section in a lump sum.

**SECTION 53. AMENDMENT.** Section 54-52.1-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-01. Definitions.**

As used in this chapter, unless the context otherwise requires:

1. "~~Board~~" means the ~~public employees retirement board~~.
2. "Carrier" means:
  - a. For the hospital benefits coverage, an insurance company authorized to do business in the state, or a nonprofit hospital service association, or a prepaid group practice hospital care plan authorized to do

- business in the state, or the state if a self-insurance plan is used for providing hospital benefits coverage.
- b. For the medical benefits coverage, an insurance company authorized to do business in the state, or a nonprofit medical service association, or a prepaid group practice medical care plan authorized to do business in the state, or the state if a self-insurance plan is used for providing medical benefits coverage.
  - c. For the life insurance benefits coverage, an insurance company authorized to do business in the state.
- 3-2. "Department, board, or agency" means the departments, boards, agencies, or associations of this state, and includes the state's charitable, penal, and higher educational institutions; the Bank of North Dakota; the state mill and elevator association; and counties, cities, district health units, and school districts.
3. "Director" means the executive director of the public employees retirement system office.
4. "Eligible employee" means every permanent employee who is employed by a governmental unit, as that term is defined in section 54-52-01. "Eligible employee" includes members of the legislative assembly, judges of the supreme court, paid members of state or political subdivision boards, commissions, or associations, full-time employees of political subdivisions, elective state officers as defined by subsection 2 of section 54-06-01, and disabled permanent employees who are receiving compensation from the North Dakota workforce safety and insurance fund. As used in this subsection, "permanent employee" means one whose services are not limited in duration, who is filling an approved and regularly funded position in a governmental unit, and who is employed at least seventeen and one-half hours per week and at least five months each year or for those first employed after August 1, 2003, is employed at least twenty hours per week and at least twenty weeks each year of employment. For purposes of sections 54-52.1-04.1, 54-52.1-04.7, 54-52.1-04.8, and 54-52.1-11, "eligible employee" includes retired and terminated employees who remain eligible to participate in the uniform group insurance program pursuant to applicable state or federal law.
5. "Health maintenance organization" means an organization certified to establish and operate a health maintenance organization in compliance with chapter 26.1-18.1.
6. "Hospital benefits coverage" means a plan which either provides coverage for, or pays, or reimburses expenses for hospital services incurred in accordance with the uniform contract.
7. "Life insurance benefits coverage" means a plan which provides both term life insurance and accidental death and dismemberment insurance in amounts determined by the boardoffice, with a minimum of one thousand dollars provided for the term life insurance portion of the coverage.

8. "Medical benefits coverage" means a plan which either provides coverage for, or pays, or reimburses expenses for medical services in accordance with the uniform contract.
9. "Member contribution" means the payment by the member into the retiree health benefits fund pursuant to sections 54-52-02.9 and 54-52-17.4.
10. "Member's account balance" means the member's contributions plus interest at the rate set by the boardoffice.
11. "Office" means the public employees retirement system office.
12. "Temporary employee" means a governmental unit employee who is not filling an approved and regularly funded position in an eligible governmental unit and whose services may or may not be limited in duration.

**SECTION 54. AMENDMENT.** Section 54-52.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-02. Uniform group insurance program created - Formation into subgroups.**

In order to promote the economy and efficiency of employment in the state's service, reduce personnel turnover, and offer an incentive to high-grade individuals to enter and remain in the service of state employment, there is created a uniform group insurance program. The uniform group must be composed of eligible and retired employees and be formed to provide hospital benefits coverage, medical benefits coverage, and life insurance benefits coverage in the manner set forth in this chapter. The uniform group may be divided into the following subgroups at the discretion of the boardoffice:

1. Medical and hospital benefits coverage group consisting of active eligible employees and retired employees not eligible for medicare, except for employees who first retire after the effective date of this section and are not eligible for medicare on their retirement. In determining premiums for coverage under this subsection for retired employees not eligible for medicare, the rate for a non-medicare retiree single plan is one hundred fifty percent of the active member single plan rate, the rate for a non-medicare retiree family plan of two people is twice the non-medicare retiree single plan rate, and the rate for a non-medicare retiree family plan of three or more persons is two and one-half times the non-medicare retiree single plan rate.
2. In addition to the coverage provided in subsection 1, another coverage option may be provided for retired employees not eligible for medicare, except for employees who first retire after the effective date of this section and are not eligible for medicare on their retirement, provided the option does not increase the implicit subsidy as determined by the governmental accounting standards board's other postemployment benefit reporting procedure. In offering this additional option, the boardoffice may have an open enrollment but thereafter enrollment for this option must be as specified in section 54-52.1-03.

3. Retired medicare-eligible employee group medical and hospital benefits coverage.
4. Active eligible employee life insurance benefits coverage.
5. Retired employee life insurance benefits coverage.
6. Terminated employee continuation group medical and hospital benefits coverage.
7. Terminated employee conversion group medical and hospital benefits coverage.
8. Dental benefits coverage.
9. Vision benefits coverage.
10. Long-term care benefits coverage.
11. Employee assistance benefits coverage.
12. Prescription drug coverage.

**SECTION 55. AMENDMENT.** Section 54-52.1-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-03. Employee participation in plan - Employee to furnish information - Benefits to continue upon retirement or termination.**

1. Any eligible employee may be enrolled in the uniform group insurance program created by this chapter by requesting enrollment with the employing department. If an eligible employee does not enroll in the uniform group insurance program at the time of beginning employment, in order to enroll at a later time the eligible employee must meet minimum requirements established by the boardoffice. An employing department may not require an active eligible employee to request coverage under the uniform group insurance program as a prerequisite to receive the minimum employer-paid life insurance benefits coverage or employee assistance program benefits coverage.
2. Within five days after the expiration of the payroll period during which enrollment was requested, the employing department shall enroll the employee with the boardoffice. The employee's insurance coverage becomes effective on the date of enrollment.
3. A retiree who has accepted a periodic distribution from the defined contribution retirement plan pursuant to section 54-52.6-13 who the boardoffice determines is eligible for participation in the uniform group insurance program or has accepted a retirement allowance from the public employees retirement system, the highway patrolmen's retirement system, the teachers' insurance and annuity association of America - college retirement equities fund for service credit earned while employed by North Dakota institutions of higher education, the retirement system established by job service North Dakota under section 52-11-01, the judges' retirement system established under chapter 27-17, or the teachers' fund for

retirement may elect to participate in the uniform group under this chapter without meeting minimum requirements at age sixty-five, when the member's spouse reaches age sixty-five, upon the receipt of a benefit, or when the spouse terminates employment. If a retiree or surviving spouse does not elect to participate at the times specified in this subsection, the retiree or surviving spouse must meet the minimum requirements established by the boardoffice. Subject to sections 54-52.1-03.2 and 54-52.1-03.3, each retiree or surviving spouse shall pay directly to the boardoffice the premiums in effect for the coverage then being provided. A retiree or surviving spouse who has met the initial eligibility requirements of this subsection to begin participation in the uniform group insurance program remains eligible as long as the retiree maintains the retiree's participation in the program by paying the required premium pursuant to rules adopted by the boardoffice.

4. Upon the termination of employment when the employee is not eligible to participate under subsection 3 or 5 or applicable federal law, that employee cannot continue as a member of the uniform group.
5. A member or former member of the legislative assembly or that person's surviving spouse may elect to continue membership in the uniform group within the applicable time limitations after either termination of eligible employment as a member of the legislative assembly or termination of other eligible employment or, for a surviving spouse, upon the death of the member or former member of the legislative assembly. The member or former member of the legislative assembly or that person's surviving spouse shall pay the premiums in effect for the coverage provided directly to the boardoffice.
6. Each eligible employee requesting enrollment shall furnish the appropriate person in the employing department, board, or agency with such information and in such form as prescribed by the boardoffice to enable the enrollment of the employee, or employee and dependents, in the uniform group insurance program created by this chapter.
7. If the participating employee is a faculty member in a state charitable, penal, or educational institution who receives a salary or wages on less than a twelve-month basis and has signed a contract to teach for the next ensuing school year, the agency shall make arrangements to include that employee in the insurance program on a twelve-month basis and make the contribution authorized by this section for each month of the twelve-month period.

**SECTION 56. AMENDMENT.** Section 54-52.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-03.1. Certain political subdivisions authorized to join uniform group insurance program - Employer contribution.**

If eligible under federal law, a political subdivision may extend the benefits of the uniform group insurance program under this chapter to its permanent employees, subject to minimum requirements established by the boardoffice and a minimum period of participation of sixty months. If the political subdivision withdraws from participation in the uniform group insurance program, before completing sixty

months of participation, unless federal or state laws or rules are modified or interpreted in a way that makes participation by the political subdivision in the uniform group insurance program no longer allowable or appropriate, the political subdivision shall make payment to the boardoffice in an amount equal to any expenses incurred in the uniform group insurance program that exceed income received on behalf of the political subdivision's employees as determined under rules adopted by the boardoffice. The Garrison Diversion Conservancy District, and district health units required to participate in the public employees retirement system under section 54-52-02, shall participate in the uniform group insurance program under the same terms and conditions as state agencies. A retiree who has accepted a retirement allowance from a participating political subdivision's retirement plan may elect to participate in the uniform group under this chapter without meeting minimum requirements at age sixty-five, when the employee's spouse reaches age sixty-five, upon the receipt of a benefit, when the political subdivision joins the uniform group insurance plan if the retiree was a member of the former plan, or when the spouse terminates employment. If a retiree or surviving spouse does not elect to participate at the times specified in this section, the retiree or surviving spouse must meet the minimum requirements established by the boardoffice. Each retiree or surviving spouse shall pay directly to the boardoffice the premiums in effect for the coverage then being provided. The boardoffice may require documentation that the retiree has accepted a retirement allowance from an eligible retirement plan other than the public employees retirement system.

**SECTION 57. AMENDMENT.** Section 54-52.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-03.2. Retiree health benefits fund - Appropriation.**

1. The boardoffice shall establish a retiree health benefits fund account with the Bank of North Dakota for the purpose of prefunding and providing hospital benefits coverage and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program for retired eligible employees or surviving spouses of retired eligible employees and their dependents as provided in this chapter. The state shall contribute monthly to the retiree health benefits fund an amount equal to one and fourteen hundredths percent of the monthly salaries and wages of all participating members of the highway patrolmen's retirement system under chapter 39-03.1, and one and fourteen hundredths percent of the monthly salaries of all supreme or district court judges who are participating members of the public employees retirement system under chapter 54-52. Each governmental unit that contributes to the public employees retirement system fund under section 54-52-06 or the retirement plan under chapter 54-52.6 shall contribute monthly to the retiree health benefits fund an amount equal to one and fourteen hundredths percent of the monthly salaries or wages of all participating members of the public employees retirement system under chapter 54-52 or chapter 54-52.6, except for nonteaching employees of the superintendent of public instruction who elect to participate in the public employees retirement system pursuant to section 54-52-02.13 and employees of the state board for career and technical education who elect to participate in the public employees retirement system pursuant to section 54-52-02.14. For nonteaching employees of the superintendent of public instruction who elect to participate in the public employees retirement system pursuant to section 54-52-02.13, the superintendent of

public instruction shall contribute monthly to the retiree health benefits fund an amount equal to three and twenty-four hundredths percent of the monthly salaries or wages of those nonteaching employee members, beginning on the first of the month following the transfer under section 54-52-02.13 and continuing thereafter for a period of eight years, after which time the superintendent of public instruction shall contribute one and fourteen hundredths percent of the monthly salary or wages of those nonteaching employee members. For employees of the state board for career and technical education who elect to participate in the public employees retirement system pursuant to section 54-52-02.14, the state board for career and technical education shall contribute monthly to the retiree health benefits fund an amount equal to two and ninety-nine hundredths percent of the monthly salary or wages of those employee members, beginning on the first of the month following the transfer under section 54-52-02.14 and continuing thereafter for a period of eight years, after which time the state board for career and technical education shall contribute one and fourteen hundredths percent of the monthly salary or wages of those employee members. The employer of a national guard security officer or firefighter shall contribute monthly to the retiree health benefits fund an amount equal to one and fourteen hundredths percent of the monthly salaries or wages of all national guard security officers or firefighters participating in the public employees retirement system under chapter 54-52. Job service North Dakota shall reimburse monthly the retiree health benefits fund for credit received under section 54-52.1-03.3 by members of the retirement program established by job service North Dakota under section 52-11-01. The ~~board~~office, as trustee of the fund and in exclusive control of its administration, shall:

- a. Provide for the investment and disbursement of moneys of the retiree health benefits fund and administrative expenditures in the same manner as moneys of the public employees retirement system are invested, disbursed, or expended.
- b. Adopt rules necessary for the proper administration of the retiree health benefits fund, including enrollment procedures.
2. All moneys deposited in the fund established under subsection 1, not otherwise appropriated, are hereby appropriated to the ~~board~~office for the purpose of making investments for the fund and to make contributions toward hospital and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program for eligible retired employees or surviving spouses of eligible retired employees and their dependents as elected.
3. If a member terminates employment because of death, permanent and total disability, or any voluntary or involuntary reason prior to retirement, the member or the member's designated beneficiary is entitled to the member's account balance at termination. If a member's account balance is withdrawn, the member relinquishes all rights to benefits under the retiree health benefits fund.

**SECTION 58. AMENDMENT.** Section 54-52.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-03.3. Eligibility for retiree health benefits - Fixed contribution and reduction factors.**

1. The following persons are entitled to receive credit for hospital and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program under subsection 2:
  - a. A member or surviving spouse of the highway patrolmen's retirement system is eligible for the credit beginning on the date retirement benefits are effective unless the premium is billed to the employer.
  - b. A member or surviving spouse of the public employees retirement system is eligible for the credit beginning on the date retirement benefits are effective unless the premium is billed to the employer.
  - c. A member or surviving spouse of the retirement program established by job service North Dakota under section 52-11-01 receiving retirement benefits is eligible for the credit beginning on the date retirement benefits are effective unless the premium is billed to the employer.
  - d. A retired judge or surviving spouse receiving retirement benefits under the retirement program established under chapter 27-17 is eligible for the credit beginning on the date retirement benefits are effective unless the premium is billed to the employer.
  - e. A former participating member of the defined contribution retirement plan receiving retirement benefits, or the surviving spouse of a former participating member of that retirement plan who was eligible to receive or was receiving benefits, under section 54-52.6-13, is eligible as determined by the boardoffice pursuant to its rules.
2. The boardoffice shall calculate the allowable monthly credit toward hospital and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program for a person eligible under subsection 1 in an amount equal to five dollars multiplied by the member's or deceased member's number of years of credited service under the highway patrolmen's retirement system, the public employees retirement system, the retirement program established by job service North Dakota under section 52-11-01, or the judges' retirement program established under chapter 27-17. For a member of the public employees retirement system receiving an early retirement benefit or the surviving spouse of that member, or a former participating member of the defined contribution retirement plan who is receiving a periodic distribution and would not meet the normal retirement provisions of the public employees retirement system, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of sixty-five and an additional reduction factor of six percent shall apply for each year the member terminates employment prior to attaining the age of sixty-four. For a member of the highway patrolmen's retirement system receiving an early retirement benefit or the surviving spouse of that member, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of fifty-five and an additional reduction factor of six percent shall apply for each year the member terminates employment prior to attaining the age of fifty-four.

percent shall apply for each year the member terminates employment prior to attaining the age of fifty-four. For a member of the retirement program established by job service North Dakota under section 52-11-01 receiving an early retirement benefit or a discontinued service annuity under the plan provisions of that retirement program or the surviving spouse of that member, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of sixty-five and an additional reduction factor of six percent applies for each year the member terminates employment prior to attaining the age of sixty-four.

3. The boardoffice shall apply the credit allowable under subsection 2 as elected by the eligible participant to the payment of monthly premiums required of each person eligible under subsection 1 for hospital benefits coverage and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program. The boardoffice shall allow spouses who each have credit under subsection 2 to combine their credits and shall apply the combined credit to the required monthly premiums as elected pursuant to this subsection. However, if the allowable credit under any circumstance exceeds the monthly premium in effect for selected coverage, that amount of the credit which exceeds the premium is forfeited and may not be used for any other purpose.
4. The boardoffice may, as an alternative to the calculation of the allowable monthly credit under subsection 2, provide actuarially reduced benefit options for the member and the member's surviving spouse, including a one hundred percent joint and survivor option or a fifty percent joint and survivor option.

**SECTION 59. AMENDMENT.** Section 54-52.1-03.4 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-03.4. Temporary employees and employees on unpaid leave of absence.**

A temporary employee employed before August 1, 2007, may elect to participate in the uniform group insurance program by completing the necessary enrollment forms and qualifying under the medical underwriting requirements of the program if such election is made before January 1, 2015, and if the temporary employee is participating in the uniform group insurance program on January 1, 2015. In order for a temporary employee employed after July 31, 2007, to qualify to participate in the uniform group insurance program, the employee must be employed at least twenty hours per week; must be employed at least twenty weeks each year of employment; must make the election to participate before January 1, 2015; and must be participating in the uniform group insurance program as of January 1, 2015. To be eligible to participate in the uniform group insurance program, a temporary employee first employed after December 31, 2014, or any temporary employee not participating in the uniform group insurance program as of January 1, 2015, must meet the definition of a full-time employee under section 4980H(c)(4) of the Internal Revenue Code [26 U.S.C. 4980H(c)(4)]. Monthly, the temporary employee or the temporary employee's employer shall pay to the boardoffice the premiums in effect for the coverage being provided. In the case of a temporary employee who is an applicable taxpayer as defined in section 36B(c)(1)(A) of the Internal Revenue Code [26 U.S.C.

36B(c)(1)(A)], the temporary employee's required contribution for medical and hospital benefits self-only coverage may not exceed the maximum employee required contribution specified under section 36B(c)(2)(C) of the Internal Revenue Code [26 U.S.C. 36B(c)(2)(C)], and the employer shall pay any difference between the maximum employee required contribution for medical and hospital benefits self-only coverage and the cost of the premiums in effect for this coverage. An employer may pay health or life insurance premiums for a permanent employee on an unpaid leave of absence. A political subdivision, department, board, or agency may make a contribution for coverage under this section.

**SECTION 60. AMENDMENT.** Section 54-52.1-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04. BoardOffice to contract for insurance.**

The boardoffice shall receive bids for the providing of hospital benefits coverage, medical benefits coverage, life insurance benefits coverage for a specified term, and employee assistance program services; may receive bids separately for prescription drug coverage; and shall accept one or more bids of and contract with the carriers that in the judgment of the boardoffice best serves the interests of the state and its eligible employees. Solicitations must be made not later than ninety days before the expiration of an existing uniform group insurance contract. Bids must be solicited by advertisement in a manner selected by the boardoffice that will provide reasonable notice to prospective bidders. In preparing bid proposals and evaluating bids, the boardoffice may utilize the services of consultants on a contract basis in order that the bids received may be uniformly compared and properly evaluated. In determining which bid, if any, will best serve the interests of eligible employees and the state, the boardoffice shall give adequate consideration to the following factors:

1. The economy to be effected.
2. The ease of administration.
3. The adequacy of the coverages.
4. The financial position of the carrier, with special emphasis as to its solvency.
5. The reputation of the carrier and any other information that is available tending to show past experience with the carrier in matters of claim settlement, underwriting, and services.

The boardoffice may reject any or all bids and, in the event it does so, shall again solicit bids as provided in this section. The boardoffice may establish a plan of self-insurance for providing health insurance benefits coverage only under an administrative services only (ASO) contract or a third-party administrator (TPA) contract.

**SECTION 61. AMENDMENT.** Section 54-52.1-04.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.1. Health maintenance organization contract - Membership option.**

Notwithstanding the provisions of section 54-52.1-04, the boardoffice may contract with one or more health maintenance organizations to provide eligible employees the option of membership in a health maintenance organization. If it makes such a contract, the boardoffice may not require that the health maintenance organization be federally qualified if the health maintenance organization has a certificate of authority issued by the North Dakota insurance commissioner. The contract or contracts must be included in the uniform group insurance program.

**SECTION 62. AMENDMENT.** Section 54-52.1-04.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.2. Self-insurance plan for hospital and medical benefits coverage.**

1. The boardoffice may establish a self-insurance plan for providing:
  - a. Health insurance benefits coverage;
  - b. Health insurance benefits coverage excluding all or part of prescription drug coverage; or
  - c. All or part of prescription drug coverage.
2. Any self-insurance plan under this section must be provided under an administrative services only (ASO) contract or a third-party administrator (TPA) contract under the uniform group insurance program, and may be established only if it is determined by the boardoffice that an administrative services only or third-party administrator plan is less costly than the lowest bid submitted by a carrier for underwriting the plan with equivalent contract benefits. Upon establishing a self-insurance plan, the boardoffice shall solicit bids for an administrative services only or third-party administrator contract only every other biennium, and the boardoffice is authorized to renegotiate an existing administrative services only or third-party administrator contract during the interim. In addition, individual stop-loss coverage insured by a carrier authorized to do business in this state must be made part of any self-insured plan. All bids under this section are due no later than January first, and must be awarded no later than March first, preceding the end of each biennium. All bids under this section must be opened at a public meeting of the board.

**SECTION 63. AMENDMENT.** Section 54-52.1-04.3 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.3. Contingency reserve fund - Continuing appropriation.**

The boardoffice shall establish under a self-insurance plan a contingency reserve fund to provide for adverse fluctuations in future charges, claims, costs, or expenses of the uniform group insurance program. The boardoffice shall determine the amount necessary to provide a balance in the contingency reserve fund between one and one-half months and three months of claims paid based on the average monthly claims paid during the twelve-month period immediately preceding March first of each year. The boardoffice also shall determine the amount necessary to provide an additional balance in the contingency reserve fund between one month and one and

one-half months for claims incurred but not yet reported. The ~~board~~office may arrange for the services of an actuarial consultant to assist the ~~board~~office in making these determinations. Upon the initial changeover from a contract for insurance pursuant to section 54-52.1-04 to a self-insurance plan pursuant to section 54-52.1-04.2, the ~~board~~office must have a plan in place which is reasonably calculated to meet the funding requirements of this chapter within sixty months. All moneys in the contingency reserve fund, not otherwise appropriated, are appropriated for the payment of claims and other costs of the uniform group insurance program during periods of adverse claims or cost fluctuations.

**SECTION 64. AMENDMENT.** Section 54-52.1-04.4 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.4. Insurance to cover mammogram examinations.**

The ~~board~~office shall provide medical benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 for:

1. One baseline mammogram examination for each woman who is at least thirty-five but less than forty years of age.
2. One mammogram examination every year, or more frequently if ordered by a physician, for each woman who is at least forty years of age.

**SECTION 65. AMENDMENT.** Section 54-52.1-04.6 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.6. Coverage for treatment of certain disorders.**

The ~~board~~office shall provide coverage under either a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 for coverage for surgical and nonsurgical treatment of temporomandibular joint disorder and craniomandibular disorder. Coverage must be the same as that for treatment to any other joint in the body, and applies if the treatment is administered or prescribed by a physician or a dentist. Benefits for the coverage may be limited to a lifetime maximum of ten thousand dollars per person for surgery, and two thousand five hundred dollars for nonsurgical treatment.

**SECTION 66. AMENDMENT.** Section 54-52.1-04.7 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.7. Uniform group insurance program - Vision and dental plans.**

The ~~board~~office may establish a dental plan, a vision plan, or both, for eligible employees. The ~~board~~office shall receive bids for the plan or plans pursuant to section 54-52.1-04. The ~~board~~office may reject any or all bids and provide a plan of self-insurance. Premiums for this coverage must be paid by the eligible employee. Any refund, rebate, dividend, experience rating allowance, discount, or other reduction of premium must be credited as provided by section 54-52.1-06.

**SECTION 67. AMENDMENT.** Section 54-52.1-04.8 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.8. Uniform group insurance program - Long-term care plan.**

The ~~board~~office may establish a long-term care plan for eligible employees. The ~~board~~office shall receive bids for the plan under section 54-52.1-04. The ~~board~~office may reject any or all bids and provide a plan of self-insurance. Premiums for this plan must be paid by the eligible employee. Any refund, rebate, dividend, experience rating allowance, discount, or other reduction of premium must be credited as provided by section 54-52.1-06.

**SECTION 68. AMENDMENT.** Section 54-52.1-04.9 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.9. Uniform group insurance program - Employee assistance program.**

The ~~board~~office shall establish an employee assistance program available to persons in the medical and hospital benefits coverage group. The premium for this coverage must be paid as provided by section 54-52.1-06. The ~~board~~office shall receive bids for this program under section 54-52.1-04. Each department, board, or agency shall obtain employee assistance program services through the ~~board~~office for eligible employees and may not enter into any agreement to obtain employee assistance program services with a third-party provider except that a department, board, or agency may use its own employee assistance program services to the extent such services are provided by personnel of that department, board, or agency. As used in this section, "employee assistance program" means an employer-sponsored service for employees under which a professional employee assistance program staff assists employees and their families in finding help for emotional, drug, alcohol, family, health, and other personal or job-related problems that may be affecting their work performance.

**SECTION 69. AMENDMENT.** Section 54-52.1-04.10 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.10. Insurance to cover dental anesthesia and hospitalization.**

The ~~board~~office shall provide medical benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 for dental anesthesia and hospitalization in the same manner as provided under section 26.1-36-09.9.

**SECTION 70. AMENDMENT.** Section 54-52.1-04.11 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.11. Insurance to cover foods and food products for inherited metabolic diseases.**

The ~~board~~office shall provide medical benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 for foods and food products for inherited metabolic diseases in the same manner as provided for under section 26.1-36-09.7.

**SECTION 71. AMENDMENT.** Section 54-52.1-04.12 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.12. Insurance to cover medical services related to intoxication.**

The ~~board~~office shall provide medical benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52-04.2 for medical services related to intoxication in the same manner as provided for under subsection 15 of section 26.1-36-05 and section 26.1-36-09.13.

**SECTION 72. AMENDMENT.** Section 54-52.1-04.13 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.13. (Effective through July 31, 2017) Insurance coverage of telehealth services.**

1. As used in this section:
  - a. "Distant site" means a site at which a health care provider or health care facility is located while providing medical services by means of telehealth.
  - b. "Health care facility" means any office or institution at which health services are provided. The term includes hospitals; clinics; ambulatory surgery centers; outpatient care facilities; nursing homes; nursing, basic, long-term, or assisted living facilities; laboratories; and offices of any health care provider.
  - c. "Health care provider" includes an individual licensed under chapter 43-05, 43-06, 43-12.1 as a registered nurse or as an advanced practice registered nurse, 43-13, 43-15, 43-17, 43-26.1, 43-28, 43-32, 43-37, 43-40, 43-41, 43-42, 43-44, 43-45, 43-47, 43-58, or 43-60.
  - d. "Originating site" means a site at which a patient is located at the time health services are provided to the patient by means of telehealth.
  - e. "Policy" means health benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2.
  - f. "Store-and-forward technology" means electronic information, imaging, and communication that is transferred, recorded, or otherwise stored in order to be reviewed at a distant site at a later date by a health care provider or health care facility without the patient present in real time. The term includes telehome monitoring and interactive audio, video, and data communication.
  - g. "Telehealth":
    - (1) Means the use of interactive audio, video, or other telecommunications technology that is used by a health care provider or health care facility at a distant site to deliver health services at an originating site; and that is delivered over a secure connection that complies with the requirements of state and federal laws.
    - (2) Includes the use of electronic media for consultation relating to the health care diagnosis or treatment of a patient in real time or through the use of store-and-forward technology.

- (3) Does not include the use of audio-only telephone, electronic mail, or facsimile transmissions.
2. For all policies that become effective after June 30, 2015, and which do not extend past June 30, 2017, the ~~board~~office shall provide health benefits coverage under a policy that provides coverage for health services delivered by means of telehealth which is the same as the coverage for health services delivered by in-person means.
3. Payment or reimbursement of expenses for covered health services delivered by means of telehealth under this section may be established through negotiations conducted by the ~~board~~office or the ~~board's~~office's contractor with the health services providers in the same manner as the ~~board~~office establishes payment or reimbursement of expenses for covered health services that are delivered by in-person means.
4. Coverage under this section may be subject to deductible, coinsurance, and copayment provisions.
5. This section does not require:
  - a. A policy to provide coverage for health services that are not medically necessary, subject to the terms and conditions of the policy;
  - b. A policy to provide coverage for health services delivered by means of telehealth if the policy would not provide coverage for the health services if delivered by in-person means;
  - c. A policy to reimburse a health care provider or health care facility for expenses for health services delivered by means of telehealth if the policy would not reimburse that health care provider or health care facility if the health services had been delivered by in-person means; or
  - d. A health care provider to be physically present with a patient at the originating site unless the health care provider who is delivering health services by means of telehealth determines the presence of a health care provider is necessary.

**SECTION 73. AMENDMENT.** Section 54-52.1-04.14 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.14. Coverage of cancer treatment medications.**

The ~~board~~office shall provide medical benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 which provides coverage of cancer treatment medications in the same manner as provided under section 26.1-36-09.14.

**SECTION 74. AMENDMENT.** Section 54-52.1-05 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-05. Provisions of contract - Term of contract.**

1. Each uniform group insurance contract entered by the ~~board~~office must be consistent with the provisions of this chapter, must be signed for the state

of North Dakota by the ~~chairman of the board~~director, and must include the following:

- a. As many optional coverages as deemed feasible and advantageous by the ~~board~~office.
- b. A detailed statement of benefits offered, including maximum limitations and exclusions, and such other provisions as the ~~board~~office may deem necessary or desirable.
2. The initial term or the renewal term of a fully insured uniform group insurance contract for hospital benefits coverage, medical benefits coverage, or prescription drug coverage may not exceed two years.
  - a. The ~~board~~office may renew a contract subject to this subsection without soliciting a bid under section 54-52.1-04 if the ~~board~~office determines the carrier's performance under the existing contract meets the ~~board's~~ expectations of the office and the proposed premium renewal amount does not exceed the ~~board's~~ expectations of the office.
  - b. In making a determination under this subsection, the ~~board~~office shall:
    - (1) Use the services of a consultant to concurrently and independently prepare a renewal estimate the ~~board~~office shall consider in determining the reasonableness of the proposed premium renewal amount.
    - (2) Review the carrier's performance measures, including payment accuracy, claim processing time, member service center metrics, wellness or other special program participation levels, and any other measures the ~~board~~office determines relevant to making the determination and shall consider these measures in determining the ~~board's~~ satisfaction of the office with the carrier's performance.
    - (3) Consider any additional information the ~~board~~office determines relevant to making the determination.
  - c. If the ~~board~~office determines the carrier's performance under the existing contract does not meet the ~~board's~~ expectations of the office or the proposed premium renewal amount exceeds the ~~board's~~ expectations of the board and the ~~board~~office determines to solicit a bid under section 54-52.1-04, the ~~board~~office shall specify its reasons for the determination to solicit a bid.

**SECTION 75. AMENDMENT.** Section 54-52.1-05.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-05.1. Health insurance benefits coverage - Insured and provider data disclosure.**

Except as necessary for treatment, payment, or health care operations, a carrier providing health insurance benefits coverage under this chapter may not disclose identifiable or unidentifiable insured or provider data or information to a related or unrelated health care delivery entity. The ~~board~~office may establish exceptions to the disclosure limitations under this section for the limited purpose of addressing public

interest and benefit activities or for the limited purpose of addressing research, public health, or health care operations. An exception established by the ~~board~~office under this section may not be more permissive than allowed under state and federal privacy laws.

**SECTION 76. AMENDMENT.** Section 54-52.1-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-06. State contribution.**

Each department, board, or agency shall pay to the ~~board~~office each month from its funds appropriated for payroll and salary amounts a state contribution in the amount as determined by the primary carrier of the group contract for the full single rate monthly premium for each of its eligible employees enrolled in the uniform group insurance program and the full rate monthly premium, in an amount equal to that contributed under the alternate family contract, including major medical coverage, for hospital and medical benefits coverage for spouses and dependent children of its eligible employees enrolled in the uniform group insurance program pursuant to section 54-52.1-07. The ~~board~~office shall then pay the necessary and proper premium amount for the uniform group insurance program to the proper carrier or carriers on a monthly basis. Any refund, rebate, dividend, experience rating allowance, discount, or other reduction of premium amount must be credited at least annually to a separate fund of the uniform group insurance program to be used by the ~~board~~office to reimburse the administrative expense and benefit fund of the public employees retirement program for the costs of administration of the uniform group insurance program. In the event an enrolled eligible employee is not entitled to receive salary, wages, or other compensation for a particular calendar month, that employee may make direct payment of the required premium to the ~~board~~office to continue the employee's coverage, and the employing department, board, or agency shall provide for the giving of a timely notice to the employee of that person's right to make such payment at the time the right arises.

**SECTION 77. AMENDMENT.** Section 54-52.1-06.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-06.1. Uniform group insurance program benefits - Continuing appropriation.**

The funds necessary to pay the consulting fees and health insurance benefits related to the uniform group insurance program are hereby appropriated from insurance premiums received by the ~~board~~office.

**SECTION 78. AMENDMENT.** Section 54-52.1-08 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-08. Administration - ~~Board to promulgate rules~~Rules and regulations.**

~~It is the responsibility of the board to~~The office shall account for and disburse premium payments, maintain records, prepare reports, and to perform such other functions as may be necessary to carry out the provisions of this chapter. The ~~board~~office may ~~promulgate such~~adopt rules and regulations as may be necessary to carry out the provisions of this chapter.

**SECTION 79. AMENDMENT.** Section 54-52.1-08.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-08.1. Administrative - Nondiscrimination testing for health and life insurance programs.**

The ~~board shall be~~office is responsible for the nondiscrimination testing required under section 89 of the Internal Revenue Code. The ~~board~~office may engage the services of a consultant to assist the ~~board~~office in its administration of this section. The various state departments, boards, agencies, and commissions shall provide the ~~board~~office with requested information so the ~~board~~office may carry out its duties under this section.

**SECTION 80. AMENDMENT.** Section 54-52.1-08.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-08.2. Uniform group insurance program - Compliance with federal requirements - Group purchasing arrangements.**

If the ~~board~~office determines that any section or the phraseology of any section of this chapter does not comply with applicable federal statutes or rules, the ~~board~~office shall adopt appropriate terminology with respect to that section to comply with the federal statutes or rules, subject to the approval of the legislative management's employee benefits programs committee. The ~~board~~office may assume responsibility for group purchasing arrangements as provided by federal law. Any plan modifications made by the ~~board~~office under this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

**SECTION 81. AMENDMENT.** Section 54-52.1-09 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-09. Reports.**

Each department, board, or agency shall keep such records, make such certifications, and furnish the ~~board~~office or carriers with such information and reports as may be necessary to enable the ~~board~~office or carriers to carry out their functions under the provisions of this chapter. Carriers that have entered into a contract with the ~~board~~office are required to furnish such reasonable reports as the ~~board~~office determines to be necessary, and to permit the ~~board~~office to examine those records that relate to the uniform group insurance program.

**SECTION 82. AMENDMENT.** Section 54-52.1-11 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-11. Confidentiality of employee records.**

Information pertaining to an eligible employee's group medical records for claims, employee premium payments made, salary reduction amounts taken, history of any available insurance coverage purchased, and amounts and types of insurance applied for under the supplemental life insurance coverage under this chapter is confidential and is not a public record. The information and records may be disclosed, under rules adopted by the ~~board~~office, only to:

1. A person to whom the eligible employee has given written authorization to have the information disclosed.
2. A person legally representing the eligible employee, upon proper proof of representation, and unless the eligible employee specifically withholds authorization.
3. A person authorized by a court order.
4. A person or entity to which the boardoffice is required to disclose information pursuant to federal or state statutes or regulations.
5. Any person or entity if the purpose of the disclosure is for treatment, payment, or health care operations.

**SECTION 83. AMENDMENT.** Section 54-52.1-12 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-12. Ownership and confidentiality of the uniform group health insurance medical records of employees, retirees, and dependents.**

The medical records and related data of the employees, retirees, and dependents, obtained as the result of enrollment in the uniform group insurance program, are the property of the public employees retirement system. The records and data are confidential and are not public records. However, the boardoffice may allow administrators of administrative services only contracts or third-party administrators contracts access to the records and data where it is required in the performance of the administrator's duties pursuant to the contract. No administrator may be held liable for furnishing to the boardoffice information with respect to any patient, or any physician, hospital, or other health care provider.

**SECTION 84. AMENDMENT.** Section 54-52.1-13 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-13. Uniform prescription drug cards.**

The boardoffice shall provide for issuance of uniform prescription drug cards under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 in the same manner as provided under section 26.1-36-43.

**SECTION 85. AMENDMENT.** Section 54-52.1-14 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-14. Wellness program.**

The boardoffice shall develop an employer-based wellness program. The program must encourage employers to adopt a board-developed an office-developed wellness program by either charging extra health insurance premium to nonparticipating employers or reducing premium for participating employers.

**SECTION 86. AMENDMENT.** Section 54-52.1-15 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-15. Acceptance and expenditure of third-party payments - Continuing appropriation.**

The boardoffice may receive moneys from third parties, including the federal government, pursuant to one or more federal programs. Any money received from a third party by the boardoffice is appropriated to the boardoffice on a continuing basis for the board's use of the office in paying benefits, premiums, or administrative expenses under the uniform group insurance program.

**SECTION 87. AMENDMENT.** Section 54-52.1-16 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-16. Uniform group insurance program - Collaborative drug therapy program - Continuing appropriation.**

1. The boardoffice may establish a collaborative drug therapy program available to individuals in the medical and hospital benefits coverage group. The purpose of the collaborative drug therapy program is to improve the health of individuals in identified health populations and to manage health care expenditures.
2. Under the program, the boardoffice may involve physicians, pharmacists, and other health professionals to coordinate health care for individuals in identified health populations in order to improve health outcomes and reduce spending on care for the identified health problem. Under the program, pharmacists and other health professionals may be reimbursed for providing face-to-face collaborative drug therapy services to covered individuals in the identified health population. To encourage enrollment in the plan, the boardoffice may provide incentives to covered individuals in the identified health population which may include waived or reduced copayment for related treatment drugs and supplies.
3. The boardoffice may request the assistance of the North Dakota pharmacists association or a specified delegate to implement a formalized disease management program with the approval of the prescriptive practices committee established in section 43-15-31.4, which must serve to standardize chronic disease care and improve patient outcomes. This program must facilitate enrollment procedures, provide standards of care, enable consistent documentation of clinical and economic outcomes, and structure an outcomes reporting system.
4. The boardoffice may seek and accept private contributions, gifts, and grants-in-aid from the federal government, private industry, and other sources for a collaborative drug therapy program for identified health populations. Any funds that may become available through contributions, gifts, grants-in-aid, or other sources to the boardoffice for a collaborative drug therapy program are appropriated to the boardoffice on a continuing basis.

**SECTION 88. AMENDMENT.** Section 54-52.1-17 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-17. Uniform group insurance program - Collaborative drug therapy program - Funding.**

1. The ~~board~~office shall establish a collaborative drug therapy program that is to be available to individuals in the medical and hospital benefits coverage group. The purpose of the collaborative drug therapy program is to improve the health of individuals with diabetes and to manage health care expenditures.
2. The ~~board~~office shall involve physicians, pharmacists, and certified diabetes educators to coordinate health care for covered individuals with diabetes in order to improve health outcomes and reduce spending on diabetes care. Under the program, pharmacists and certified diabetes educators may be reimbursed for providing face-to-face collaborative drug therapy services to covered individuals with diabetes. To encourage enrollment in the plan, the ~~board~~office shall provide incentives to covered individuals who have diabetes which may include waived or reduced copayment for diabetes treatment drugs and supplies.
3. The North Dakota pharmacists association or a specified delegate shall implement a formalized diabetes management program with the approval of the prescriptive practices committee established in section 43-15-31.4, which must serve to standardize diabetes care and improve patient outcomes. This program must facilitate enrollment procedures, provide standards of diabetes care, enable consistent documentation of clinical and economic outcomes, and structure an outcomes reporting system.
4. The ~~board~~office shall fund the program from any available funds in the uniform group insurance program and if necessary the fund may add up to a two dollar per month charge on the policy premium for medical and hospital benefits coverage. A state agency shall pay any additional premium from the agency's existing appropriation.

**SECTION 89. AMENDMENT.** Section 54-52.1-18 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-18. High-deductible health plan alternative with health savings account option.**

1. The ~~board~~office shall develop and implement a high-deductible health plan as an alternative to the plan under section 54-52.1-02. The high-deductible health plan alternative with a health savings account must be made available to state employees by January 1, 2012. After June 30, 2015, at the ~~board's~~ discretion of the office, the high-deductible health plan alternative may be offered to political subdivisions for coverage of political subdivision employees. If a political subdivision elects this high-deductible option the political subdivision may not offer the plan under section 54-52.1-02.
2. Health savings account fees for participating state employees must be paid by the employer.
  - a. Except as provided in subdivision b, subject to the limits of section 223(b) of the Internal Revenue Code [26 U.S.C. 233(b)], the difference between the cost of the single and family premium for

- eligible state employees under section 54-52.1-06 and the premium for those employees electing to participate under the high-deductible health plan under this section must be deposited in a health savings account for the benefit of each participating employee.
- b. If the public employees retirement system is unable to establish a health savings account due to the employee's ineligibility under federal or state law or due to failure of the employee to provide necessary information in order to establish the account, the system is not responsible for depositing the health savings account contribution. The member will remain a participant in the high-deductible health plan regardless of whether a health savings account is established.
  3. Each new state employee must be provided the opportunity to elect the high-deductible health plan alternative. At least once each biennium, the ~~board~~office shall provide an open enrollment period allowing existing state employees or a political subdivision to change their coverage.

**SECTION 90. AMENDMENT.** Section 54-52.2-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.2-01. Deferred compensation program for public employees - Contract.**

The state or any county, city, or other political subdivision may, by contract, agree with any employee to defer, in whole or in part, any portion of that employee's compensation and may subsequently, with the consent of the employee, fund a deferred compensation program for the employee. The deferred compensation program may consist of a contract, purchase, or investment in a fixed or variable life insurance or annuity contract from any life underwriter duly licensed by this state who represents an insurance company licensed to contract business in this state, a savings account at a federally insured financial institution or the Bank of North Dakota, an account with or managed by a dealer registered under chapter 10-04, or any combination of contracts or accounts authorized by this section, as specified by the employee. The ~~public employees retirement~~ boardoffice shall specify methods of payment of deferred compensation funds to be selected by individual employees. ~~That~~ The office shall determine the number of employees participating in a deferred compensation program necessary to qualify for automatic payroll deduction.

**SECTION 91. AMENDMENT.** Section 54-52.2-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.2-02. Deferred employee's compensation - Agreements.**

The public employees retirement ~~board~~system office, acting on behalf of each state agency, department, board, commission, or institution, may enter ~~into~~ contractual agreements with employees of a state agency, department, board, commission, or institution on behalf of the state to defer any portion of that employee's compensation allowed under section 457 of the Internal Revenue Code [26 U.S.C. 457].

**SECTION 92. AMENDMENT.** Section 54-52.2-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.2-03. Deferred compensation program - Administration - Contract for services.**

The administration of the deferred compensation program for each state agency, department, board, commission, or institution is under the direction of the public employees retirement ~~board~~system office. Each county, city, or other political subdivision shall designate an officer to administer the deferred compensation program or appoint the public employees retirement ~~board~~system office to administer the program on its behalf. Payroll reductions must be made in each instance by the appropriate payroll officer. The public employees retirement ~~board~~system office shall administer the deferred compensation program based on one or more plans in compliance with the appropriate provisions of the Internal Revenue Code and regulations adopted under those provisions. Not later than January 1, 1999, all plan assets and income must be held in trust, custodial accounts, or contracts as described in section 401(f) of the Internal Revenue Code [26 U.S.C. 401(f)] for the exclusive benefit of participants and their beneficiaries as required by section 457 of the Internal Revenue Code [26 U.S.C. 457]. Once the trust, custodial account, or contract is established as required by this section, the ~~board~~office shall act as fiduciary of the plan to the extent required by section 457 of the Internal Revenue Code [26 U.S.C. 457] and the ~~board~~office is authorized to do all things necessary for the proper administration of the plan to ensure that the plan maintains its qualified status.

**SECTION 93. AMENDMENT.** Section 54-52.2-03.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.2-03.2. Deferred compensation program - ~~Board authority~~Authority - Provider information.**

1. The ~~board~~public employees retirement system office shall adopt rules necessary to implement this chapter and to manage the deferred compensation plan subject to the limitations of this chapter.
2. The ~~board~~office shall do all things necessary to preserve the tax-exempt status of the plan.
3. All providers must be authorized to do business in this state and all agents of providers must be licensed by the appropriate licensing authority or authorities in this state.
4. To continue to participate in the program, each provider must report annually, in a form and manner specified by the ~~board~~office, information related to their products, administrative and management fees, contract and maintenance charges, withdrawal penalties, market rating, and such other information the ~~board~~office may require.
5. The ~~board~~office may suspend participation of any provider that does not meet the requirements of this chapter or the rules adopted by the ~~board~~office.
6. The ~~board has the authority to~~public employees retirement system office executive director may establish a deferred compensation advisory committee, which ~~shall~~must include active providers who have signed a provider administrative agreement with the state of North Dakota deferred compensation plan.

**SECTION 94. AMENDMENT.** Section 54-52.2-03.3 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.2-03.3. Benefit payments to alternate payee under qualified domestic relations order.**

1. The ~~board~~public employees retirement system office or a vendor contracted for by the ~~board~~office shall apportion a participating member's account in the deferred compensation plan under this chapter in accordance with the applicable requirements of any qualified domestic relations order. The ~~board~~office shall review a domestic relations order submitted to the ~~board~~office to determine if the domestic relations order is qualified under this section and pursuant to the plan document established by the ~~board~~office for determining the qualified status of domestic relations orders and administering distributions under the qualified orders.
2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of a participating member, is made pursuant to a North Dakota domestic relations law, and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of the benefits payable to the participating member. A qualified domestic relations order may not require the ~~board~~office to provide any type or form of benefit, or any option, not otherwise provided under this chapter, or to provide increased benefits. A qualified domestic relations order must specify:
  - a. The name and the last-known mailing address of the participating member and the name and mailing address of each alternate payee covered by the order;
  - b. The amount or percentage of the participating member's benefits to be paid by the plan to each alternate payee;
  - c. That the alternate payee must take a lump sum payment of the benefits allocated to the alternate payee within one hundred twenty days of the later of the ~~board~~office's acceptance of the qualified domestic relations order or the entry of the order by the court; and
  - d. Each plan to which the order applies.

**SECTION 95. AMENDMENT.** Section 54-52.3-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.3-01. Pretax benefits program for public employees.**

The public employees retirement system ~~board~~office may establish a pretax benefits program for all state employees and employees of district health units, including members of the legislative assembly, under which an employee may reduce the employee's salary and elect benefits to the extent of the reduction. A participating district health unit shall comply with the program conditions and pay all fees established by the ~~board~~office.

**SECTION 96. AMENDMENT.** Section 54-52.3-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.3-02. Authority of board.**

The ~~board~~public employees retirement system office shall determine benefits to be offered under the pretax benefits program, accept proposals from qualified providers, retain consultants, and do all things necessary to administer the pretax benefits program and preserve its tax-exempt status.

**SECTION 97. AMENDMENT.** Section 54-52.3-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.3-03. Employer savings used to defray expenses of administering program - Continuing appropriation.**

The office of management and budget shall transfer funds from the savings accruing to the agencies' salaries and wages line item, as a result of the diminution of the state's employer contribution for the Federal Insurance Contribution Act tax, to a payroll clearing account. The office of management and budget shall transfer funds from the payroll clearing account to the ~~board~~public employees retirement system office as necessary to defray the reasonable expenses of administering the pretax benefits program established under this chapter, including expenses associated with the program's medical spending account. Any revenue collected by the ~~board~~office from participating district health units must be used, and is hereby appropriated, to defray the expenses of administering the program. The amount necessary to pay consultants retained by the ~~board~~office, vendors retained by the ~~board~~office to provide claims administration services, any insurance costs associated with the medical spending account, and medical reimbursements for the medical spending account if funds are insufficient to pay claims are hereby appropriated from the savings and revenue generated by the program. All other expenses of administering the program must be paid in accordance with the agency's appropriation authority as established by the legislative assembly. The director of the office of management and budget may decrease or suspend the transfer of the savings accruing to the agencies' salaries and wages line item to the payroll clearing account upon determination that the funds deposited under this section are sufficient to offset anticipated obligations. Notwithstanding other provisions in this section, the public employees retirement system ~~board~~office, or any successor state agency, may not establish, enroll, or administer any pretax benefits program for a political subdivision or any other public or private business or entity, except for any program established specifically for employees of the state and employees of district health units.

**SECTION 98. AMENDMENT.** Section 54-52.3-05 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.3-05. Confidentiality of program records.**

Any records and information pertaining to a public employee's medical and dependent care reimbursement under the pretax benefits program are confidential and are not public records subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota. The records and information may be disclosed, under rules adopted by the ~~board~~public employees retirement system office, only to:

1. A person to whom the employee has given written authorization to have the information disclosed.

2. A person legally representing the employee, upon proper proof of representation.
3. A person authorized by a court order.
4. A person or entity to which the ~~board~~office is required to disclose information pursuant to federal or state statutes or regulations.
5. Any person or entity if the purpose of the disclosure is for health care treatment, payment, or operations.

**SECTION 99. AMENDMENT.** Section 54-52.3-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.3-06. Deposit of program moneys - Appropriation.**

All moneys collected pursuant to elections made by public employees under the pretax benefits program for the medical spending account and the dependent care account must be deposited in an account with the Bank of North Dakota. All moneys deposited in the account, not otherwise appropriated, are hereby appropriated for the purpose of making payments to employees participating in the program. The ~~board~~public employees retirement system office shall transfer any surplus in the pretax benefits account at the end of the plan year to the payroll clearing account.

**SECTION 100. AMENDMENT.** Section 54-52.6-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-01. (Effective through July 31, 2017) Definition of terms.**

As used in this chapter, unless the context otherwise requires:

1. "~~Board~~" means the ~~public employees retirement system~~ board.
2. "Deferred member" means a person who elected to receive deferred vested retirement benefits under chapter 54-52.
3. "Eligible employee" means a permanent state employee who elects to participate in the retirement plan under this chapter.
4. "Employee" means any person employed by the state, whose compensation is paid out of state funds, or funds controlled or administered by the state or paid by the federal government through any of its executive or administrative officials.
5. "Employer" means the state of North Dakota.
6. "Office" means the public employees retirement system office.
7. "Participating member" means an eligible employee who elects to participate in the defined contribution retirement plan established under this chapter.
7. "Permanent employee" means a state employee whose services are not limited in duration and who is filling an approved and regularly funded

position and is employed twenty hours or more per week and at least five months each year.

8. "Wages" and "salaries" means earnings in eligible employment under this chapter reported as salary on a federal income tax withholding statement plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement, incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between an employee and a participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the boardoffice.

**(Effective after July 31, 2017) Definition of terms.** As used in this chapter, unless the context otherwise requires:

1. "Board" means the public employees retirement system board.
2. "Deferred member" means a person who elected to receive deferred vested retirement benefits under chapter 54-52.
- 3.2. "Eligible employee" means a permanent state employee, except an employee of the judicial branch or an employee of the board of higher education and state institutions under the jurisdiction of the board, who is eighteen years or more of age and who is in a position not classified by North Dakota human resource management services. If a participating member loses permanent employee status and becomes a temporary employee, the member may still participate in the defined contribution retirement plan.
- 4.3. "Employee" means any person employed by the state, whose compensation is paid out of state funds, or funds controlled or administered by the state or paid by the federal government through any of its executive or administrative officials.
- 5.4. "Employer" means the state of North Dakota.
5. "Office" means the public employees retirement system office.
6. "Participating member" means an eligible employee who elects to participate in the defined contribution retirement plan established under this chapter.
7. "Permanent employee" means a state employee whose services are not limited in duration and who is filling an approved and regularly funded position and is employed twenty hours or more per week and at least five months each year.
8. "Wages" and "salaries" means earnings in eligible employment under this chapter reported as salary on a federal income tax withholding statement plus any salary reduction or salary deferral amounts under 26 U.S.C. 125,

401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement, incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between an employee and a participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the boardoffice.

**SECTION 101. AMENDMENT.** Section 54-52.6-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-02. (Effective through July 31, 2017) Election.**

1. The boardoffice shall provide an opportunity for eligible employees who are new members of the public employees retirement system under chapter 54-52 to transfer to the defined contribution plan under this chapter pursuant to the rules and policies adopted by the boardoffice. An election made by a member of the public employees retirement system under chapter 54-52 to transfer to the defined contribution retirement plan under this chapter is irrevocable. For an individual who elects to transfer membership from the public employees retirement system under chapter 54-52 to the defined contribution retirement plan under this chapter, the boardoffice shall transfer a lump sum amount from the public employees retirement system fund to the participating member's account in the defined contribution retirement plan under this chapter. However, if the individual terminates employment prior to receiving the lump sum transfer under this section, the election made is ineffective and the individual remains a member of the public employees retirement system under chapter 54-52 and retains all the rights and privileges under that chapter. This section does not affect an individual's right to health benefits or retiree health benefits under chapter 54-52.1.
2. If the boardoffice receives notification from the internal revenue service that this section or any portion of this section will cause the public employees retirement system or the retirement plan established under this chapter to be disqualified for tax purposes under the Internal Revenue Code, then the portion that will cause the disqualification does not apply.
3. A participating member who becomes a temporary employee may still participate in the defined contribution retirement plan upon filing an election with the boardoffice within one hundred eighty days of transferring to temporary employee status. The participating member may not become a member of the defined benefit plan as a temporary employee. The temporary employee electing to participate in the defined contribution retirement plan shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by two percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of two percent, beginning with the monthly reporting period of January 2013, and with an additional increase of two

percent, beginning with the monthly reporting period of January 2014. The temporary employee shall also pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee until termination of employment or reclassification of the temporary employee as a permanent employee.

4. A former participating member who has accepted a retirement distribution pursuant to section 54-52.6-13 and who subsequently becomes employed by an entity different from the employer with which the member was employed at the time the member retired but which does participate in any state-sponsored retirement plan may, before re-enrolling in the defined contribution retirement plan, elect to permanently waive future participation in the defined contribution retirement plan, whatever plan in which the new employing entity participates, and the retiree health program and maintain that member's retirement status. Neither the member nor the employer are required to make any future retirement contributions on behalf of that employee.

**(Effective after July 31, 2017) Election.**

1. The boardoffice shall provide an opportunity for each eligible employee who is a member of the public employees retirement system on September 30, 2001, and who has not made a written election under this section to transfer to the defined contribution retirement plan before October 1, 2001, to elect in writing to terminate membership in the public employees retirement system and elect to become a participating member under this chapter. Except as provided in section 54-52.6-03, an election made by an eligible employee under this section is irrevocable. The boardoffice shall accept written elections under this section from eligible employees during the period beginning on July 1, 1999, and ending 12:01 a.m. December 14, 2001. An eligible employee who does not make a written election or who does not file the election during the period specified in this section continues to be a member of the public employees retirement system. An eligible employee who makes and files a written election under this section ceases to be a member of the public employees retirement system effective twelve midnight December 31, 2001; becomes a participating member in the defined contribution retirement plan under this chapter effective 12:01 a.m. January 1, 2002; and waives all of that person's rights to a pension, annuity, retirement allowance, insurance benefit, or any other benefit under the public employees retirement system effective December 31, 2001. This section does not affect a person's right to health benefits or retiree health benefits under chapter 54-52.1. An eligible employee who is first employed and entered upon the payroll of that person's employer after September 30, 2001, may make an election to participate in the defined contribution retirement plan established under this chapter at any time during the first six months after the date of employment. If the boardoffice, in its sole discretion, determines that the employee was not adequately notified of the employee's option to participate in the defined contribution retirement plan, the boardoffice may provide the employee a reasonable time within which to make that election, which may extend beyond the original six-month decision window.

2. If an individual who is a deferred member of the public employees retirement system on September 30, 2001, is re-employed and by virtue of that employment is again eligible for membership in the public employees retirement system under chapter 54-52, the individual may elect in writing to remain a member of the public employees retirement system or if eligible to participate in the defined contribution retirement plan established under this chapter to terminate membership in the public employees retirement system and become a participating member in the defined contribution retirement plan established under this chapter. An election made by a deferred member under this section is irrevocable. The boardoffice shall accept written elections under this section from a deferred member during the period beginning on the date of the individual's re-employment and ending upon the expiration of six months after the date of that re-employment. If the boardoffice, in its sole discretion, determines that the employee was not adequately notified of the employee's option to participate in the defined contribution retirement plan, the boardoffice may provide the employee a reasonable time within which to make that election, which may extend beyond the original six-month decision window. A deferred member who makes and files a written election to remain a member of the public employees retirement system retains all rights and is subject to all conditions as a member of that retirement system. A deferred member who does not make a written election or who does not file the election during the period specified in this section continues to be a member of the public employees retirement system. A deferred member who makes and files a written election to terminate membership in the public employees retirement system ceases to be a member of the public employees retirement system effective on the last day of the payroll period that includes the date of the election; becomes a participating member in the defined contribution retirement plan under this chapter effective the first day of the payroll immediately following the date of the election; and waives all of that person's rights to a pension, an annuity, a retirement allowance, insurance benefit, or any other benefit under the public employees retirement system effective the last day of the payroll that includes the date of the election. This section does not affect any right to health benefits or retiree health benefits to which the deferred member may otherwise be entitled.
3. An eligible employee who elects to participate in the retirement plan established under this chapter must remain a participant even if that employee returns to the classified service or becomes employed by a political subdivision that participates in the public employees retirement system. The contribution amount must be as provided in this chapter, regardless of the position in which the employee is employed. Notwithstanding the irrevocability provisions of this chapter, if a member who elects to participate in the retirement plan established under this chapter becomes a supreme or district court judge, becomes a member of the highway patrol, becomes employed in a position subject to teachers' fund for retirement membership, or becomes an employee of the board of higher education or state institution under the jurisdiction of the board who is eligible to participate in an alternative retirement program established under subsection 6 of section 15-10-17, the member's status as a member of the defined contribution retirement plan is suspended, and the member becomes a new member of the retirement plan for which that member's new position is eligible. The member's account balance remains in the

defined contribution retirement plan, but no new contributions may be made to that account. The member's service credit and salary history that were forfeited as a result of the member's transfer to the defined contribution retirement plan remain forfeited, and service credit accumulation in the new retirement plan begins from the first day of employment in the new position. If the member later returns to employment that is eligible for the defined contribution plan, the member's suspension must be terminated, the member again becomes a member of the defined contribution retirement plan, and the member's account resumes accepting contributions. At the member's option, and pursuant to rules adopted by the boardoffice, the member may transfer any available balance as determined by the provisions of the alternate retirement plan into the member's account under this chapter.

4. After consultation with its actuary, the boardoffice shall determine the method by which a participating member or deferred member may make a written election under this section. If the participating member or deferred member is married at the time of the election, the election is not effective unless the election is signed by the individual's spouse. However, the boardoffice may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.
5. If the boardoffice receives notification from the internal revenue service that this section or any portion of this section will cause the public employees retirement system or the retirement plan established under this chapter to be disqualified for tax purposes under the Internal Revenue Code, then the portion that will cause the disqualification does not apply.
6. A participating member who becomes a temporary employee may still participate in the defined contribution retirement plan upon filing an election with the boardoffice within one hundred eighty days of transferring to temporary employee status. The participating member may not become a member of the defined benefit plan as a temporary employee. The temporary employee electing to participate in the defined contribution retirement plan shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by two percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of two percent, beginning with the monthly reporting period of January 2013, and with an additional increase of two percent, beginning with the monthly reporting period of January 2014. The temporary employee shall also pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee until termination of employment or reclassification of the temporary employee as a permanent employee.
7. A former participating member who has accepted a retirement distribution pursuant to section 54-52.6-13 and who subsequently becomes employed by an entity different from the employer with which the member was employed at the time the member retired but which does participate in any

state-sponsored retirement plan may, before re-enrolling in the defined contribution retirement plan, elect to permanently waive future participation in the defined contribution retirement plan, whatever plan in which the new employing entity participates, and the retiree health program and maintain that member's retirement status. Neither the member nor the employer are required to make any future retirement contributions on behalf of that employee.

**SECTION 102. AMENDMENT.** Section 54-52.6-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-03. (Suspended from October 1, 2013, through July 31, 2017)  
Transfer of accumulated fund balances.**

For an individual who elects to terminate membership in the public employees retirement system under chapter 54-52, the boardoffice shall transfer a lump sum amount from the retirement fund to the participating member's account in the defined contribution retirement plan under this chapter. However, if the individual terminates employment prior to receiving the lump sum transfer under this section, the election made under section 54-52.6-02 is ineffective and the individual remains a member of the public employees retirement system under chapter 54-52 and retains all the rights and benefits provided under that chapter. The boardoffice shall calculate the amount to be transferred for persons employed before October 1, 2001, using the two following formulas, and shall transfer the greater of the two amounts obtained:

1. The actuarial present value of the individual's accumulated benefit obligation under the public employees retirement system based on the assumption that the individual will retire under the earliest applicable normal retirement age, plus interest from January 1, 2001, to the date of transfer, at the rate of one-half of one percent less than the actuarial interest assumption at the time of the election; or
2. The actual employer contribution made, less vested employer contributions made pursuant to section 54-52-11.1, plus compound interest at the rate of one-half of one percent less than the actuarial interest assumption at the time of the election plus the employee account balance.

The boardoffice shall calculate the amount to be transferred for persons employed after September 30, 2001, using only the formula contained in subsection 2.

**SECTION 103. AMENDMENT.** Section 54-52.6-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-03.1. Changes to election.**

1. In this section the term "participating member" is limited in application to a participating member who elected to participate in the defined contribution retirement plan established under this chapter as an active employee of a participating employer, is an actively participating member of the defined contribution plan as of July 1, 2015, and is an active employee with a participating employer on the date an election is made under this section. The term does not include a participant who is not actively employed with a participating employer on the date of transfer of the funds under this section, has taken a distribution from the defined contribution plan, is retired, is no longer actively employed with a participating employer, or

who is a member who has a qualified domestic relations order or other court order on the member's account.

2. Notwithstanding any other provision of law, the boardoffice shall provide an opportunity for each participating member to elect in writing to terminate membership in the defined contribution retirement plan under this chapter and to elect to become a participating member in the public employees retirement system under chapter 54-52.
3. The boardoffice shall establish a three-calendar-month election period beginning not later than February 1, 2016. A participating member who does not make a written election or who does not file the election with the North Dakota public employees retirement system office during the period specified in this section continues to be a member of the defined contribution plan. A participating member who makes and files a written election with the North Dakota public employees retirement system office under this section ceases to be a member of the defined contribution plan upon receipt by the public employees retirement system of the accumulated fund balance of the member's defined contribution plan under this chapter and waives all rights to that employee's accumulated fund balance under the defined contribution plan. If the executive director of the North Dakota public employees retirement system determines a participating member was not adequately notified of the option to make an election under this section, the executive director may provide that participating member a reasonable time, not to exceed three months, within which to make that election.
4. The public employees retirement system shall credit the transferring employee with the service credit and salary history reflected on the public employees retirement system's electronic database.
5. The boardoffice shall determine the method by which a participating member may make a written election under this section. If the participating member is married at the time of the election, the election is not effective unless the election is signed by the individual's spouse. However, the executive director of the North Dakota public employees retirement system may waive this spousal signature requirement if the spouse's signature cannot be obtained because of extenuating circumstances.
6. For a participating member who elects to terminate membership in the defined contribution plan under this section, the boardoffice shall transfer that member's accumulated fund balance, less any rollovers from other plans made into the defined contribution plan, to the public employees retirement system under chapter 54-52. If funds are transferred from the defined contribution plan to the defined benefit plan under an election made under this section, the boardoffice shall record this transfer to the defined benefit plan as employee and employer contributions in the same manner as transferred by the defined contribution provider. If a participating member has a separate account attributable to rollover contributions to the defined contribution plan pursuant to section 54-52.6-09.1, the participating member shall make an election to receive a distribution of the entire amount held in the rollover account at the time of transfer.

7. A participating member who elects a transfer under this section is entitled to vested employer contribution amounts under section 54-52-11.1 prospectively from the date of transfer. A participating member who elects a transfer under this section must be assessed and required to pay monthly to the defined benefit plan an additional employee contribution of an additional two percent of the monthly salary or wages paid to the member.

**SECTION 104. AMENDMENT.** Section 54-52.6-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-04. Administration.**

The boardoffice shall administer the defined contribution retirement plan established under this chapter and the boardoffice or vendors contracted for by the boardoffice shall invest the assets of the plan. The boardoffice is the fiduciary and the trustee of the plan. The boardoffice has the exclusive authority and responsibility to employ or contract with personnel and for services that the boardoffice determines necessary for the proper administration of and investment of assets of the plan, including managerial, professional, legal, clerical, technical, and administrative personnel or services.

**SECTION 105. AMENDMENT.** Section 54-52.6-05 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-05. Direction of investments.**

Each participating member shall direct the investment of the individual's accumulated employer and employee contributions and earnings to one or more investment choices within available categories of investment provided by the boardoffice.

**SECTION 106. AMENDMENT.** Section 54-52.6-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-06. Administrative expenses - Continuing appropriation.**

The administrative expenses of the plan must be paid by the participating members in a manner determined by the boardoffice. The boardoffice or vendors contracted for by the boardoffice may charge reasonable administrative expenses and deduct those expenses from a participating member's account in the defined contribution retirement plan established under this chapter. The boardoffice shall place any money deducted in an administrative expenses account with the state treasurer. The boardoffice may also use funds from the payroll clearing account established pursuant to section 54-52.3-03 to pay for consulting expenses. All moneys in the payroll clearing account, not otherwise appropriated, or so much of the moneys as may be necessary, are appropriated to the boardoffice on a continuing basis for the purpose of retaining a consultant as required for the administration of this chapter.

**SECTION 107. AMENDMENT.** Section 54-52.6-08 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-52.6-08. Credit of transfers.**

The ~~board~~office shall promptly credit the plan account of a participating member who makes an election under this chapter to terminate membership in the public employees retirement system under chapter 54-52 with any amount transferred from the public employees retirement system.

**SECTION 108. AMENDMENT.** Section 54-52.6-09 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-52.6-09. Contributions - Penalty.**

1. Each participating member shall contribute monthly four percent of the monthly salary or wage paid to the participant, and this assessment must be deducted from the participant's salary in equal monthly installments commencing with the first month of participation in the defined contribution retirement plan established under this chapter. Participating member contributions increase by one percent of the monthly salary or wage paid to the participant beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014.
2. The employer shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Employer contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. If the employee's contribution is paid by the employer under subsection 3, the employer shall contribute, in addition, an amount equal to the required employee's contribution. The employer shall pay monthly such contribution into the participating member's account from its funds appropriated for payroll and salary or any other funds available for such purposes. If the employer fails to pay the contributions monthly, it is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due.
3. Each employer, at its option, may pay the employee contributions required by this section for all compensation earned after December 31, 1999. The amount paid must be paid by the employer in lieu of contributions by the employee. If the employer decides not to pay the contributions, the amount that would have been paid will continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. Contributions paid by the employer may not be included as gross income of the employee in determining tax treatment under this code and the federal Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee. The employer shall pay

these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a combination of a reduction in gross salary and offset against future salary increases. Employee contributions paid by the employer must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made before the date on which employee contributions were assumed by the employer. An employer shall exercise its option under this subsection by reporting its choice to the boardoffice in writing.

**SECTION 109. AMENDMENT.** Section 54-52.6-09.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-09.1. Acceptance of rollovers.**

The plan may allow a participating member to transfer or rollover funds from other qualified plans into the member's account under rules adopted by the boardoffice.

**SECTION 110. AMENDMENT.** Section 54-52.6-11 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-11. Refund beneficiaries.**

A participating or former participating member may nominate one or more individuals as a refund beneficiary by filing written notice of nomination with the boardoffice. If the participating member or former participating member is married at the time of the nomination and the participant's spouse is not the refund beneficiary for one hundred percent of the account, the nomination is not effective unless the nomination is signed by the participant's spouse. However, the boardoffice may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.

**SECTION 111. AMENDMENT.** Section 54-52.6-12 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-12. Qualified domestic relations orders.**

1. The boardoffice or a vendor contracted for by the boardoffice shall apportion a participating member's account in the defined contribution retirement plan under this chapter in accordance with the applicable requirements of any qualified domestic relations order. The boardoffice shall review a domestic relations order submitted to it to determine if the domestic relations order is qualified under this section and under rules adopted by the boardoffice for determining the qualified status of domestic relations orders, administering distributions, and apportioning accounts under the qualified orders. Upon determination of the domestic relations order as qualified, the boardoffice shall notify the participating member, the named alternate payee, and the vendor, if applicable, of its receipt of the qualified domestic relations order.
2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other

dependent of a participating member, is made pursuant to a North Dakota domestic relations law, which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of a participating member's account in the defined contribution retirement plan under this chapter. A qualified domestic relations order may not require the ~~board~~office to provide any type or form of benefit, or any option, not otherwise allowed under this chapter. However, a qualified domestic relations order may require distribution from an account in the defined contribution retirement plan under this chapter notwithstanding that the participating member has not terminated eligible employment. A qualified domestic relations order must specify:

- a. The name and last-known mailing address of the participating member and the 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 112. 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 ~~board~~office 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 ~~board~~office 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 ~~board~~office 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 ~~board~~office 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 ~~board~~office 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 ~~board~~office 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.

3. A former participating member may elect one or a combination of several of the following methods of distribution of the accumulated balance:
  - a. A lump sum distribution to the recipient.
  - b. A lump sum direct rollover to another qualified plan, to the extent allowed by federal law.
  - c. Periodic distributions, as authorized by the ~~board~~office.
  - d. No current distribution, in which case the accumulated balance must remain in the plan until the former participating member or refund beneficiary elects a method or methods of distribution under this section, to the extent allowed by federal law.

A surviving spouse beneficiary may elect one or a combination of several of the methods of distribution provided in subdivisions a, b, or c if the surviving spouse is the sole refund beneficiary. If the surviving spouse is not the sole refund beneficiary, the refund beneficiary may only choose a lump sum distribution of the accumulated balance.

4. If the former participating member's vested account balance is less than one thousand dollars, the ~~board~~office shall automatically refund the member's vested account balance upon termination of employment. The member may waive the refund if the member submits a written statement to the ~~board~~office, within one hundred twenty days after termination, requesting that the member's vested account balance remain in the plan.

**SECTION 113. AMENDMENT.** Section 54-52.6-14 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-14. Disability benefits.**

The ~~board~~office shall allow distribution of the participating member's vested account balance if the ~~board~~office determines that the participating member has become totally and permanently disabled. If approved, the disabled member has the same distribution options as provided in subdivisions a and c of subsection 3 of section 54-52.6-13. However, if the member chooses the periodic distribution option, the member may only receive distributions for as long as the disability continues and the member submits the necessary documentation and undergoes medical testing required by the ~~board~~office, or for as long as the member participates in a rehabilitation program required by the ~~board~~office, or both. If the ~~board~~office determines that a member no longer meets the eligibility definition, the ~~board~~office shall discontinue the disability retirement benefit.

**SECTION 114. AMENDMENT.** Section 54-52.6-15 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-15. ~~Board to provide information~~Information provided.**

The ~~board~~office shall provide information to employees who are eligible to elect to become participating members under this chapter. The information must

include at a minimum the employee's current account balance, the assumption of investment risk under a defined contribution retirement plan, administrative and investment costs, coordination of benefits information, and a comparison of projected retirement benefits under the public employees retirement system under chapter 54-52 and the retirement plan established under this chapter. Notwithstanding any other provision of law, the ~~board~~office is not liable for any election or investment decision made by an employee based upon information provided to an employee under this chapter.

**SECTION 115. AMENDMENT.** Section 54-52.6-18 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-18. Savings clause.**

If the ~~board~~office determines that any section of this chapter does not comply with applicable federal statutes or rules, the ~~board~~office shall adopt appropriate terminology with respect to that section as will comply with those federal statutes or rules. Any plan modifications made by the ~~board~~office pursuant to this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

**SECTION 116. AMENDMENT.** Section 54-52.6-19 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-19. Overpayments.**

The ~~board~~office has the right of setoff to recover overpayments made under this chapter and to satisfy any claims arising from embezzlement or fraud committed by a participating member, deferred member, refund beneficiary, or other person who has a claim to a distribution or any other benefit from a plan governed by this chapter.

**SECTION 117. AMENDMENT.** Section 54-52.6-20 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-20. Correction of records.**

The ~~board~~office shall correct errors in the records and actions in plans under this chapter and shall seek to recover overpayments and shall seek to collect underpayments.

**SECTION 118. AMENDMENT.** Section 54-52.6-21 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-21. Internal Revenue Code compliance.**

The ~~board~~office shall administer the plan in compliance with the following sections of the Internal Revenue Code, as amended, as they apply to governmental plans:

1. Section 415, including the defined contribution limitations under section 415(c)(1)(A) and (B) of the Internal Revenue Code and the Treasury Regulations thereunder, which are incorporated herein by reference.

- a. In accordance with the defined contribution limitations under section 415(c) of the Internal Revenue Code, annual additions (as defined in section 415(c)(2) of the Internal Revenue Code) under this plan may not exceed the limitations set forth in section 415(c)(1)(A) and (B), as adjusted under section 415(d) of the Internal Revenue Code, effective January first of each year following a regular legislative session.
  - b. If a participating member's aggregate annual additions exceed the defined contribution limitations under section 415(c) of the Internal Revenue Code, the member's annual additions must be reduced to the extent necessary to comply with section 415(c) of the Internal Revenue Code and the Treasury Regulations thereunder.
2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. A member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.
3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded."

Renumber accordingly

February 10, 2017

HB1023/HB1083

attachment E

**Carlson, Al H.**

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From: Clark, Jennifer S.  
Sent: Wednesday, February 1, 2017 3:17 PM  
To: Carlson, Al H.  
Subject: Retirement Board - Membership

Representative –

Here is the Board membership (emphasis added):

**54-52-03. Governing authority.**

A state agency is hereby created to constitute the governing authority of the system to consist of a board of **nine individuals known as the retirement board**. No more than one elected member of the board may be in the employ of a single department, institution, or agency of the state or in the employ of a political subdivision. An employee of the public employees retirement system or the state retirement and investment office may not serve on the board.

**1. Two members of the legislative assembly** must be appointed by the chairman of the legislative management to serve on the board.

a. If the same political party has the greatest number of members in both the house and senate, one member must be from that majority party and one member from the political party with the next greatest number of members in the house and senate.

b. If the same political party does not have the greatest number of members in both the house and senate, one member must be from the majority party in the house and one member must be from the majority party in the senate.

**2. One member of the board must be appointed by the governor** to serve a term of five years. The appointee must be a North Dakota citizen who is not a state or political subdivision employee and who by experience is familiar with money management. The citizen member is chairman of the board.

**3. One member of the board must be appointed by the attorney general from the attorney general's legal staff** and shall serve a term of five years.

**4. The state health officer** appointed under section 23-01-05 or the state health officers designee is a member of the board.

**5. Three board members must be elected by and from among the active participating members, members of the retirement plan established under chapter 54-52.6, members of the retirement plan established under chapter 39-03.1, and members of the job service North Dakota retirement plan.** Employees who have terminated their employment for whatever reason are not eligible to serve as elected members of the board under this subsection. Board members must be elected to a five-year term pursuant to an election called by the board. Notice of board elections must be given to all active participating members. The

time spent in performing duties as a board member may not be charged against any employees accumulated annual or any other type of leave.

**6. One board member must be elected by and from among those individuals who are receiving retirement benefits under this chapter.** The board shall call the election and must give prior notice of the election to the individuals eligible to participate in the election pursuant to this subsection. The board member all serve a term of five years.

7. The members of the board are entitled to receive one hundred forty-eight dollars per day compensation and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09. This is in addition to any other pay or allowance due the chairman or a member, plus an allowance for expenses they may incur through service on the board.

8. A board member shall serve a five-year term and until the board members successor qualifies. Each board member is entitled to one vote, and five of the nine board members constitute a quorum. Five votes are necessary for resolution or action by the board at any meeting.

**Source:**

S.L. 1965, ch. 361, 3; 1967, ch. 395, 1; 1969, ch. 456, 5; 1969, ch. 457, 4; 1975, ch. 489, 1; 1977, ch. 499, 6; 1985, ch. 580, 1; 1989, ch. 663, 2; 1993, ch. 532, 3; 1997, ch. 432, 29; 2009, ch. 514, 7; 2011, ch. 48, 6; 2011, 431, 6; 2015, ch. 56, 5.

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## Carlson, Al H.

**From:** Clark, Jennifer S.  
**Date:** Wednesday, February 1, 2017 4:29 PM  
**To:** Carlson, Al H.  
**Subject:** Retirement Board - Contract Duties

Representative –

Here is a quick list of contracting duties of the Board:

- 54-52-02.1: Board may enter agreements with political subs to allow the political subs to participate in PERS.
- 54-52-02.2: Board may enter agreements with school districts and city police departments to allow participation in PERS.
- 54-52-16: Board may enter insurance contracts, agreements, and purchase insurance policies covering any part of the retirement plan.
- 54-52-16: Board may enter contract with qualified trust company to cover any part of the retirement plan.
- 54-52.1-04: Board may accept/reject bids on contracts with carriers (uniform group insurance).
- 54-52.1-04: Board may contract with consultants (uniform group insurance).
- 54-52.1-04.1: Board may contract with HMO.
- 54-52.1-05: Board (Chairman) signs each uniform group insurance contract.
- 54-52.2-02: Board may enter contractual agreements with state employees to defer any portion of that employees compensation under a 457 deferred compensation plan.
- 54-52.6-04: Board may contract for administration of defined contribution plan.

Does that give you enough to work with? In addition, we can try to put together every reference to the board. We will need to do that if you are going to repeal the board.

Jenn

Jennifer Clark  
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February 10, 2017

Clark, Jennifer S.

HB1023/HB1083 Attachment F

**From:** Clark, Jennifer S.  
**Sent:** Thursday, February 9, 2017 12:35 PM  
**To:** Carlson, Al H.  
**Subject:** HB 1023 Amendments - 17.0508.01001

Representative Carlson-

Because the proposed amendments to HB 1023 are pretty voluminous, here is a quick summary of what they do:

1. Section 25, NDCC 54-35-02.3, adds 3 nonvoting members to the Employee Benefits Programs Committee (these 3 members are the 3 employee representative elected members on the new Retirement System Advisory Board – formerly the PERS Retirement Board).
2. Sections 29 and 30, NDCC 54-52-03 and 54-52-04, change the governance of PERS. These changes make the PERS Retirement Board advisory and change the membership of this board; create a state agency called the PERS Office; and provide the Governor appoints an Executive Director of the PERS Office.
3. Section 30, NDCC 54-52-04(13), codifies the monies in the health insurance reserve fund may not be used to reduce the amount of premium or to increase coverage unless there is a legislative appropriation.

The remaining sections (all 82 pages) fix references necessitated by the change in the PERS governance change. Let me know if you have any questions or concerns-

Thank you-

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February 13, 2017

HB1023/HB1083

Attachment A  
(Also 02/15/17 Att. 1)

17.0508.01006

Title.

Fiscal No. 1

Prepared by the Legislative Council staff for  
House Appropriations - Government  
Operations Division Committee

February 10, 2017

### PROPOSED AMENDMENTS TO HOUSE BILL NO. 1023

Page 1, line 2, replace "and" with "to provide a continuing appropriation;"

Page 1, line 2, after "transfer" insert "; and to amend and reenact subdivision j of subsection 2 of section 12-60-24, paragraph 4 of subdivision a of subsection 4 of section 15-10-17, sections 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, subsection 2 of section 39-03.1-09, sections 39-03.1-10.1, 39-03.1-10.2, 39-03.1-11, 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, 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 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, 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, 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, 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, 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, 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, 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, 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, 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, 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, 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, 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, 54-52.6-18, 54-52.6-19, 54-52.6-20, and 54-52.6-21 of the North Dakota Century Code, relating to the public employees retirement board, the public employees retirement system, and the membership of the employee benefits programs committee"

Page 1, replace lines 11 through 15 with:

"Salaries and wages	\$6,315,360	\$8,263	\$6,323,623
Operating expenses	2,753,643	(132,844)	2,620,799
Contingencies	250,000	0	250,000
Total special funds	\$9,319,003	(\$124,581)	\$9,194,422
Full-time equivalent positions	34.50	(1.00)	33.50"

Page 1, after line 15, insert:

**"SECTION 2. HEALTH INSURANCE INCREASE.** The salaries and wages line item in Section 1 of this Act includes the sum of \$102,885 from other funds for increases in employee health insurance premiums from \$1,130 to \$1,249 per month."

Page 1, line 22, remove "Upon approval of the retirement"

Page 1, line 23, replace "board, the" with "The"

Page 1, line 23, after "system" insert "office"

Page 2, after line 2, insert:

**"SECTION 5. HEALTH INSURANCE RESERVE FUND - LIMITATIONS.**

Notwithstanding any other provision of law, the public employees retirement system office may not spend any moneys in the fund created under section 54-52.1-06 or from any other source for the purpose of reducing uniform group insurance premium amounts for the biennium beginning July 1, 2017, and ending June 30, 2019.

**SECTION 6. AMENDMENT.** Subdivision j of subsection 2 of section 12-60-24 of the North Dakota Century Code is amended and reenacted as follows:

- j. The North Dakota public employees retirement ~~boardsystem~~ office for individuals first employed by the public employees retirement ~~boardsystem~~ office after July 31, 2005, who have unescorted physical access to the office or any security-sensitive area of the office as designated by the executive director.

**SECTION 7. AMENDMENT.** Paragraph 4 of subdivision a of subsection 4 of section 15-10-17 of the North Dakota Century Code is amended and reenacted as follows:

- (4) Employees of the university system who are members of the public employees retirement system under chapter 54-52 or 54-52.6 and who become entitled to participate in the alternate retirement program are entitled to a special annuity purchase in the alternate retirement program in accordance with this subdivision. An eligible employee who consents to have that employee's contribution included is entitled to have that employee's contribution and employer's contribution, with interest, in the public employees retirement system fund, used by the ~~retirement board of the~~ public employees retirement system office to purchase for that employee an annuity in the alternate retirement program in lieu of any other rights under the public employees retirement fund. However, before the employer's contribution may be used for an annuity purchase, the employee's combined years of service with the public employees retirement system and the alternate retirement program must equal or exceed the years of service necessary to be eligible for retirement benefits under the public employees retirement system. An employee who transferred from the public employees retirement system before March 30, 1987, and who received a refund of that employee's contribution is entitled to have the employer's contribution, with interest, used to purchase an annuity even if that employee did not purchase an annuity in the alternate employee program with the employee's contribution. If an employee makes the election allowed under this subdivision, that employee relinquishes all rights the employee or any of the employee's beneficiaries may have had to benefits provided under chapters 54-52 and 54-52.6.

**SECTION 8. AMENDMENT.** Section 21-10-01 of the North Dakota Century Code is amended and reenacted as follows:

**21-10-01. State investment  
board - Membership - Term - Compensation - Advisory council.**

1. The North Dakota state investment board consists of the governor, the state treasurer, the commissioner of university and school lands, the director of workforce safety and insurance, the insurance commissioner, three members of the teachers' fund for retirement board or the board's designees who need not be members of the fund as selected by that board, two of the elected members of the public employees retirement system advisory board as selected by that board, and ~~one member of the public employees retirement system board as selected by that board~~office executive director or the director's designee. The director of workforce safety and insurance may appoint a designee, subject to approval by the workforce safety and insurance board of directors, to attend the meetings, participate, and vote when the director is unable to attend. The teachers' fund for retirement board may appoint an alternate designee with full voting privileges to attend meetings of the state investment board when a selected member is unable to attend. The public employees retirement system advisory board may appoint an alternate designee with full voting privileges from the public employees retirement system advisory board to attend meetings of the state investment board when a selected member is unable to attend. The members of the state investment board, except elected and appointed officials and the director of workforce safety and insurance or the director's designee and the public employees retirement system executive director, are entitled to receive as compensation one hundred forty-eight dollars per day and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09 for attending meetings of the state investment board.
2. The state investment board may establish an advisory council composed of individuals who are experienced and knowledgeable in the field of investments. The state investment board shall determine the responsibilities of the advisory council. Members of the advisory council are entitled to receive the same compensation as provided the members of the advisory board of the Bank of North Dakota and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09.

**SECTION 9. AMENDMENT.** Section 39-03.1-01 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-01. Definitions.**

In this chapter, unless the context or subject matter otherwise requires:

1. "Accumulated deductions" means the total of the amounts deducted from the salary of a contributor and paid into the fund, and standing to the contributor's credit in the fund, and interest credited on those amounts at a rate established by the ~~board~~office.
2. "~~Board~~" means the North Dakota public employees retirement board.
3. "Contributor" means any person who is a member of the North Dakota highway patrol, is subject to salary deductions to support the fund, and is employed on or after July 1, 1981.

- 4.3. "Fund" means the North Dakota highway patrolmen's retirement fund.
4. "Office" means the public employees retirement system office.
5. "Patrol" means the North Dakota highway patrol.
6. "Salary" means the actual dollar compensation, excluding any bonus, overtime, or expense allowance, paid to or for a contributor for the contributor's services.
7. "Surviving spouse" means that person lawfully married to the contributor at the time of the contributor's death.

**SECTION 10. AMENDMENT.** Section 39-03.1-04 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-04. Administrative expenses.**

The expense of the administration of this chapter, exclusive of the payment of retirement allowances and other benefits, must be paid by the state of North Dakota, by appropriation out of the highway patrol fund, made on the basis of budgets submitted by the boardoffice.

**SECTION 11. AMENDMENT.** Section 39-03.1-06 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-06. Rules and regulations - Actuarial data.**

The boardoffice shall, from time to time, establish such rules and regulations for the administration of this chapter as may be deemed necessary. It shall cause to be made periodic actuarial investigations into the mortality and service experience of the contributors to and the beneficiaries of the fund.

**SECTION 12. AMENDMENT.** Section 39-03.1-07 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-07. Membership.**

Except as otherwise provided, each member of the patrol, including the superintendent and assistant superintendent, shall contribute to the fund, and is eligible to nominate and vote for members of the public employees retirement system advisory board. Personnel of the truck regulatory division of the state highway department transferred to the highway patrol after July 1, 1983, are not required to contribute to the fund. They are members of the public employees retirement system and social security system.

**SECTION 13. AMENDMENT.** Section 39-03.1-08.1 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-08.1. Purchase of legislative service credit.**

A contributor may, prior to retirement, purchase service credit for the time during each legislative session spent serving as a member of the legislative assembly while a member of the fund. The contributor shall pay for the service credit an amount equal to the required member contributions and the state contributions for that period

of time plus interest as established by the boardoffice. Service credit for legislative sessions prior to July 1, 1985, must be purchased before January 1, 1986. Service credit for each later legislative session must be purchased within one year after the adjournment of that legislative session.

**SECTION 14. AMENDMENT.** Section 39-03.1-08.2 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-08.2. Purchase of additional service credit.**

1. The fund may accept rollovers from other eligible plans under rules adopted by the board for the purchase of additional service credit, but only to the extent the transfer is a rollover contribution that meets the requirement of section 408 of the Internal Revenue Code [26 U.S.C. 408].
2. The boardoffice may accept trustee-to-trustee transfers as permitted by Internal Revenue Code section 403(b)(13) and section 457(e)(17) from an Internal Revenue Code section 403(b) annuity or Internal Revenue Code section 457 deferred compensation plan for the purchase of permissive service credit, as defined in Internal Revenue Code section 415(n)(3)(A), or as repayment of a cashout from a governmental plan under Internal Revenue Code section 415(k)(3).
3. A contributor may elect to purchase credit for years of service and prior service for which the contributor is not presently receiving credit. A contributor is entitled to purchase additional credit under this section for the following service or prior service, except this service is not eligible for credit if the years claimed also qualify for retirement benefits from another retirement system:
  - a. Except as provided in subsection 3 of section 39-03.1-10.1, up to four years of credit for active employment in the armed forces of the United States.
  - b. Employment as a permanent employee by a public employer either within or outside the state.
  - c. Employment as a permanent employee by the federal government.
4. A contributor may elect to purchase credit for the following absences for which the participating contributor is not receiving service credit:
  - a. Employer-approved leave of absence; and
  - b. Months away from work while participating as a seasonal employee.
5. The contributor may purchase credit under this section by paying to the boardoffice an amount equal to the actuarial cost to the fund of providing the credit. The boardoffice shall adopt rules governing the purchase of additional credit under this section.
6. The boardoffice may establish individual retirement accounts and individual retirement annuities as permitted under section 408(q) of the Internal Revenue Code to allow employees to make voluntary employee contributions. The boardoffice may adopt appropriate rules as may be

necessary to implement and administer the accounts and annuities under this section.

7. In addition to service credit identified in this section, a contributor may purchase up to five years of service credit.
8. Pursuant to rules adopted by the ~~board~~office, the ~~board~~office may allow a contributor to purchase service credit with either pretax or aftertax moneys, at the ~~board's~~ discretion of the office. If a contributor elects to purchase service credit using pretax moneys, the requirements and restrictions in subsection 2 of section 39-03.1-09 apply to the purchase arrangement.

**SECTION 15. AMENDMENT.** Subsection 2 of section 39-03.1-09 of the North Dakota Century Code is amended and reenacted as follows:

2. The state of North Dakota, at its option, may pay the member contributions required by subsection 1 for all compensation earned after June 30, 1983, and may pay the member contributions required to purchase service credit on a pretax basis pursuant to subsection 8 of section 39-03.1-08.2. The amount paid must be paid by the state in lieu of contributions by the member. A member may not receive the contributed amounts directly once the employer has elected to pay the member contributions. If the state decides not to pay the contributions, the amount that would have been paid will continue to be deducted from compensation. If contributions are paid by the state, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the state, they must not be included as gross income of the member in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The state shall pay these member contributions from the same source of funds used in paying compensation to the members. The state shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a combination of a reduction in gross salary and offset against future salary increases. If member contributions are paid by the state, they must be treated for the purposes of this chapter in the same manner and to the same extent as member contributions made prior to the date the contributions were assumed by the state. The option given employers by this subsection must be exercised in accordance with rules adopted by the ~~board~~office.

**SECTION 16. AMENDMENT.** Section 39-03.1-10.1 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-10.1. Refund and repurchase of contributions.**

Except as provided in section 39-03.1-10.3, a contributor whose employment has been terminated for at least thirty days is entitled to a refund of or to repurchase contributions as follows:

1. a. If the contributor has less than ten years of service at termination of employment, the refund is payable either on application of the contributor or is automatically payable if within thirty days after termination the contributor has not provided a written statement to the ~~board~~office waiving the refund and requesting the contributor's

- account remain in the fund and the contributor has an account balance of less than one thousand dollars.
- b. If the contributor has at least ten years of service at the date of termination, the contributor may apply for a refund of accumulated deductions instead of retirement benefits. By receiving the refund of accumulated deductions under this subdivision, the contributor forfeits all months of service to the date of refund and cannot use those months for any future benefit calculations.
  2. A contributor who was paid a refund under subdivision a of subsection 1 may, upon re-employment, elect to repurchase the forfeited past service for the retirement program and the retiree health benefits program in accordance with the rules adopted by the boardoffice.

**SECTION 17. AMENDMENT.** Section 39-03.1-10.2 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-10.2. Employer service purchases.**

An employer may purchase additional service credit on behalf of a contributor under the following conditions:

1. The contributor may not be given the option to choose between an employer service purchase and an equivalent amount paid in cash.
2. The contributor must meet one of the following conditions at the time the purchase is made:
  - a. The contributor's age plus service credit must be equal to or greater than seventy; or
  - b. The contributor's age must be at least fifty and the contributor must have at least ten years of service credit.
3. The boardoffice must determine the purchase price on an actuarially equivalent basis.
4. The purchase must be completed before the contributor's retirement.
5. The employer may purchase a maximum of five years of service credit on behalf of the contributor.
6. The employer must pay the purchase price for the service credit purchased under this section in a lump sum.

**SECTION 18. AMENDMENT.** Section 39-03.1-11 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-11. Retirement benefit.**

Each contributor whose employment with the highway patrol has been terminated may apply to the boardoffice for retirement benefits according to this section and rules adopted by the boardoffice consistent with this chapter. The following procedures apply:

1. A contributor is entitled to credit for permanent employment or its equivalent from the date eligibility is attained until normal or postponed retirement date, as described in subsection 3.
2. Retirement benefits are based on the contributor's final average salary. Final average salary is the average of the highest salary received by the contributor for any thirty-six months employed during the last one hundred twenty months of employment. For contributors who terminate employment on or after August 1, 2010, final average salary is the average of the highest salary received by the contributor for any thirty-six months employed during the last one hundred eighty months of employment. For contributors who terminate employment between July 31, 2005, and August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the period for which the ~~board~~office has appropriate and accurate salary records on its electronic database, but that period may not be more than the last one hundred eighty months of employment. Months not employed or months in which employment was not as a permanent employee are excluded in arriving at the thirty-six months to be used for the purpose of computing an average. If the contributor has worked for less than thirty-six months at the postponed retirement date, the final average salary is the average salary for all months of employment.
3. Retirement dates are as follows:
  - a. Early retirement date is the first day of the month next following the month in which the contributor attains the age of fifty years and has completed at least ten years of eligible employment.
  - b. Normal retirement date is:
    - (1) The first day of the month next following the month in which the contributor attains the age of fifty-five years and has completed at least ten years of eligible employment; or
    - (2) When the contributor has a combined total of years of service credit and years of age equal to eighty and has not received a retirement benefit under this chapter.
  - c. Postponed retirement date is the first day of the month next following the month in which the contributor attains the age of sixty years.
  - d. Disability retirement date is the first day of the month after a contributor becomes permanently and totally disabled, according to medical evidence called for under the rules of the ~~board~~office, and has completed at least one hundred eighty days of employment.
4. The ~~board~~office shall calculate retirement benefits as follows:
  - a. Normal retirement benefits for all contributors reaching the normal retirement date are payable monthly, and are:
    - (1) The first twenty-five years of credited service multiplied by three and sixty hundredths percent of final average salary.

- (2) All years in excess of twenty-five years of credited service multiplied by one and three-fourths percent of final average salary.
  - (3) All contributors who retired before August 1, 2001, or their beneficiaries, are entitled to receive benefits equal to three and sixty hundredths percent of final average salary multiplied by the first twenty-five years of credited service, plus one and three-fourths percent of final average salary multiplied by credited service in excess of twenty-five years, with the increased benefits payable beginning August 1, 2001.
- b. Early retirement benefits are normal retirement benefits accrued to the date of termination of employment, but actuarially reduced to account for benefit payments beginning before the normal retirement date.
  - c. Postponed retirement benefits, for all contributors reaching the postponed retirement date, are calculated in the same manner as normal retirement benefits.
  - d. Disability retirement benefits are payable monthly and are:
    - (1) Seventy percent of the contributor's final average salary, reduced by any workforce safety and insurance benefits paid. The minimum monthly disability retirement benefit under this subsection is one hundred dollars.
    - (2) An individual or that person's beneficiary who, on July 31, 2001, is receiving a disability retirement benefit is entitled to receive an increase in benefits equal to six percent of the individual's present benefits, with the increase payable beginning August 1, 2001.
- 5. On termination of employment after completing ten years of eligible employment but before the normal retirement date, a contributor who does not elect to receive early retirement benefits is eligible to receive deferred vested retirement benefits. The deferred benefits are payable beginning on the contributor's normal retirement date in one of the forms provided in this section. Contributors who have delayed or inadvertently failed to apply for retirement benefits to commence on their normal retirement date may choose to receive either a lump sum payment equal to the amount of missed payments, or an actuarial increase to the form of benefit the member has selected, which increase must reflect the missed payments. The final average salary used for calculating deferred vested retirement benefits must be increased annually, from the later of the date of termination of employment or July 1, 1991, until the date the contributor begins to receive retirement benefits from the fund, at a rate as determined by the boardoffice not to exceed a rate that would be approximately equal to annual salary increases provided state employees pursuant to action by the legislative assembly.
  - 6. If before retiring a contributor dies after completing ten years of eligible employment, the boardoffice shall pay the contributor's accumulated deductions to the contributor's designated beneficiary as provided in this subsection. If the contributor has designated an alternate beneficiary with the surviving spouse's written consent, the boardoffice shall pay the

contributor's account balance to the named beneficiary. If the contributor has named more than one primary beneficiary, the boardoffice shall pay the contributor's account balance to the named primary beneficiaries in the percentages designated by the contributor or, if the contributor has not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the contributor, the boardoffice shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If there are no remaining primary beneficiaries, the boardoffice shall pay the contributor's account balance to the contingent beneficiaries in the same manner. If there are no remaining designated beneficiaries, the boardoffice shall pay the contributor's account balance to the contributor's estate. If the contributor has not designated an alternate beneficiary under this section or the surviving spouse is the beneficiary, the surviving spouse of the contributor may select one of the following optional forms of payment:

- a. A lump sum payment of the contributor's accumulated deductions as of the date of death.
- b. Payment of a monthly retirement benefit equal to fifty percent of the deceased contributor's accrued normal retirement benefits until the spouse dies.
7. If a contributor not eligible for the benefits of subsection 6 terminates employment for any reason before retirement, the contributor or the contributor's designated beneficiary is entitled to the contributor's accumulated deductions at termination.
8. The surviving spouse of a member receiving retirement benefits must be the member's primary beneficiary unless there is no surviving spouse or the surviving spouse designates an alternate beneficiary in writing. If a contributor receiving retirement benefits, or a contributor's surviving spouse receiving retirement benefits, dies before the total amount of benefits paid to them equals the amount of the contributor's accumulated deductions at retirement, the difference must be paid to the named beneficiary of the recipient or, if there is no named beneficiary, to the recipient's estate.
9. The boardoffice shall adopt rules providing for the receipt of retirement benefits in the following optional forms:
  - a. An actuarially equivalent joint and survivor one hundred percent option.
  - b. An actuarially equivalent life with ten-year or twenty-year certain options.
  - c. An actuarially equivalent partial lump sum distribution option with a twelve-month maximum lump sum distribution.
  - d. An actuarially equivalent graduated benefit option with either a one percent or two percent increase to be applied the first day of January of each year.

Unless a contributor requests that the contributor receive benefits according to one of these options at the time of applying for retirement, all

retirement benefits must be in the form of a lifetime monthly pension, with a fifty percent option to the surviving spouse.

**SECTION 19. AMENDMENT.** Section 39-03.1-11.2 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-11.2. Internal Revenue Code compliance.**

The ~~board~~office 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 benefits from all the plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. If the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. This reduction must be made pro rata between the plans, in proportion to the participating member's service in each plan.
2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirements under section 401(a)(9)(G), and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. A member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.

3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.

**SECTION 20. AMENDMENT.** Section 39-03.1-11.3 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-11.3. Supplemental retiree benefit payment.**

If the boardoffice determines that the fund has obtained a total return on investments of nine and six hundredths percent or higher for the fiscal year ending June 30, 2007, or June 30, 2008, the boardoffice shall authorize an additional payment equal to seventy-five percent of the January retirement allowance following the fiscal yearend to each eligible retiree in pay status as of that January, including joint and survivor and term certain beneficiaries, under this chapter. The boardoffice may only make one payment under this section.

**SECTION 21. AMENDMENT.** Section 39-03.1-14.1 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-14.1. Multiple plan membership - Eligibility for benefits - Amount of benefits.**

1. For the purpose of determining eligibility for benefits under this chapter, a member's years of service is the total of the years of service earned under this chapter and the years of service employment or years of service credit earned in any number of the following, the total of which may not exceed twelve months of credit per year:
  - a. The public employees retirement system.
  - b. The teachers' fund for retirement.
  - c. 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.
2. If a member terminates eligible employment under this chapter, if that member has not received a refund of the member's accumulated deductions, and if that member begins eligible employment in a plan described in subdivision a or b of subsection 1, that member may elect to remain an inactive member of the system without refund of the member's accumulated deductions. The election must be made within ninety days after beginning the eligible employment. The boardoffice shall terminate

the inactive status of a member under this subsection if the member gains eligible employment under this chapter or if the member terminates eligible employment under a plan described in subdivision a or b of subsection 1.

3. Pursuant to rules adopted by the boardoffice, a member who has service credit in the system and in any of the alternate plans described in subdivision a or b of subsection 1 is entitled to benefits under this chapter. The employee may elect to have benefits calculated using the benefit formula in section 39-03.1-11 under either of the following calculation methods:
  - a. By using the final average salary as calculated in section 39-03.1-11. 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.
  - b. Using the final average salary as calculated in section 39-03.1-11, 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 employment earned under this chapter.

**SECTION 22. AMENDMENT.** Section 39-03.1-14.2 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-14.2. Benefit payments to alternate payee under qualified domestic relations order.**

1. The boardoffice shall pay retirement benefits in accordance with the applicable requirements of any qualified domestic relations order. The boardoffice shall review a domestic relations order submitted to it to determine if the domestic relations order is qualified under this section and under rules established by the boardoffice for determining the qualified status of domestic relations orders and administering distributions under the qualified orders. Upon determination that a domestic relations order is qualified, the boardoffice shall notify the contributor and the named alternate payee of its receipt of the qualified domestic relations order.
2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of a contributor, is made pursuant to a North Dakota domestic relations law, and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of the benefits payable to the contributor. A qualified domestic relations order may not require the boardoffice to provide any type or form of benefit, or any option, not otherwise provided under the retirement system, or to provide increased benefits as determined on the basis of actuarial value. However, a qualified domestic relations order may require the payment of benefits at the early retirement date

notwithstanding that the contributor has not terminated eligible employment. A qualified domestic relations order must specify:

- a. The name and the last-known mailing address of the contributor and the name and mailing address of each alternate payee covered by the order;
- b. The amount or percentage of the contributor's benefits to be paid by the plan 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 23. AMENDMENT.** Section 39-03.1-25 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-25. Fraud - Correction of errors.**

No person may knowingly make any false statement, or may falsify or permit to be falsified any record or records of the retirement system herein established in any attempt to defraud such system. Should any such change in records fraudulently made or any mistake in records inadvertently made result in any contributor or other beneficiary receiving more or less than the person would have been entitled to had the records been correct, then, on the discovery of such error, the boardoffice shall correct such error and shall adjust the payments which shall be made to the contributor in such manner that the benefit to which the contributor was correctly entitled shall be paid.

**SECTION 24. AMENDMENT.** Section 39-03.1-28 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-28. Confidentiality of records.**

All records relating to the retirement benefits of a member or a beneficiary under this chapter are confidential and are not public records. The information and records may be disclosed, under rules adopted by the boardoffice only to:

1. A person to whom the member has given written consent to have the information disclosed.
2. A person legally representing the member, upon proper proof of representation, and unless the member specifically withdraws consent.
3. A person authorized by a court order.
4. A member's participating employer, limited to information concerning the member's years of service credit and years of age. The boardoffice may share other types of information as needed by the employer to validate the employer's compliance with existing state or federal laws. Any information provided to the member's participating employer under this subsection must remain confidential except as provided under subsection 6.
5. The administrative staff of the retirement and investment office for purposes relating to membership and benefits determination.

6. State or federal agencies for purposes of reporting on a service provider's provision of services or when the employer must supply information to an agency to validate the employer's compliance with existing state or federal laws.
7. Member interest groups approved by the ~~board~~office on a third-party blind list basis, limited to information concerning the member's participation, name, and address.
8. The member's spouse or former spouse, that individual's legal representative, and the judge presiding over the member's dissolution proceeding for purposes of aiding the parties in drafting a qualified domestic relations order under section 39-03.1-14.2. The information disclosed under this subsection must be limited to information necessary for drafting the order.
9. Beneficiaries designated by a participating member or a former participating member to receive benefits after the member's death, but only after the member's death. Information relating to beneficiaries may be disclosed to other beneficiaries of the same member.
10. Any person if the ~~board~~office determines disclosure is necessary for treatment, operational, or payment purposes, including the completion of necessary documents.
11. The general public, but only after the ~~board~~office has been unable to locate the member for a period in excess of two years, and limited to the member's name and the fact that the ~~board~~office has been unable to locate the member.
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 under section 39-03.1-10.2, 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 25. AMENDMENT.** Section 39-03.1-29 of the North Dakota Century Code is amended and reenacted as follows:

**39-03.1-29. Savings clause - Plan modifications.**

If the ~~board~~office determines that any section of this chapter does not comply with applicable federal statutes or rules, the ~~board~~office shall adopt appropriate terminology with respect to that section as will comply with those federal statutes or rules, subject to the approval of the employee benefits programs committee. Any plan modifications made by the ~~board~~office pursuant to this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

**SECTION 26. AMENDMENT.** Section 52-11-01 of the North Dakota Century Code is amended and reenacted as follows:

**52-11-01. Retirement for certain state employees.**

1. The North Dakota national guard is authorized to establish an employee retirement program by contract with an insurance company, state or national bank and trust company, or an investment company, authorized under the law to do business in this state, the state investment board, or the North Dakota public employees retirement system office. Except for a retirement program established under chapter 54-52, the North Dakota national guard shall prepare specifications of the terms of the retirement program which must be submitted to not less than three companies or agencies with a request for bids upon the retirement program contracts. After the submission of at least three bids, the adjutant general shall compare the bids, and with the approval of the governor, shall execute a contract for the retirement program with the company or agency submitting the lowest and best bid. The public employees retirement system ~~board is authorized to~~ office may administer the retirement plan established in 1961 and frozen to new entrants in 1980 for employees of job service North Dakota. The public employees retirement system ~~board~~ office shall fund the administrative expenses of administering that retirement plan from the funds in that plan.
2. The employing agency shall be authorized to withhold the employee's share of the contributions required under such retirement program from the salary paid each employee of such agency. The amount of such withholding must be an adjustable percentage rate of the employee's salary sufficient to provide financing of the required employee's contributions to such retirement plan as such plan was originally contracted and as it has been or will be amended, provided that such percentage rate may not exceed the percentage rate which may be fixed for withholding from federal employees for employee contributions to the federal retirement program under civil service. The employing agency shall be authorized to pay a sum as prescribed in the program contract toward the cost of such retirement program, which sum may not be in excess of the amount approved by the appropriate federal agency supervising the payment or reimbursement of salary and retirement program costs. The amount withheld from the wages due an employee and the amount to be paid by the employing agency must be paid to the company holding such retirement program contract in accordance with the terms of such contract.
3. The employing agency's share of the costs of such retirement program must be paid from any funds made available to it for this purpose by the United States government, and in the case of employees of such agencies for whom the state does not receive federal payments for salary costs, such employer's share may be made from any appropriations made available for the purpose of paying such salaries. Payments may be made for prior service of employees in accordance with the terms of the retirement program contract and in accordance with the availability of funds. The contract must specify the terms and conditions under which employee contributions may be withdrawn from the program and for the crediting of the employer's contributions to future payments due from the employing agency. Provision may be made in the contract for optional

payment of benefits to survivors of covered employees. Each agency participating in the retirement program shall be authorized to do all things necessary for the proper administration of the program, but no benefits payable under the terms of the retirement program contract shall ever become an obligation of the state.

**SECTION 27. AMENDMENT.** Section 54-35-02.3 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-02.3. Employee benefits programs committee - Appointment - Selection of chairman.**

The legislative management, during each biennium, shall appoint an employee benefits programs committee in the same manner as the legislative management appoints other interim committees. The legislative management shall appoint seven members of the house of representatives and six members of the senate to the committee. The legislative management shall designate the chairman of the committee. The three elected employee members of the retirement system advisory board shall serve as nonvoting members of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees. The public employees retirement system office shall pay the per diem and expenses of the three nonvoting members.

**SECTION 28. AMENDMENT.** Section 54-52-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-01. (Effective through July 31, 2017) Definition of terms.**

As used in this chapter, unless the context otherwise requires:

1. "Account balance" means the total contributions made by the employee, vested employer contributions under section 54-52-11.1, the vested portion of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the boardoffice.
2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
3. "Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.
4. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. Eligible employee does not include state employees who elect to become members of the retirement plan established under chapter 54-52.6.

5. "Employee" means any person employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.
6. "Employer" means a governmental unit.
7. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution ~~which the retirement board~~office may select to hold and invest the employers' and members' contributions.
8. "Governmental unit" means the state of North Dakota, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision thereof.
9. "National guard security officer or firefighter" means a participating member who is:
  - a. A security police employee of the North Dakota national guard; or
  - b. A firefighter employee of the North Dakota national guard.
10. "Office" means the public employees retirement system office.
11. "Participating member" means all eligible employees who through payment into the plan have established a claim against the plan.
- 11.12. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the bureau of criminal investigation or by a political subdivision and, notwithstanding subsection 12, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. Participating members of the law enforcement retirement plan created by this chapter who begin employment after August 1, 2005, are ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.
- 12.13. "Permanent employee" means a governmental unit employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least twenty weeks each year of employment.
- 13.14. "Prior service" means service or employment prior to July 1, 1966.
- 14.15. "Prior service credit" means such credit toward a retirement benefit as the ~~retirement board~~office may determine under the provisions of this chapter.
- 15.16. "Public employees retirement system" means the retirement plan and program established by this chapter.

- 46.17. "Retirement" means the acceptance of a retirement allowance under this chapter upon either termination of employment or termination of participation in the retirement plan and meeting the normal retirement date.
- 47.18. "Retirement board" or "board" means the ~~governing authority~~retirement system advisory board created under section 54-52-03.
- 48.19. "Seasonal employee" means a participating member who does not work twelve months a year.
- 49.20. "Service" means employment on or after July 1, 1966.
- 50.21. "Service benefit" means the credit toward retirement benefits as determined by the ~~retirement board~~office under the provisions of this chapter.
- 51.22. "Temporary employee" means a governmental unit employee who is not eligible to participate as a permanent employee, who is at least eighteen years old and not actively contributing to another employer-sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.
- 52.23. "Wages" and "salaries" means the member's earnings in eligible employment under this chapter reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between the member and participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the ~~board~~office.

**(Effective after July 31, 2017) Definition of terms.** As used in this chapter, unless the context otherwise requires:

1. "Account balance" means the total contributions made by the employee, vested employer contributions under section 54-52-11.1, the vested portion of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the ~~board~~director.
2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
3. "Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.
4. "Director" means the executive director of the public employees retirement system office.
5. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or

more of age, and includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. Eligible employee does not include nonclassified state employees who elect to become members of the retirement plan established under chapter 54-52.6 but does include employees of the judicial branch and employees of the board of higher education and state institutions under the jurisdiction of the board.

- 5.6. "Employee" means any person employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.
- 6.7. "Employer" means a governmental unit.
- 7.8. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution ~~which the retirement board~~the director may select to hold and invest the employers' and members' contributions.
- 8.9. "Governmental unit" means the state of North Dakota, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision thereof.
- 9.10. "National guard security officer or firefighter" means a participating member who is:
  - a. A security police employee of the North Dakota national guard; or
  - b. A firefighter employee of the North Dakota national guard.
- 11. "Office" means the public employees retirement system office.
- 10.12. "Participating member" means all eligible employees who through payment into the plan have established a claim against the plan.
- 11.13. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the bureau of criminal investigation or by a political subdivision and, notwithstanding subsection 12, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. Participating members of the law enforcement retirement plan created by this chapter who begin employment after August 1, 2005, are ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.

- 42.14. "Permanent employee" means a governmental unit employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least twenty weeks each year of employment.
- 43.15. "Prior service" means service or employment prior to July 1, 1966.
- 44.16. "Prior service credit" means such credit toward a retirement benefit as the ~~retirement board~~director may determine under the provisions of this chapter.
- 45.17. "Public employees retirement system" means the retirement plan and program established by this chapter.
- 46.18. "Retirement" means the acceptance of a retirement allowance under this chapter upon either termination of employment or termination of participation in the retirement plan and meeting the normal retirement date.
- 47.19. "Retirement board" or "board" means the ~~seven persons designated by this chapter as the governing authority for the retirement system~~ created~~retirement system~~ advisory board established under section 54-52-03.
- 48.20. "Seasonal employee" means a participating member who does not work twelve months a year.
- 49.21. "Service" means employment on or after July 1, 1966.
- 50.22. "Service benefit" means the credit toward retirement benefits as determined by the ~~retirement board~~director under the provisions of this chapter.
- 51.23. "Temporary employee" means a governmental unit employee who is not eligible to participate as a permanent employee, who is at least eighteen years old and not actively contributing to another employer-sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.
- 52.24. "Wages" and "salaries" means the member's earnings in eligible employment under this chapter reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between the member and participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the board~~office~~.

**SECTION 29. AMENDMENT.** Section 54-52-02.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-02.1. Political subdivisions authorized to join public employees retirement system.**

1. A political subdivision may, on behalf of its permanent employees, on behalf of its peace officers and correctional officers separately from its other employees, and permanent noncertified employees only in the case of school districts, enter into agreements with the ~~retirement board~~office for the purpose of extending the benefits of the public employees retirement system, as provided in this chapter, to those employees. The agreement may, in accordance with this chapter, contain provisions relating to benefits, contributions, effective date, modification, administration, and other appropriate provisions as the ~~retirement board~~office and the political subdivision agree upon, but the agreement must provide that:
  - a. The political subdivision will contribute on behalf of each eligible employee an amount equal to that provided in section 54-52-06 or 54-52-06.3 for peace officers and correctional officers participating separately from other political subdivision employees.
  - b. A portion of the moneys paid by the political subdivision may be used to pay administrative expenses of the ~~retirement board~~office.
2. Notwithstanding any other provision of law, a political subdivision having an existing police pension plan may merge that plan into the public employees retirement system under rules adopted by and in a manner determined by the ~~board~~office.
3. Notwithstanding any other provision of this chapter, a political subdivision of this state not currently participating in the public employees retirement system may not become a participant in the retirement system until an actuarial study is performed under the direction of the ~~board~~office to calculate the required employer contribution for any past service liability and the required employer contribution must be an amount determined sufficient to amortize and fund any past service liability over a period not to exceed thirty years as determined by the ~~board~~office. Any fees incurred in performing the actuarial study must be paid for by the political subdivision in a manner determined by the ~~board~~office.

**SECTION 30. AMENDMENT.** Section 54-52-02.6 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-02.6. Repurchase of past service upon re-employment.**

An individual who terminates participation in the plan may elect to receive a refund of the member's account balance under subsection 7 of section 54-52-17 and thus forfeit all rights under the retirement plan. An individual upon re-employment may elect to repurchase the forfeited past service for retirement and the retiree health benefits program in accordance with rules established by the ~~board~~office.

**SECTION 31. AMENDMENT.** Section 54-52-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-03. Governing authority**Public employees retirement system office - Retirement system advisory board.

1. A state agencyThe public employees retirement system office is hereby created to constitute the governing authority of the public employees retirement system to consist of a board of nine individuals known as the retirement board.
2. A seven-member retirement system advisory board shall advise the director, the governor, and the legislative management in the administration of the public employees retirement system. No more than one elected member of the board may be in the employ of a single department, institution, or agency of the state or in the employ of a political subdivision. An employee of the public employees retirement system office or the state retirement and investment office may not serve on the board.
  4. a. Two members of the legislative assembly must be appointed by the chairman of the legislative management to serve on the board.
    - a. (1) If the same political party has the greatest number of members in both the house and senate, one member must be from that majority party and one member from the political party with the next greatest number of members in the house and senate.
    - b. (2) If the same political party does not have the greatest number of members in both the house and senate, one member must be from the majority party in the house and one member must be from the majority party in the senate.
  2. b. One member of the board must be appointed by the governor to serve a term of five years. The appointee must be a North Dakota citizen who is not a state or political subdivision employee and who by experience is familiar with money management. The citizen member is chairman of the board.
  3. One member of the board must be appointed by the attorney general from the attorney general's legal staff and shall serve a term of five years.
  4. The state health officer appointed under section 23-01-05 or the state health officer's designee is a member of the board.
  5. c. Three board members must be elected by and from among the active participating members, members of the retirement plan established under chapter 54-52.6, members of the retirement plan established under chapter 39-03.1, and members of the job service North Dakota retirement plan. Employees who have terminated their employment for whatever reason are not eligible to serve as elected members of the board under this subsection. Board members must be elected to a five-year term pursuant to an election called by the board. Notice of board elections must be given to all active participating members. The time spent in performing duties as a board member may not be charged against any employee's accumulated annual or any other type of leave.
  6. d. One board member must be elected by and from among those individuals who are receiving retirement benefits under this chapter.

The board shall call the election and must give prior notice of the election to the individuals eligible to participate in the election pursuant to this subsection. The board member shall serve a term of five years.

7. e. The members of the board are entitled to receive one hundred forty-eight dollars per day compensation and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09. This is in addition to any other pay or allowance due the chairman or a member, plus an allowance for expenses they may incur through service on the board.
8. f. A board member shall serve a five-year term and until the board member's successor qualifies. Each board member is entitled to one vote, and ~~five~~four of the ~~nine~~seven board members constitute a quorum. ~~Five~~Four votes are necessary for resolution or action by the board at any meeting.

**SECTION 32. AMENDMENT.** Section 54-52-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-04. Board authorityAuthority - Continuing appropriation.**

1. The ~~board~~public employees retirement system office shall adopt rules necessary to implement this chapter, and to manage the system, subject to the limitations of this chapter. ~~The board has the powers and privileges of a corporation, including the right to sue and be sued in its own name as the board. The venue of all actions in which the board is a party must be Burleigh County, North Dakota.~~
2. The ~~board~~governor shall appoint an executive director to serve at ~~its~~the governor's discretion. ~~The executive director shall perform such duties as assigned by the board.~~
3. The ~~board~~office shall ~~authorize the creation of whatever employ~~ staff it ~~deemsas~~ necessary for sound and economical administration of the system. ~~The executive director shall hire the staff, subject to the approval of the board.~~
4. The ~~board~~office shall arrange for actuarial and medical advisers for the system. The ~~board~~office shall ~~causecontract with~~ a qualified, competent actuary to be retained on a consulting basis. The actuary shall make an annual valuation of the liabilities and reserves of the system and a determination of the contributions required by the system to discharge its liabilities and pay the administrative costs under this chapter, and to recommend to the ~~board~~office rates of employer and employee contributions required, based upon the entry age normal cost method, to maintain the system on an actuarial reserve basis; once every five years make a general investigation of the actuarial experience under the system including mortality, retirement, employment turnover, and other items required by the ~~board~~office, and recommend actuarial tables for use in valuations and in calculating actuarial equivalent values based on such investigation; and perform other duties as may be assigned by the ~~board~~office.

5. The state shall provide the boardoffice with the ~~retirement systems~~ office or offices to be used for the meetings of the board and for the general purposes of the administrative personnel office.
6. The funds necessary for paying prior service and service benefits, consultant fees, and making withdrawal payments and refunds are hereby appropriated from the retirement fund for those purposes. The amount necessary to pay the consulting fees and insurance benefits related to the uniform group insurance program is hereby appropriated from the insurance premiums received by the boardoffice.
7. The boardoffice shall administer chapters 39-03.1, 54-52.1, and 54-52.2, and may administer other optional employee benefit programs, including a flexible benefits plan, an optional employee short-term disability plan, a long-term care plan, or other optional employee benefit programs as the boardoffice deems appropriate. The boardoffice shall also administer the retirement plan established in 1961 and frozen to new entrants in 1980 for employees of job service North Dakota under chapter 52-11.
8. ~~The board shall annually~~Annually, the office shall report the investment performance of the fund and distribute a copy to each participant.
9. The boardoffice may distribute the employer contribution and applicable interest for any employee of any development foundation associated with a public institution of higher education in this state who may previously have been included in the public employees retirement system while employed by such foundation. Such employee is entitled to have that employee's contribution and the contribution of the development foundation, with interest.
10. The boardoffice may audit any books, papers, accounts, bills, vouchers, and other documents or property of any and all departments, boards, commissions, political subdivisions, financial institutions, contractors, health care organizations, and consultants relating to their participation in services provided to programs administered by the boardoffice.
11. The boardoffice shall fund the administrative expenses of chapter 54-52.2 from funds collected under chapters 54-52, 54-52.1, and 54-52.3 and from fines and fees collected from deferred compensation services providers, including any fees paid for by participant funds, subject to appropriation by the legislative assembly.
12. Except as provided by section 54-52-17.7, the boardoffice may adjust service and make any correction of member, retiree, or beneficiary records and benefits after an error or inequity has been determined.
13. ~~The board~~Subject to appropriation, the office may use any amount credited to the separate uniform group insurance program fund created by section 54-52.1-06 in excess of the costs of administration of the uniform group insurance program to reduce the amount of premium amounts paid monthly by enrolled members of the uniform group insurance program, to reduce any increase in premium amounts paid monthly by enrolled members, or to provide increased insurance coverage to the members, as the boardoffice may determine.

14. The ~~board~~office may create and implement an Internal Revenue Code section 115 trust health care savings plan for all supreme and district court judges participating in the public employees retirement system if seventy-five percent of the total active participating supreme and district court judges vote to approve the program. If approved, the contribution level specified in the vote applies to all current and future participating supreme and district court judges and must be paid pursuant to the plan document developed by the ~~board~~office. The contribution level may only be changed by a vote of seventy-five percent of the total active participating supreme and district court judges at that time.
15. The office shall establish policies and implement procedures to make and collect payments in the most cost-effective manner, including the use of electronic transfer of funds.

SECTION 33. AMENDMENT. Subsection 3 of section 54-52-05 of the North Dakota Century Code is amended and reenacted as follows:

3. Each employer, at its option, may pay all or a portion of the employee contributions required by subsection 2 and sections 54-52-06.1, 54-52-06.2, 54-52-06.3, and 54-52-06.4 or the employee contributions required to purchase service credit on a pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not receive the contributed amounts directly once the employer has elected to pay the employee contributions. The amount paid must be paid by the employer in lieu of contributions by the employee. If the state determines not to pay the contributions, the amount that would have been paid must continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the employer, they may not be included as gross income of the employee in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee or from the levy authorized by subsection 5 of section 57-15-28.1. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a contribution of a reduction in gross salary and offset against future salary increases. If employee contributions are paid by the employer, they must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made prior to the date on which employee contributions were assumed by the employer. An employer exercising its option under this subsection shall report its choice to the ~~board~~office in writing.

SECTION 34. AMENDMENT. Section 54-52-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06. Employer's contribution to retirement plan.**

Each governmental unit shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Governmental unit contributions increase by one percent of the monthly salary or wage

of a participating member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. 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:

**54-52-06.2. Contribution by national guard security officers or firefighters - Employer contribution.**

Each national guard security officer or firefighter who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Member contributions increase by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2014. Effective August 1, 2015, each national guard security officer or firefighter who is a participating member of the plan under this section becomes a participating member of the plan under section 54-52-06.4 and the ~~board~~office shall thereafter manage any account balance associated with those participating members under section 54-52-06.4. After July 31, 2015, a new eligible employee may not become a participating member of the plan under this section. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The national guard security officer's or firefighter's employer shall contribute an amount determined by the ~~board~~office to be actuarially required to support the level of benefits specified in section 54-52-17. The employer's contribution must be paid from funds appropriated for salary or from any other funds available for such purposes. If the security officer's or firefighter's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required national guard security officer's or firefighter's assessment.

**SECTION 36. AMENDMENT.** Section 54-52-06.3 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06.3. Contribution by peace officers and correctional officers employed by political subdivisions - Employer contribution.**

Each peace officer or correctional officer employed by a political subdivision that enters into an agreement with the ~~retirement board~~ office on behalf of its peace officers and correctional officers separately from its other employees and who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Peace officer or correctional officer contributions increase by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2014. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's or correctional officer's employer shall contribute an amount determined by the ~~board~~ office to be actuarially required to support the level of benefits specified in section 54-52-17. If the peace officer's or correctional officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace officer's or correctional officer's assessment.

**SECTION 37. AMENDMENT.** Section 54-52-06.4 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06.4. Contribution by peace officers employed by the bureau of criminal investigation or security officers employed by the national guard - Employer contribution.**

Each peace officer employed by the bureau of criminal investigation who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Peace officer contributions increase by one percent of the member's monthly salary 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. Effective August 1, 2015, each national guard security officer who is a member of the public employee's retirement system is assessed and monthly shall pay six percent of the employee's monthly salary. National guard security officer contributions decrease by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2016. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's or security officer's employer shall contribute an amount determined by the ~~board~~ office to be actuarially required to support the level of benefits specified in section 54-52-17. The employer's contribution must be paid from funds appropriated for salary or from any other funds available for such purposes. If the peace officer's or security officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace officer's or security officer's assessment.

**SECTION 38. AMENDMENT.** Section 54-52-10 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-52-10. Allocation of funds.**

The ~~board~~office shall maintain such funds and accounts as may be necessary to administer the provisions of this chapter. Any and all expenses incurred by or for the operation of the retirement plan must be paid from the funds contributed pursuant to sections 54-52-06 and 54-52-06.1.

**SECTION 39. AMENDMENT.** Section 54-52-10.1 of the North Dakota Century Code is amended and reenacted as follows:

##### **54-52-10.1. Payment of benefits and other costs.**

The ~~board~~office shall use funds under ~~its~~the control of the office both before and after July 1, 1977, to administer this chapter and pay benefits authorized by this chapter.

**SECTION 40. AMENDMENT.** Section 54-52-11.1 of the North Dakota Century Code is amended and reenacted as follows:

##### **54-52-11.1. Vesting of employer contributions.**

Except for supreme and district court judges, who are not eligible for benefits under this section, a member's account balance includes vested employer contributions equal to the member's contributions to the deferred compensation plan for public employees under chapter 54-52.2, or member contributions to other participating employer supplemental Internal Revenue Code section 457 or 403(b) retirement programs as approved by the ~~board~~office, with the minimum member contribution being twenty-five dollars. However, the vested employer contribution may not exceed:

1. For months one through twelve of service credit, twenty-five dollars or one percent of the member's monthly salary, whichever is greater.
2. For months thirteen through twenty-four of service credit, twenty-five dollars or two percent of the member's monthly salary, whichever is greater.
3. For months twenty-five through thirty-six of service credit, twenty-five dollars or three percent of the member's monthly salary, whichever is greater.
4. For service exceeding thirty-six months, twenty-five dollars or four percent of the member's monthly salary, whichever is greater.
5. The vested employer contribution may not exceed four percent of the member's monthly salary.

Vested employer contributions must be credited monthly to the member's account balance.

**SECTION 41. AMENDMENT.** Section 54-52-14 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-52-14. Acceptance of money and property by the board.**

The ~~board~~office may take by gift, grant, devise, or bequest, any money or real or personal property or any other thing of value for the benefit of the employees retirement fund, and when received, said property becomes a part of such fund.

**SECTION 42. AMENDMENT.** Section 54-52-14.2 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-52-14.2. Interest and earnings attributable to administered funds.**

All interest and earnings on funds administered by the ~~retirement~~ ~~board~~office established under chapters 39-03.1, 54-52, 54-52.1, 54-52.2, and 54-52.3 must be credited to the respective fund.

**SECTION 43. AMENDMENT.** Section 54-52-16 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-52-16. Insurance contracts - Trust agreements.**

For the purpose of establishing the funding agent or agents, the ~~board~~office may enter ~~into~~ an insurance contract, agreement, or purchase an insurance policy or policies covering all or any part of the retirement plan adopted, provided the assuring company is a North Dakota corporation or authorized to do business in the state of North Dakota, or may enter ~~into~~ a contract with any qualified trust company or companies, or combinations of insurance contracts and trust contracts.

**SECTION 44. AMENDMENT.** Section 54-52-17 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-52-17. Formulation of plan.**

Participating members shall receive benefits according to this section and according to rules adopted by the ~~board~~office, not inconsistent with this chapter. No person is entitled to receive a prior service benefit if the person was not continuously employed by a governmental unit in North Dakota for a period of not less than two years immediately prior to eligibility for retirement.

1. Participating members shall receive credit for full-time employment or its equivalent from the date they attain eligibility until their normal retirement date, postponed retirement date, or early retirement date, as defined in this section. Part-time employment will be recognized as full-time employment on a prorated basis as the ~~board~~office may prescribe.
2. Retirement benefits are calculated from the participating member's final average salary, which is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred twenty months of employment. For members who terminate employment on or after August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred eighty months of employment. For members who terminate employment between July 31, 2005, and August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the period for which the ~~board~~office has appropriate and accurate salary records on its electronic

database, but that period may not be more than the last one hundred eighty months of employment. Months not employed are excluded in arriving at the thirty-six months to be used for the purpose of computing an average. If the participating member has worked for less than thirty-six months at the normal retirement date, the final average salary is the average salary for the total months of employment.

3. Retirement dates are defined as follows:
  - a. Normal retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is:
    - (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
    - (2) When the member has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
  - b. Normal retirement date for members first enrolled after December 31, 2015, except for a national guard security officer or firefighter, a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, or a supreme court or district court judge, is:
    - (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
    - (2) When the member has a combined total of years of service credit and years of age equal to ninety and the member attains a minimum age of sixty and has not received a retirement benefit under this chapter.
  - c. Normal retirement date for a national guard security officer or firefighter is:
    - (1) The first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty-five years and has completed at least three eligible years of employment; or
    - (2) When the national guard security officer or firefighter has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
  - d. Normal retirement date for a peace officer or correctional officer employed by a political subdivision is:
    - (1) The first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty-five years and has completed at least three eligible years of employment; or
    - (2) When the peace officer or correctional officer has a combined total of years of service credit and years of age equal to

- eighty-five and has not received a retirement benefit under this chapter.
- e. Normal retirement date for a peace officer employed by the bureau of criminal investigation is:
    - (1) The first day of the month next following the month in which the peace officer attains the age of fifty-five years and has completed at least three eligible years of employment; or
    - (2) When the peace officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
  - f. Postponed retirement date is the first day of the month next following the month in which the member, on or after July 1, 1977, actually severs or has severed the member's employment after reaching the normal retirement date.
  - g. Early retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed three years of eligible employment. For a national guard security officer or firefighter, early retirement date is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty years and has completed at least three years of eligible employment. For a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, early retirement date is the first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty years and has completed at least three years of eligible employment.
  - h. Disability retirement date is the first day of the month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules of the boardoffice, and has completed at least one hundred eighty days of eligible employment. For supreme and district court judges, permanent and total disability is based solely on a judge's inability to perform judicial duties arising out of physical or mental impairment, as determined pursuant to rules adopted by the boardoffice or as provided by subdivision a of subsection 3 of section 27-23-03. A member is eligible to receive disability retirement benefits only if the member:
    - (1) Became disabled during the period of eligible employment; and
    - (2) Applies for disability retirement benefits within twelve months of the date the member terminates employment.

A member is eligible to continue to receive disability benefits as long as the permanent and total disability continues and the member submits the necessary documentation and undergoes medical testing required by the boardoffice, or for as long as the member participates in a rehabilitation program required by the boardoffice, or both. If the boardoffice determines that a member no longer meets the eligibility definition, the boardoffice may discontinue the disability retirement

benefit. The ~~board~~office may pay the cost of any medical testing or rehabilitation services if ~~the~~ the office deems necessary and these payments are appropriated from the retirement fund for those purposes.

4. The ~~board~~office shall calculate retirement benefits as follows:

- a. Normal retirement benefits for all retirees, except supreme and district court judges, reaching normal retirement date equal an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which is determined as follows:
  - (1) Service benefit equals two percent of final average salary multiplied by the number of years of service employment.
  - (2) Prior service benefit equals two percent of final average salary multiplied by the number of years of prior service employment.
- b. Normal retirement benefits for all supreme and district court judges under the public employees retirement system reaching normal retirement date equal an annual amount, payable monthly, comprised of a benefit as defined in this chapter, determined as follows:
  - (1) Benefits must be calculated from the time of appointment or election to the bench and must equal three and one-half percent of final average salary multiplied by the first ten years of judicial service, two and eighty hundredths percent of final average salary multiplied by the second ten years of judicial service, and one and one-fourth percent of final average salary multiplied by the number of years of judicial service exceeding twenty years.
  - (2) Service benefits must include, in addition, an amount equal to the percent specified in subdivision a of final average salary multiplied by the number of years of nonjudicial employee service and employment.
- c. Postponed retirement benefits are calculated as for single life benefits for those members who retired on or after July 1, 1977.
- d. Early retirement benefits are calculated as for single life benefits accrued to the date of termination of employment, but must be actuarially reduced to account for benefit payments beginning prior to the normal retirement date, which is the earlier of age sixty-five or the age at which current service plus age equals eighty-five. Except for a national guard security officer or firefighter, a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, or a supreme court or district court judge, early retirement benefits for members first enrolled after December 31, 2015, are calculated for single life benefits accrued to the date of termination of employment, but must be reduced by fixed rate of eight percent per year to account for benefit payments beginning before the normal retirement date. A retiree, other than a supreme or district court judge, is eligible for early retirement benefits only after having completed three years of eligible employment. A supreme or district

court judge retiree is eligible for early retirement benefits only after having completed five years of eligible employment.

- e. Except for supreme and district court judges, disability retirement benefits are twenty-five percent of the member's final average salary. Disability retirement benefits for supreme and district court judges are seventy percent of final average salary reduced by the member's primary social security benefits and by any workforce safety and insurance benefits paid. The minimum monthly disability retirement benefit under this section is one hundred dollars.
5. Upon termination of employment after completing three years of eligible employment, except for supreme and district court judges, who must complete five years of eligible employment, but before normal retirement date, a member who does not elect to receive early retirement benefits is eligible to receive deferred vested retirement benefits payable commencing on the member's normal retirement date in one of the optional forms provided in subsection 9. Members who have delayed or inadvertently failed to apply for retirement benefits to commence on their normal retirement date may choose to receive either a lump sum payment equal to the amount of missed payments, or an actuarial increase to the form of benefit the member has selected, which increase must reflect the missed payments.
6. If before retiring a member dies after completing three years of eligible employment, except for supreme and district court judges, who must have completed five years of eligible employment, the boardoffice shall pay the member's account balance to the member's designated beneficiary as provided in this subsection. If the member has designated an alternate beneficiary with the surviving spouse's written consent, the boardoffice shall pay the member's account balance to the named beneficiary. If the member has named more than one primary beneficiary, the boardoffice shall pay the member's account balance to the named primary beneficiaries in the percentages designated by the member or, if the member has not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the member, the boardoffice shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If any beneficiary survives the member, yet dies before distribution of the beneficiary's share, the beneficiary must be treated as if the beneficiary predeceased the member. If there are no remaining primary beneficiaries, the boardoffice shall pay the member's account balance to the contingent beneficiaries in the same manner. If there are no remaining designated beneficiaries, the boardoffice shall pay the member's account balance to the member's estate. If the member has not designated an alternate beneficiary or the surviving spouse is the beneficiary, the surviving spouse of the member may select a form of payment as follows:
  - a. If the member was a supreme or district court judge, the surviving spouse may select one of the following optional forms of payment:
    - (1) A lump sum payment of the member's retirement account as of the date of death.

- (2) Payments as calculated for the deceased member as if the member was of normal retirement age at the date of death, payable until the spouse dies.
- b. The surviving spouse of all other members may select one of the following options:
  - (1) A lump sum payment of the member's retirement account as of the date of death.
  - (2) Payment of a monthly retirement benefit equal to fifty percent of the deceased member's accrued single life retirement benefits until the spouse dies.
  - (3) If the member dies on or after the member's normal retirement date, the payment of a monthly retirement benefit equal to an amount that would have been paid to the surviving spouse if the member had retired on the day of the member's death and had selected a one hundred percent joint and survivor annuity, payable until the spouse dies. A surviving spouse who received a benefit under this subsection as of July 31, 1995, is entitled to the higher of that person's existing benefit or the equivalent of the accrued benefit available under the one hundred percent joint and survivor provision as if the deceased member were of normal retirement age, with the increase payable beginning August 1, 1995.
7. If a member not coming under the provisions of subsection 6 terminates employment because of death, permanent and total disability, or any voluntary or involuntary reason prior to retirement, the member or the member's designated beneficiary is entitled to the member's account balance at termination. The boardoffice automatically shall refund a member's account balance if the member has completed less than three years of eligible employment, has an account balance of less than one thousand dollars, and was not a supreme or district court judge. If the member was a supreme or district court judge, the boardoffice automatically shall refund a member's account balance if the member completed less than five years of eligible employment. A member may waive the refund if the member submits a written statement to the boardoffice, within thirty days after termination, requesting that the member's account balance remain in the fund.
8. The surviving spouse of a member receiving retirement benefits must be the member's primary beneficiary unless there is no surviving spouse or the surviving spouse designates an alternate beneficiary in writing. If a member receiving retirement benefits or the member's surviving spouse receiving retirement benefits dies before the total amount of benefits paid to either or both equals the amount of the member's account balance at retirement, the difference must be paid to the named beneficiary of the recipient or, if there is no named beneficiary, to the recipient's estate.
9. The boardoffice shall adopt rules providing for the receipt of retirement benefits in the following optional forms:
  - a. Single life.

- b. An actuarially equivalent joint and survivor option, with fifty percent or one hundred percent options.
- c. Actuarially equivalent life with ten-year or twenty-year certain options.
- d. An actuarially equivalent partial lump sum distribution option with a twelve-month maximum lump sum distribution.
- e. An actuarially equivalent graduated benefit option with either a one percent or two percent increase to be applied the first day of January of each year.

Except for supreme and district court judges, unless a member specifically requests that the member receive benefits according to one of these options at the time of applying for retirement, all retirement benefits must be in the form of a single life benefit. For supreme and district court judges, unless a member specifically requests that the member receive benefits according to one of these options at the time of applying for retirement, all retirement benefits must be in the form of a lifetime monthly pension with fifty percent of the benefit continuing for the life of the surviving spouse, if any.

- 10. The fund may accept rollovers from other eligible plans under rules adopted by the boardoffice for the purchase of additional service credit, but only to the extent the transfer is a rollover contribution that meets the requirement of section 408 of the Internal Revenue Code.
- 11. The boardoffice may accept trustee-to-trustee transfers as permitted by Internal Revenue Code section 403(b)(13) and section 457(e)(17) from an Internal Revenue Code section 403(b) annuity or Internal Revenue Code section 457 deferred compensation plan for the purchase of permissive service credit, as defined in Internal Revenue Code section 415(n)(3)(A) or as repayment of a cashout from a governmental plan under Internal Revenue Code section 415(k)(3).
- 12. The boardoffice may establish individual retirement accounts and individual retirement annuities as permitted under section 408(q) of the Internal Revenue Code to allow employees to make voluntary employee contributions. The boardoffice may adopt rules to implement and administer the accounts and annuities under this section.

**SECTION 45. AMENDMENT.** Section 54-52-17.2 of the North Dakota Century Code is 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 ~~board~~office, 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 ~~board~~office 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 retirement system is required, then, for purposes of current participation, the employee is a member of each applicable retirement system. The employer shall pay over to each retirement system the member assessment and employer contributions at the rates currently existing for that retirement system.  
b. If an employee described in subdivision a was employed prior to August 1, 2003, and has dual membership rights, the employee may elect to begin participation in the alternate plan pursuant to the plan provisions on August 1, 2003, or may continue participation according to the plan provisions in effect on July 31, 2003. An employee's election under this subdivision is ineffective unless delivered to the public employees retirement system administrative offices by five p.m. on October 31, 2003. If an election is not received by the public employees retirement system, the participation and benefit calculation requirements in effect on July 31, 2003, apply to that employee.

**SECTION 46. AMENDMENT.** Section 54-52-17.3 of the North Dakota Century Code is amended and reenacted as follows:

### **54-52-17.3. Purchase of legislative service credit.**

A member may purchase service credit for the time during each legislative session spent serving as a member of the legislative assembly while holding eligible employment under this chapter. The member shall pay for this service credit an amount equal to the required member assessments and employer contributions plus interest as established by the boardoffice. Service credit for legislative sessions prior to July 1, 1985, must be purchased before January 1, 1986. Service credit for each later legislative session must be purchased within one year after the adjournment of that legislative session.

**SECTION 47. AMENDMENT.** Section 54-52-17.4 of the North Dakota Century Code is amended and reenacted as follows:

### **54-52-17.4. Purchase of additional credit.**

1. A participating member may elect to purchase credit for years of service and prior service for which the participating member is not presently receiving credit. A participating member is entitled to purchase additional credit under this section for the following service or prior service, except this service is not eligible for credit if the years claimed also qualify for retirement benefits from another retirement system:
  - a. Active prior employment in the armed forces of the United States, except as provided in section 54-52-17.14, for up to four years of credit.
  - b. Employment as a permanent employee by a public employer either within or outside the state of North Dakota.
  - c. Employment as a permanent employee by a political subdivision participating in the public employees retirement system which did not pay the cost of past service benefits under section 54-52-02.1.
  - d. Service the participating member did not elect to repurchase upon re-employment under section 54-52-02.6.
  - e. Service of an eligible employee, who exercised the privilege to withdraw from the predecessor plan to the public employees retirement system under subsection 10 of section 54-52-17 as created by section 13 of chapter 499 of the 1977 Session Laws.
  - f. Employment as a permanent employee by the federal government.
2. A participating member may elect to purchase credit for the following absences for which the participating member is not receiving service credit:
  - a. Employer-approved leave of absence; or
  - b. Months away from work while participating as a seasonal employee.
3. Supreme and district court judges under the public employees retirement system may elect to purchase credit for the following years of service:
  - a. Except as provided in section 54-52-17.14, for up to four years of credit for active employment in the armed forces of the United States.

- b. As a county judge in a county or counties that did not participate in the public employees retirement system under this chapter.
  - c. Participation in the public employees retirement system as a county judge may be converted to credit in the judges' retirement system.
4. The participating member may purchase credit under this section, or the participating member's employer may purchase for the participating member, by paying to the ~~board~~office an amount equal to the actuarial cost to the fund of providing the credit. If the participating member purchases credit pursuant to subdivision d of subsection 1, the participating member must pay to the ~~board~~office an amount equal to the greater of the actuarial cost to the fund of providing the credit, or the amount the participating member received upon taking a refund of the participating member's account balance, plus interest at the actuarial rate of return from the time the participating member was issued the refund. If the participating member is not repurchasing all of the credit originally refunded, the participating member must pay a pro rata amount of the refunded amount determined by dividing the refunded amount by the number of months of credit refunded, multiplying that amount times the number of months of credit the participating member seeks to repurchase, and adding interest at the actuarial rate of return. The participating member or the participating member's employer shall also pay to the retiree health benefits fund established under section 54-52.1-03.2 an amount equal to the actuarial cost to that fund for the additional credit. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. The ~~board~~office shall adopt rules governing the purchase of additional credit under this section.
5. Pursuant to rules adopted by the ~~board~~office, the ~~board~~office may allow a participating member to purchase service credit with either pretax or aftertax moneys, at the ~~board~~'s discretion of the office. If the participating member elects to purchase service credit using pretax moneys, the requirements and restrictions in subsection 3 of section 54-52-05 apply to the purchase arrangement.
6. In addition to service credit identified in this section, a vested participating member may purchase up to five years of service credit unrelated to any other eligible service.

**SECTION 48. AMENDMENT.** Section 54-52-17.6 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-17.6. Benefit payments to alternate payee under qualified domestic relations order.**

1. The ~~board~~office shall pay retirement benefits in accordance with the applicable requirements of any qualified domestic relations order. The ~~board~~office shall review a domestic relations order submitted to it to determine if the domestic relations order is qualified under this section and under rules established by the ~~board~~office for determining the qualified status of domestic relations orders and administering distributions under the qualified orders. Upon determination that a domestic relations order is qualified, the ~~board~~office shall notify the participating member and the

named alternate payee of its receipt of the qualified domestic relations order.

2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of a participating member, is made pursuant to a North Dakota domestic relations law, and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of the benefits payable to the participating member. A qualified domestic relations order may not require the ~~board~~office to provide any type or form of benefit, or any option, not otherwise provided under the public employees retirement system, or to provide increased benefits as determined on the basis of actuarial value. However, a qualified domestic relations order may require the payment of benefits at the early retirement date notwithstanding that the participating member has not terminated eligible employment. A qualified domestic relations order must specify:
  - a. The name and the last-known mailing address of the participating member and the name and mailing address of each alternate payee covered by the order;
  - b. The amount or percentage of the participating member's benefits to be paid by the plan 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 49. AMENDMENT.** Section 54-52-17.11 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-17.11. Judges postretirement adjustments.**

A supreme or district court judge or that person's beneficiary who, on December 31, 2007, is receiving retirement benefits under subdivision b of subsection 4 of section 54-52-17, is entitled to receive an increase in benefits equal to two percent of the individual's present benefits with the increase payable beginning January 1, 2008. A supreme or district court judge or that person's beneficiary who, on December 31, 2008, is receiving retirement benefits under subdivision b of subsection 4 of section 54-52-17, is entitled to receive an increase in benefits equal to two percent of the individual's present benefits with the increase payable beginning January 1, 2009. The increases allowed by this section may only be given if the ~~public employees retirement~~ boardoffice determines there is actuarial margin sufficient to pay the increases.

**SECTION 50. AMENDMENT.** Section 54-52-17.13 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-17.13. Supplemental retiree benefit payment.**

If the ~~board~~office determines that the fund has obtained a total return on investments of nine and six hundredths percent or higher for the fiscal year ending June 30, 2007, or June 30, 2008, the ~~board~~office shall authorize an additional payment

equal to seventy-five percent of the January retirement allowance following the fiscal yearend to each eligible retiree in pay status as of that January, excluding judicial retirees and beneficiaries, but including joint and survivor and term certain beneficiaries, under this chapter. The boardoffice may only make one payment to each retiree under this section.

**SECTION 51. AMENDMENT.** Section 54-52-23 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-23. Savings clause - Plan modifications.**

If the boardoffice determines that any section of this chapter does not comply with applicable federal statutes or rules, the boardoffice shall adopt appropriate terminology with respect to that section as will comply with those federal statutes or rules, subject to the approval of the employee benefits programs committee. Any plan modifications made by the boardoffice pursuant to this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

**SECTION 52. AMENDMENT.** Section 54-52-26 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-26. Confidentiality of records.**

All records relating to the retirement benefits of a member or a beneficiary under this chapter, chapter 54-52.2, and chapter 54-52.6 are confidential and are not public records. Information and records may be disclosed, under rules adopted by the boardoffice, only to:

1. A person to whom the member has given written consent to have the information disclosed.
2. A person legally representing the member, upon proper proof of representation, and unless the member specifically withdraws consent.
3. A person authorized by a court order.
4. A member's participating employer, limited to information concerning the member's years of service credit and years of age. The boardoffice may share other types of information as needed by the employer to validate the employer's compliance with existing state or federal laws. Any information provided to the member's participating employer under this subsection must remain confidential except as provided under subsection 6.
5. The administrative staff of the retirement and investment office for purposes relating to membership and benefits determination.
6. State or federal agencies for purposes of reporting on a service provider's provision of services or when the employer must supply information to an agency to validate the employer's compliance with existing state or federal laws.

7. Member interest groups approved by the ~~board~~office on a third-party blind list basis, limited to information concerning the member's participation, name, and address.
8. The member's spouse or former spouse, that individual's legal representative, and the judge presiding over the member's dissolution proceeding for purposes of aiding the parties in drafting a qualified domestic relations order under section 54-52-17.6. The information disclosed under this subsection must be limited to information necessary for drafting the order.
9. Beneficiaries designated by a participating member or a former participating member to receive benefits after the member's death, but only after the member's death. Information relating to beneficiaries may be disclosed to other beneficiaries of the same member.
10. The general public, but only after the ~~board~~office has been unable to locate the member for a period in excess of two years, and limited to the member's name and the fact that the ~~board~~office has been unable to locate the member.
11. Any person if the ~~board~~office 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 ~~board~~office 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 benefits from all the plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. If the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. The reduction must be made pro rata between the plans, in proportion to the participating member's service in each plan.
2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirements under section 401(a)(9)(G), and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. A member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.
  3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
  4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
  5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.

**SECTION 54. AMENDMENT.** Section 54-52-29 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-29. Employer service purchases.**

A participating employer may purchase additional service credit on behalf of a member under the following conditions:

1. The member may not be given the option to choose between an employer service purchase and an equivalent amount paid in cash.
2. The member must meet one of the following conditions at the time the purchase is made:
  - a. The member's age plus service credit must be equal to or greater than seventy-five; or
  - b. The member's age must be at least fifty-five and the member must have at least three years of service credit.
3. The ~~board~~office must determine the purchase price on an actuarially equivalent basis, taking into account the contributions necessary for both the retirement program and the retiree health benefits fund.
4. The purchase must be completed before the member's retirement.
5. The employer may purchase a maximum of five years of service credit on behalf of the member.
6. The employer must pay the purchase price for the service credit purchased under this section in a lump sum.

**SECTION 55. AMENDMENT.** Section 54-52.1-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-01. Definitions.**

As used in this chapter, unless the context otherwise requires:

1. "~~Board~~" means the ~~public employees retirement board~~.
2. "Carrier" means:
  - a. For the hospital benefits coverage, an insurance company authorized to do business in the state, or a nonprofit hospital service association, or a prepaid group practice hospital care plan authorized to do business in the state, or the state if a self-insurance plan is used for providing hospital benefits coverage.
  - b. For the medical benefits coverage, an insurance company authorized to do business in the state, or a nonprofit medical service association, or a prepaid group practice medical care plan authorized to do business in the state, or the state if a self-insurance plan is used for providing medical benefits coverage.
  - c. For the life insurance benefits coverage, an insurance company authorized to do business in the state.
- 3.2. "Department, board, or agency" means the departments, boards, agencies, or associations of this state, and includes the state's charitable, penal, and higher educational institutions; the Bank of North Dakota; the state mill and elevator association; and counties, cities, district health units, and school districts.

3. "Director" means the executive director of the public employees retirement system office.
4. "Eligible employee" means every permanent employee who is employed by a governmental unit, as that term is defined in section 54-52-01. "Eligible employee" includes members of the legislative assembly, judges of the supreme court, paid members of state or political subdivision boards, commissions, or associations, full-time employees of political subdivisions, elective state officers as defined by subsection 2 of section 54-06-01, and disabled permanent employees who are receiving compensation from the North Dakota workforce safety and insurance fund. As used in this subsection, "permanent employee" means one whose services are not limited in duration, who is filling an approved and regularly funded position in a governmental unit, and who is employed at least seventeen and one-half hours per week and at least five months each year or for those first employed after August 1, 2003, is employed at least twenty hours per week and at least twenty weeks each year of employment. For purposes of sections 54-52.1-04.1, 54-52.1-04.7, 54-52.1-04.8, and 54-52.1-11, "eligible employee" includes retired and terminated employees who remain eligible to participate in the uniform group insurance program pursuant to applicable state or federal law.
5. "Health maintenance organization" means an organization certified to establish and operate a health maintenance organization in compliance with chapter 26.1-18.1.
6. "Hospital benefits coverage" means a plan which either provides coverage for, or pays, or reimburses expenses for hospital services incurred in accordance with the uniform contract.
7. "Life insurance benefits coverage" means a plan which provides both term life insurance and accidental death and dismemberment insurance in amounts determined by the boardoffice, with a minimum of one thousand dollars provided for the term life insurance portion of the coverage.
8. "Medical benefits coverage" means a plan which either provides coverage for, or pays, or reimburses expenses for medical services in accordance with the uniform contract.
9. "Member contribution" means the payment by the member into the retiree health benefits fund pursuant to sections 54-52-02.9 and 54-52-17.4.
10. "Member's account balance" means the member's contributions plus interest at the rate set by the boardoffice.
11. "Office" means the public employees retirement system office.
12. "Temporary employee" means a governmental unit employee who is not filling an approved and regularly funded position in an eligible governmental unit and whose services may or may not be limited in duration.

**SECTION 56. AMENDMENT.** Section 54-52.1-02 of the North Dakota Century Code is amended and reenacted as follows:

## **54-52.1-02. Uniform group insurance program created - Formation into subgroups.**

In order to promote the economy and efficiency of employment in the state's service, reduce personnel turnover, and offer an incentive to high-grade individuals to enter and remain in the service of state employment, there is created a uniform group insurance program. The uniform group must be composed of eligible and retired employees and be formed to provide hospital benefits coverage, medical benefits coverage, and life insurance benefits coverage in the manner set forth in this chapter. The uniform group may be divided into the following subgroups at the discretion of the boardoffice:

1. Medical and hospital benefits coverage group consisting of active eligible employees and retired employees not eligible for medicare, except for employees who first retire after the effective date of this section and are not eligible for medicare on their retirement. In determining premiums for coverage under this subsection for retired employees not eligible for medicare, the rate for a non-medicare retiree single plan is one hundred fifty percent of the active member single plan rate, the rate for a non-medicare retiree family plan of two people is twice the non-medicare retiree single plan rate, and the rate for a non-medicare retiree family plan of three or more persons is two and one-half times the non-medicare retiree single plan rate.
2. In addition to the coverage provided in subsection 1, another coverage option may be provided for retired employees not eligible for medicare, except for employees who first retire after the effective date of this section and are not eligible for medicare on their retirement, provided the option does not increase the implicit subsidy as determined by the governmental accounting standards board's other postemployment benefit reporting procedure. In offering this additional option, the boardoffice may have an open enrollment but thereafter enrollment for this option must be as specified in section 54-52.1-03.
3. Retired medicare-eligible employee group medical and hospital benefits coverage.
4. Active eligible employee life insurance benefits coverage.
5. Retired employee life insurance benefits coverage.
6. Terminated employee continuation group medical and hospital benefits coverage.
7. Terminated employee conversion group medical and hospital benefits coverage.
8. Dental benefits coverage.
9. Vision benefits coverage.
10. Long-term care benefits coverage.
11. Employee assistance benefits coverage.

12. Prescription drug coverage.

**SECTION 57. AMENDMENT.** Section 54-52.1-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-03. Employee participation in plan - Employee to furnish information - Benefits to continue upon retirement or termination.**

1. Any eligible employee may be enrolled in the uniform group insurance program created by this chapter by requesting enrollment with the employing department. If an eligible employee does not enroll in the uniform group insurance program at the time of beginning employment, in order to enroll at a later time the eligible employee must meet minimum requirements established by the boardoffice. An employing department may not require an active eligible employee to request coverage under the uniform group insurance program as a prerequisite to receive the minimum employer-paid life insurance benefits coverage or employee assistance program benefits coverage.
2. Within five days after the expiration of the payroll period during which enrollment was requested, the employing department shall enroll the employee with the boardoffice. The employee's insurance coverage becomes effective on the date of enrollment.
3. A retiree who has accepted a periodic distribution from the defined contribution retirement plan pursuant to section 54-52.6-13 who the boardoffice determines is eligible for participation in the uniform group insurance program or has accepted a retirement allowance from the public employees retirement system, the highway patrolmen's retirement system, the teachers' insurance and annuity association of America - college retirement equities fund for service credit earned while employed by North Dakota institutions of higher education, the retirement system established by job service North Dakota under section 52-11-01, the judges' retirement system established under chapter 27-17, or the teachers' fund for retirement may elect to participate in the uniform group under this chapter without meeting minimum requirements at age sixty-five, when the member's spouse reaches age sixty-five, upon the receipt of a benefit, or when the spouse terminates employment. If a retiree or surviving spouse does not elect to participate at the times specified in this subsection, the retiree or surviving spouse must meet the minimum requirements established by the boardoffice. Subject to sections 54-52.1-03.2 and 54-52.1-03.3, each retiree or surviving spouse shall pay directly to the boardoffice the premiums in effect for the coverage then being provided. A retiree or surviving spouse who has met the initial eligibility requirements of this subsection to begin participation in the uniform group insurance program remains eligible as long as the retiree maintains the retiree's participation in the program by paying the required premium pursuant to rules adopted by the boardoffice.
4. Upon the termination of employment when the employee is not eligible to participate under subsection 3 or 5 or applicable federal law, that employee cannot continue as a member of the uniform group.

5. A member or former member of the legislative assembly or that person's surviving spouse may elect to continue membership in the uniform group within the applicable time limitations after either termination of eligible employment as a member of the legislative assembly or termination of other eligible employment or, for a surviving spouse, upon the death of the member or former member of the legislative assembly. The member or former member of the legislative assembly or that person's surviving spouse shall pay the premiums in effect for the coverage provided directly to the boardoffice.
6. Each eligible employee requesting enrollment shall furnish the appropriate person in the employing department, board, or agency with such information and in such form as prescribed by the boardoffice to enable the enrollment of the employee, or employee and dependents, in the uniform group insurance program created by this chapter.
7. If the participating employee is a faculty member in a state charitable, penal, or educational institution who receives a salary or wages on less than a twelve-month basis and has signed a contract to teach for the next ensuing school year, the agency shall make arrangements to include that employee in the insurance program on a twelve-month basis and make the contribution authorized by this section for each month of the twelve-month period.

**SECTION 58. AMENDMENT.** Section 54-52.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-03.1. Certain political subdivisions authorized to join uniform group insurance program - Employer contribution.**

If eligible under federal law, a political subdivision may extend the benefits of the uniform group insurance program under this chapter to its permanent employees, subject to minimum requirements established by the boardoffice and a minimum period of participation of sixty months. If the political subdivision withdraws from participation in the uniform group insurance program, before completing sixty months of participation, unless federal or state laws or rules are modified or interpreted in a way that makes participation by the political subdivision in the uniform group insurance program no longer allowable or appropriate, the political subdivision shall make payment to the boardoffice in an amount equal to any expenses incurred in the uniform group insurance program that exceed income received on behalf of the political subdivision's employees as determined under rules adopted by the boardoffice. The Garrison Diversion Conservancy District, and district health units required to participate in the public employees retirement system under section 54-52-02, shall participate in the uniform group insurance program under the same terms and conditions as state agencies. A retiree who has accepted a retirement allowance from a participating political subdivision's retirement plan may elect to participate in the uniform group under this chapter without meeting minimum requirements at age sixty-five, when the employee's spouse reaches age sixty-five, upon the receipt of a benefit, when the political subdivision joins the uniform group insurance plan if the retiree was a member of the former plan, or when the spouse terminates employment. If a retiree or surviving spouse does not elect to participate at the times specified in this section, the retiree or surviving spouse must meet the minimum requirements established by the boardoffice. Each retiree or surviving spouse shall pay directly to the boardoffice the premiums in effect for the coverage then being provided. The boardoffice may require

documentation that the retiree has accepted a retirement allowance from an eligible retirement plan other than the public employees retirement system.

**SECTION 59. AMENDMENT.** Section 54-52.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-03.2. Retiree health benefits fund - Appropriation.**

1. The boardoffice shall establish a retiree health benefits fund account with the Bank of North Dakota for the purpose of prefunding and providing hospital benefits coverage and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program for retired eligible employees or surviving spouses of retired eligible employees and their dependents as provided in this chapter. The state shall contribute monthly to the retiree health benefits fund an amount equal to one and fourteen hundredths percent of the monthly salaries and wages of all participating members of the highway patrolmen's retirement system under chapter 39-03.1, and one and fourteen hundredths percent of the monthly salaries of all supreme or district court judges who are participating members of the public employees retirement system under chapter 54-52. Each governmental unit that contributes to the public employees retirement system fund under section 54-52-06 or the retirement plan under chapter 54-52.6 shall contribute monthly to the retiree health benefits fund an amount equal to one and fourteen hundredths percent of the monthly salaries or wages of all participating members of the public employees retirement system under chapter 54-52 or chapter 54-52.6, except for nonteaching employees of the superintendent of public instruction who elect to participate in the public employees retirement system pursuant to section 54-52-02.13 and employees of the state board for career and technical education who elect to participate in the public employees retirement system pursuant to section 54-52-02.14. For nonteaching employees of the superintendent of public instruction who elect to participate in the public employees retirement system pursuant to section 54-52-02.13, the superintendent of public instruction shall contribute monthly to the retiree health benefits fund an amount equal to three and twenty-four hundredths percent of the monthly salaries or wages of those nonteaching employee members, beginning on the first of the month following the transfer under section 54-52-02.13 and continuing thereafter for a period of eight years, after which time the superintendent of public instruction shall contribute one and fourteen hundredths percent of the monthly salary or wages of those nonteaching employee members. For employees of the state board for career and technical education who elect to participate in the public employees retirement system pursuant to section 54-52-02.14, the state board for career and technical education shall contribute monthly to the retiree health benefits fund an amount equal to two and ninety-nine hundredths percent of the monthly salary or wages of those employee members, beginning on the first of the month following the transfer under section 54-52-02.14 and continuing thereafter for a period of eight years, after which time the state board for career and technical education shall contribute one and fourteen hundredths percent of the monthly salary or wages of those employee members. The employer of a national guard security officer or firefighter shall contribute monthly to the retiree health

benefits fund an amount equal to one and fourteen hundredths percent of the monthly salaries or wages of all national guard security officers or firefighters participating in the public employees retirement system under chapter 54-52. Job service North Dakota shall reimburse monthly the retiree health benefits fund for credit received under section 54-52.1-03.3 by members of the retirement program established by job service North Dakota under section 52-11-01. The ~~board~~office, as trustee of the fund and in exclusive control of its administration, shall:

- a. Provide for the investment and disbursement of moneys of the retiree health benefits fund and administrative expenditures in the same manner as moneys of the public employees retirement system are invested, disbursed, or expended.
- b. Adopt rules necessary for the proper administration of the retiree health benefits fund, including enrollment procedures.
2. All moneys deposited in the fund established under subsection 1, not otherwise appropriated, are hereby appropriated to the ~~board~~office for the purpose of making investments for the fund and to make contributions toward hospital and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program for eligible retired employees or surviving spouses of eligible retired employees and their dependents as elected.
3. If a member terminates employment because of death, permanent and total disability, or any voluntary or involuntary reason prior to retirement, the member or the member's designated beneficiary is entitled to the member's account balance at termination. If a member's account balance is withdrawn, the member relinquishes all rights to benefits under the retiree health benefits fund.

**SECTION 60. AMENDMENT.** Section 54-52.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-03.3. Eligibility for retiree health benefits - Fixed contribution and reduction factors.**

1. The following persons are entitled to receive credit for hospital and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program under subsection 2:
  - a. A member or surviving spouse of the highway patrolmen's retirement system is eligible for the credit beginning on the date retirement benefits are effective unless the premium is billed to the employer.
  - b. A member or surviving spouse of the public employees retirement system is eligible for the credit beginning on the date retirement benefits are effective unless the premium is billed to the employer.
  - c. A member or surviving spouse of the retirement program established by job service North Dakota under section 52-11-01 receiving retirement benefits is eligible for the credit beginning on the date

- retirement benefits are effective unless the premium is billed to the employer.
- d. A retired judge or surviving spouse receiving retirement benefits under the retirement program established under chapter 27-17 is eligible for the credit beginning on the date retirement benefits are effective unless the premium is billed to the employer.
  - e. A former participating member of the defined contribution retirement plan receiving retirement benefits, or the surviving spouse of a former participating member of that retirement plan who was eligible to receive or was receiving benefits, under section 54-52.6-13, is eligible as determined by the boardoffice pursuant to its rules.
2. The boardoffice shall calculate the allowable monthly credit toward hospital and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program for a person eligible under subsection 1 in an amount equal to five dollars multiplied by the member's or deceased member's number of years of credited service under the highway patrolmen's retirement system, the public employees retirement system, the retirement program established by job service North Dakota under section 52-11-01, or the judges' retirement program established under chapter 27-17. For a member of the public employees retirement system receiving an early retirement benefit or the surviving spouse of that member, or a former participating member of the defined contribution retirement plan who is receiving a periodic distribution and would not meet the normal retirement provisions of the public employees retirement system, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of sixty-five and an additional reduction factor of six percent shall apply for each year the member terminates employment prior to attaining the age of sixty-four. For a member of the highway patrolmen's retirement system receiving an early retirement benefit or the surviving spouse of that member, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of fifty-five and an additional reduction factor of six percent shall apply for each year the member terminates employment prior to attaining the age of fifty-four. For a member of the retirement program established by job service North Dakota under section 52-11-01 receiving an early retirement benefit or a discontinued service annuity under the plan provisions of that retirement program or the surviving spouse of that member, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of sixty-five and an additional reduction factor of six percent applies for each year the member terminates employment prior to attaining the age of sixty-four.
  3. The boardoffice shall apply the credit allowable under subsection 2 as elected by the eligible participant to the payment of monthly premiums required of each person eligible under subsection 1 for hospital benefits coverage and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program. The boardoffice shall allow spouses who each have credit under subsection 2

to combine their credits and shall apply the combined credit to the required monthly premiums as elected pursuant to this subsection. However, if the allowable credit under any circumstance exceeds the monthly premium in effect for selected coverage, that amount of the credit which exceeds the premium is forfeited and may not be used for any other purpose.

4. The ~~board~~office may, as an alternative to the calculation of the allowable monthly credit under subsection 2, provide actuarially reduced benefit options for the member and the member's surviving spouse, including a one hundred percent joint and survivor option or a fifty percent joint and survivor option.

**SECTION 61. AMENDMENT.** Section 54-52.1-03.4 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-03.4. Temporary employees and employees on unpaid leave of absence.**

A temporary employee employed before August 1, 2007, may elect to participate in the uniform group insurance program by completing the necessary enrollment forms and qualifying under the medical underwriting requirements of the program if such election is made before January 1, 2015, and if the temporary employee is participating in the uniform group insurance program on January 1, 2015. In order for a temporary employee employed after July 31, 2007, to qualify to participate in the uniform group insurance program, the employee must be employed at least twenty hours per week; must be employed at least twenty weeks each year of employment; must make the election to participate before January 1, 2015; and must be participating in the uniform group insurance program as of January 1, 2015. To be eligible to participate in the uniform group insurance program, a temporary employee first employed after December 31, 2014, or any temporary employee not participating in the uniform group insurance program as of January 1, 2015, must meet the definition of a full-time employee under section 4980H(c)(4) of the Internal Revenue Code [26 U.S.C. 4980H(c)(4)]. Monthly, the temporary employee or the temporary employee's employer shall pay to the ~~board~~office the premiums in effect for the coverage being provided. In the case of a temporary employee who is an applicable taxpayer as defined in section 36B(c)(1)(A) of the Internal Revenue Code [26 U.S.C. 36B(c)(1)(A)], the temporary employee's required contribution for medical and hospital benefits self-only coverage may not exceed the maximum employee required contribution specified under section 36B(c)(2)(C) of the Internal Revenue Code [26 U.S.C. 36B(c)(2)(C)], and the employer shall pay any difference between the maximum employee required contribution for medical and hospital benefits self-only coverage and the cost of the premiums in effect for this coverage. An employer may pay health or life insurance premiums for a permanent employee on an unpaid leave of absence. A political subdivision, department, board, or agency may make a contribution for coverage under this section.

**SECTION 62. AMENDMENT.** Section 54-52.1-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04. ~~Board~~Office to contract for insurance.**

The ~~board~~office shall receive bids for the providing of hospital benefits coverage, medical benefits coverage, life insurance benefits coverage for a specified term, and employee assistance program services; may receive bids separately for

prescription drug coverage; and shall accept one or more bids of and contract with the carriers that in the judgment of the boardoffice best serves the interests of the state and its eligible employees. Solicitations must be made not later than ninety days before the expiration of an existing uniform group insurance contract. Bids must be solicited by advertisement in a manner selected by the boardoffice that will provide reasonable notice to prospective bidders. In preparing bid proposals and evaluating bids, the boardoffice may utilize the services of consultants on a contract basis in order that the bids received may be uniformly compared and properly evaluated. In determining which bid, if any, will best serve the interests of eligible employees and the state, the boardoffice shall give adequate consideration to the following factors:

1. The economy to be effected.
2. The ease of administration.
3. The adequacy of the coverages.
4. The financial position of the carrier, with special emphasis as to its solvency.
5. The reputation of the carrier and any other information that is available tending to show past experience with the carrier in matters of claim settlement, underwriting, and services.

The boardoffice may reject any or all bids and, in the event it does so, shall again solicit bids as provided in this section. The boardoffice may establish a plan of self-insurance for providing health insurance benefits coverage only under an administrative services only (ASO) contract or a third-party administrator (TPA) contract.

**SECTION 63. AMENDMENT.** Section 54-52.1-04.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.1. Health maintenance organization contract - Membership option.**

Notwithstanding the provisions of section 54-52.1-04, the boardoffice may contract with one or more health maintenance organizations to provide eligible employees the option of membership in a health maintenance organization. If it makes such a contract, the boardoffice may not require that the health maintenance organization be federally qualified if the health maintenance organization has a certificate of authority issued by the North Dakota insurance commissioner. The contract or contracts must be included in the uniform group insurance program.

**SECTION 64. AMENDMENT.** Section 54-52.1-04.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.2. Self-insurance plan for hospital and medical benefits coverage.**

1. The boardoffice may establish a self-insurance plan for providing:
  - a. Health insurance benefits coverage;

- b. Health insurance benefits coverage excluding all or part of prescription drug coverage; or
  - c. All or part of prescription drug coverage.
2. Any self-insurance plan under this section must be provided under an administrative services only (ASO) contract or a third-party administrator (TPA) contract under the uniform group insurance program, and may be established only if it is determined by the ~~board~~office that an administrative services only or third-party administrator plan is less costly than the lowest bid submitted by a carrier for underwriting the plan with equivalent contract benefits. Upon establishing a self-insurance plan, the ~~board~~office shall solicit bids for an administrative services only or third-party administrator contract only every other biennium, and the ~~board~~office is authorized to renegotiate an existing administrative services only or third-party administrator contract during the interim. In addition, individual stop-loss coverage insured by a carrier authorized to do business in this state must be made part of any self-insured plan. All bids under this section are due no later than January first, and must be awarded no later than March first, preceding the end of each biennium. All bids under this section must be opened at a public meeting of the ~~board~~.

**SECTION 65. AMENDMENT.** Section 54-52.1-04.3 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.3. Contingency reserve fund - Continuing appropriation.**

The ~~board~~office shall establish under a self-insurance plan a contingency reserve fund to provide for adverse fluctuations in future charges, claims, costs, or expenses of the uniform group insurance program. The ~~board~~office shall determine the amount necessary to provide a balance in the contingency reserve fund between one and one-half months and three months of claims paid based on the average monthly claims paid during the twelve-month period immediately preceding March first of each year. The ~~board~~office also shall determine the amount necessary to provide an additional balance in the contingency reserve fund between one month and one and one-half months for claims incurred but not yet reported. The ~~board~~office may arrange for the services of an actuarial consultant to assist the ~~board~~office in making these determinations. Upon the initial changeover from a contract for insurance pursuant to section 54-52.1-04 to a self-insurance plan pursuant to section 54-52.1-04.2, the ~~board~~office must have a plan in place which is reasonably calculated to meet the funding requirements of this chapter within sixty months. All moneys in the contingency reserve fund, not otherwise appropriated, are appropriated for the payment of claims and other costs of the uniform group insurance program during periods of adverse claims or cost fluctuations.

**SECTION 66. AMENDMENT.** Section 54-52.1-04.4 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.4. Insurance to cover mammogram examinations.**

The ~~board~~office shall provide medical benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 for:

1. One baseline mammogram examination for each woman who is at least thirty-five but less than forty years of age.
2. One mammogram examination every year, or more frequently if ordered by a physician, for each woman who is at least forty years of age.

**SECTION 67. AMENDMENT.** Section 54-52.1-04.6 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.6. Coverage for treatment of certain disorders.**

The ~~board~~office shall provide coverage under either a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 for coverage for surgical and nonsurgical treatment of temporomandibular joint disorder and craniomandibular disorder. Coverage must be the same as that for treatment to any other joint in the body, and applies if the treatment is administered or prescribed by a physician or a dentist. Benefits for the coverage may be limited to a lifetime maximum of ten thousand dollars per person for surgery, and two thousand five hundred dollars for nonsurgical treatment.

**SECTION 68. AMENDMENT.** Section 54-52.1-04.7 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.7. Uniform group insurance program - Vision and dental plans.**

The ~~board~~office may establish a dental plan, a vision plan, or both, for eligible employees. The ~~board~~office shall receive bids for the plan or plans pursuant to section 54-52.1-04. The ~~board~~office may reject any or all bids and provide a plan of self-insurance. Premiums for this coverage must be paid by the eligible employee. Any refund, rebate, dividend, experience rating allowance, discount, or other reduction of premium must be credited as provided by section 54-52.1-06.

**SECTION 69. AMENDMENT.** Section 54-52.1-04.8 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.8. Uniform group insurance program - Long-term care plan.**

The ~~board~~office may establish a long-term care plan for eligible employees. The ~~board~~office shall receive bids for the plan under section 54-52.1-04. The ~~board~~office may reject any or all bids and provide a plan of self-insurance. Premiums for this plan must be paid by the eligible employee. Any refund, rebate, dividend, experience rating allowance, discount, or other reduction of premium must be credited as provided by section 54-52.1-06.

**SECTION 70. AMENDMENT.** Section 54-52.1-04.9 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.9. Uniform group insurance program - Employee assistance program.**

The ~~board~~office shall establish an employee assistance program available to persons in the medical and hospital benefits coverage group. The premium for this coverage must be paid as provided by section 54-52.1-06. The ~~board~~office shall receive bids for this program under section 54-52.1-04. Each department, board, or agency shall obtain employee assistance program services through the ~~board~~office for

eligible employees and may not enter into any agreement to obtain employee assistance program services with a third-party provider except that a department, board, or agency may use its own employee assistance program services to the extent such services are provided by personnel of that department, board, or agency. As used in this section, "employee assistance program" means an employer-sponsored service for employees under which a professional employee assistance program staff assists employees and their families in finding help for emotional, drug, alcohol, family, health, and other personal or job-related problems that may be affecting their work performance.

**SECTION 71. AMENDMENT.** Section 54-52.1-04.10 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.10. Insurance to cover dental anesthesia and hospitalization.**

The ~~board~~office shall provide medical benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 for dental anesthesia and hospitalization in the same manner as provided under section 26.1-36-09.9.

**SECTION 72. AMENDMENT.** Section 54-52.1-04.11 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.11. Insurance to cover foods and food products for inherited metabolic diseases.**

The ~~board~~office shall provide medical benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 for foods and food products for inherited metabolic diseases in the same manner as provided for under section 26.1-36-09.7.

**SECTION 73. AMENDMENT.** Section 54-52.1-04.12 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.12. Insurance to cover medical services related to intoxication.**

The ~~board~~office shall provide medical benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52-04.2 for medical services related to intoxication in the same manner as provided for under subsection 15 of section 26.1-36-05 and section 26.1-36-09.13.

**SECTION 74. AMENDMENT.** Section 54-52.1-04.13 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.13. (Effective through July 31, 2017) Insurance coverage of telehealth services.**

1. As used in this section:

- a. "Distant site" means a site at which a health care provider or health care facility is located while providing medical services by means of telehealth.
- b. "Health care facility" means any office or institution at which health services are provided. The term includes hospitals; clinics; ambulatory

surgery centers; outpatient care facilities; nursing homes; nursing, basic, long-term, or assisted living facilities; laboratories; and offices of any health care provider.

- c. "Health care provider" includes an individual licensed under chapter 43-05, 43-06, 43-12.1 as a registered nurse or as an advanced practice registered nurse, 43-13, 43-15, 43-17, 43-26.1, 43-28, 43-32, 43-37, 43-40, 43-41, 43-42, 43-44, 43-45, 43-47, 43-58, or 43-60.
  - d. "Originating site" means a site at which a patient is located at the time health services are provided to the patient by means of telehealth.
  - e. "Policy" means health benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2.
  - f. "Store-and-forward technology" means electronic information, imaging, and communication that is transferred, recorded, or otherwise stored in order to be reviewed at a distant site at a later date by a health care provider or health care facility without the patient present in real time. The term includes telehome monitoring and interactive audio, video, and data communication.
  - g. "Telehealth":
    - (1) Means the use of interactive audio, video, or other telecommunications technology that is used by a health care provider or health care facility at a distant site to deliver health services at an originating site; and that is delivered over a secure connection that complies with the requirements of state and federal laws.
    - (2) Includes the use of electronic media for consultation relating to the health care diagnosis or treatment of a patient in real time or through the use of store-and-forward technology.
    - (3) Does not include the use of audio-only telephone, electronic mail, or facsimile transmissions.
2. For all policies that become effective after June 30, 2015, and which do not extend past June 30, 2017, the boardoffice shall provide health benefits coverage under a policy that provides coverage for health services delivered by means of telehealth which is the same as the coverage for health services delivered by in-person means.
  3. Payment or reimbursement of expenses for covered health services delivered by means of telehealth under this section may be established through negotiations conducted by the boardoffice or the board'soffice's contractor with the health services providers in the same manner as the boardoffice establishes payment or reimbursement of expenses for covered health services that are delivered by in-person means.
  4. Coverage under this section may be subject to deductible, coinsurance, and copayment provisions.
  5. This section does not require:

- a. A policy to provide coverage for health services that are not medically necessary, subject to the terms and conditions of the policy;
- b. A policy to provide coverage for health services delivered by means of telehealth if the policy would not provide coverage for the health services if delivered by in-person means;
- c. A policy to reimburse a health care provider or health care facility for expenses for health services delivered by means of telehealth if the policy would not reimburse that health care provider or health care facility if the health services had been delivered by in-person means; or
- d. A health care provider to be physically present with a patient at the originating site unless the health care provider who is delivering health services by means of telehealth determines the presence of a health care provider is necessary.

**SECTION 75. AMENDMENT.** Section 54-52.1-04.14 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-04.14. Coverage of cancer treatment medications.**

The ~~board~~office shall provide medical benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 which provides coverage of cancer treatment medications in the same manner as provided under section 26.1-36-09.14.

**SECTION 76. AMENDMENT.** Section 54-52.1-05 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-05. Provisions of contract - Term of contract.**

1. Each uniform group insurance contract entered by the ~~board~~office must be consistent with the provisions of this chapter, must be signed for the state of North Dakota by the ~~chairman of the board~~director, and must include the following:
  - a. As many optional coverages as deemed feasible and advantageous by the ~~board~~office.
  - b. A detailed statement of benefits offered, including maximum limitations and exclusions, and such other provisions as the ~~board~~office may deem necessary or desirable.
2. The initial term or the renewal term of a fully insured uniform group insurance contract for hospital benefits coverage, medical benefits coverage, or prescription drug coverage may not exceed two years.
  - a. The ~~board~~office may renew a contract subject to this subsection without soliciting a bid under section 54-52.1-04 if the ~~board~~office determines the carrier's performance under the existing contract meets the ~~board's~~ expectations of the office and the proposed premium renewal amount does not exceed the ~~board's~~ expectations of the office.
  - b. In making a determination under this subsection, the ~~board~~office shall:

- (1) Use the services of a consultant to concurrently and independently prepare a renewal estimate the boardoffice shall consider in determining the reasonableness of the proposed premium renewal amount.
  - (2) Review the carrier's performance measures, including payment accuracy, claim processing time, member service center metrics, wellness or other special program participation levels, and any other measures the boardoffice determines relevant to making the determination and shall consider these measures in determining the board's satisfaction of the office with the carrier's performance.
  - (3) Consider any additional information the boardoffice determines relevant to making the determination.
- c. If the boardoffice determines the carrier's performance under the existing contract does not meet the board's expectations of the office or the proposed premium renewal amount exceeds the board's expectations of the board and the boardoffice determines to solicit a bid under section 54-52.1-04, the boardoffice shall specify its reasons for the determination to solicit a bid.

**SECTION 77. AMENDMENT.** Section 54-52.1-05.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-05.1. Health insurance benefits coverage - Insured and provider data disclosure.**

Except as necessary for treatment, payment, or health care operations, a carrier providing health insurance benefits coverage under this chapter may not disclose identifiable or unidentifiable insured or provider data or information to a related or unrelated health care delivery entity. The boardoffice may establish exceptions to the disclosure limitations under this section for the limited purpose of addressing public interest and benefit activities or for the limited purpose of addressing research, public health, or health care operations. An exception established by the boardoffice under this section may not be more permissive than allowed under state and federal privacy laws.

**SECTION 78. AMENDMENT.** Section 54-52.1-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-06. State contribution.**

Each department, board, or agency shall pay to the boardoffice each month from its funds appropriated for payroll and salary amounts a state contribution in the amount as determined by the primary carrier of the group contract for the full single rate monthly premium for each of its eligible employees enrolled in the uniform group insurance program and the full rate monthly premium, in an amount equal to that contributed under the alternate family contract, including major medical coverage, for hospital and medical benefits coverage for spouses and dependent children of its eligible employees enrolled in the uniform group insurance program pursuant to section 54-52.1-07. The boardoffice shall then pay the necessary and proper premium amount for the uniform group insurance program to the proper carrier or carriers on a monthly basis. Any refund, rebate, dividend, experience rating allowance, discount, or other reduction of premium amount must be credited at least annually to a separate fund of

the uniform group insurance program to be used by the ~~board~~office to reimburse the administrative expense and benefit fund of the public employees retirement program for the costs of administration of the uniform group insurance program. In the event an enrolled eligible employee is not entitled to receive salary, wages, or other compensation for a particular calendar month, that employee may make direct payment of the required premium to the ~~board~~office to continue the employee's coverage, and the employing department, board, or agency shall provide for the giving of a timely notice to the employee of that person's right to make such payment at the time the right arises.

**SECTION 79. AMENDMENT.** Section 54-52.1-06.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-06.1. Uniform group insurance program benefits - Continuing appropriation.**

The funds necessary to pay the consulting fees and health insurance benefits related to the uniform group insurance program are hereby appropriated from insurance premiums received by the ~~board~~office.

**SECTION 80. AMENDMENT.** Section 54-52.1-08 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-08. Administration - ~~Board to promulgate rules~~Rules and regulations.**

~~It is the responsibility of the board to~~The office shall account for and disburse premium payments, maintain records, prepare reports, and to perform such other functions as may be necessary to carry out the provisions of this chapter. The ~~board~~office may ~~promulgate such~~adopt rules and regulations as may be necessary to carry out the provisions of this chapter.

**SECTION 81. AMENDMENT.** Section 54-52.1-08.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-08.1. Administrative - Nondiscrimination testing for health and life insurance programs.**

The ~~board shall be~~office is responsible for the nondiscrimination testing required under section 89 of the Internal Revenue Code. The ~~board~~office may engage the services of a consultant to assist the ~~board~~office in its administration of this section. The various state departments, boards, agencies, and commissions shall provide the ~~board~~office with requested information so the ~~board~~office may carry out its duties under this section.

**SECTION 82. AMENDMENT.** Section 54-52.1-08.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-08.2. Uniform group insurance program - Compliance with federal requirements - Group purchasing arrangements.**

If the ~~board~~office determines that any section or the phraseology of any section of this chapter does not comply with applicable federal statutes or rules, the ~~board~~office shall adopt appropriate terminology with respect to that section to comply with the federal statutes or rules, subject to the approval of the legislative

management's employee benefits programs committee. The boardoffice may assume responsibility for group purchasing arrangements as provided by federal law. Any plan modifications made by the boardoffice under this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

**SECTION 83. AMENDMENT.** Section 54-52.1-09 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-09. Reports.**

Each department, board, or agency shall keep such records, make such certifications, and furnish the boardoffice or carriers with such information and reports as may be necessary to enable the boardoffice or carriers to carry out their functions under the provisions of this chapter. Carriers that have entered into a contract with the boardoffice are required to furnish such reasonable reports as the boardoffice determines to be necessary, and to permit the boardoffice to examine those records that relate to the uniform group insurance program.

**SECTION 84. AMENDMENT.** Section 54-52.1-11 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-11. Confidentiality of employee records.**

Information pertaining to an eligible employee's group medical records for claims, employee premium payments made, salary reduction amounts taken, history of any available insurance coverage purchased, and amounts and types of insurance applied for under the supplemental life insurance coverage under this chapter is confidential and is not a public record. The information and records may be disclosed, under rules adopted by the boardoffice, only to:

1. A person to whom the eligible employee has given written authorization to have the information disclosed.
2. A person legally representing the eligible employee, upon proper proof of representation, and unless the eligible employee specifically withdraws authorization.
3. A person authorized by a court order.
4. A person or entity to which the boardoffice is required to disclose information pursuant to federal or state statutes or regulations.
5. Any person or entity if the purpose of the disclosure is for treatment, payment, or health care operations.

**SECTION 85. AMENDMENT.** Section 54-52.1-12 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-12. Ownership and confidentiality of the uniform group health insurance medical records of employees, retirees, and dependents.**

The medical records and related data of the employees, retirees, and dependents, obtained as the result of enrollment in the uniform group insurance program, are the property of the public employees retirement system. The records and

data are confidential and are not public records. However, the boardoffice may allow administrators of administrative services only contracts or third-party administrators contracts access to the records and data where it is required in the performance of the administrator's duties pursuant to the contract. No administrator may be held liable for furnishing to the boardoffice information with respect to any patient, or any physician, hospital, or other health care provider.

**SECTION 86. AMENDMENT.** Section 54-52.1-13 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-13. Uniform prescription drug cards.**

The boardoffice shall provide for issuance of uniform prescription drug cards under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 in the same manner as provided under section 26.1-36-43.

**SECTION 87. AMENDMENT.** Section 54-52.1-14 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-14. Wellness program.**

The boardoffice shall develop an employer-based wellness program. The program must encourage employers to adopt a board-developedan office-developed wellness program by either charging extra health insurance premium to nonparticipating employers or reducing premium for participating employers.

**SECTION 88. AMENDMENT.** Section 54-52.1-15 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-15. Acceptance and expenditure of third-party payments - Continuing appropriation.**

The boardoffice may receive moneys from third parties, including the federal government, pursuant to one or more federal programs. Any money received from a third party by the boardoffice is appropriated to the boardoffice on a continuing basis for the board's use of the office in paying benefits, premiums, or administrative expenses under the uniform group insurance program.

**SECTION 89. AMENDMENT.** Section 54-52.1-16 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-16. Uniform group insurance program - Collaborative drug therapy program - Continuing appropriation.**

1. The boardoffice may establish a collaborative drug therapy program available to individuals in the medical and hospital benefits coverage group. The purpose of the collaborative drug therapy program is to improve the health of individuals in identified health populations and to manage health care expenditures.
2. Under the program, the boardoffice may involve physicians, pharmacists, and other health professionals to coordinate health care for individuals in identified health populations in order to improve health outcomes and reduce spending on care for the identified health problem. Under the

program, pharmacists and other health professionals may be reimbursed for providing face-to-face collaborative drug therapy services to covered individuals in the identified health population. To encourage enrollment in the plan, the boardoffice may provide incentives to covered individuals in the identified health population which may include waived or reduced copayment for related treatment drugs and supplies.

3. The boardoffice may request the assistance of the North Dakota pharmacists association or a specified delegate to implement a formalized disease management program with the approval of the prescriptive practices committee established in section 43-15-31.4, which must serve to standardize chronic disease care and improve patient outcomes. This program must facilitate enrollment procedures, provide standards of care, enable consistent documentation of clinical and economic outcomes, and structure an outcomes reporting system.
4. The boardoffice may seek and accept private contributions, gifts, and grants-in-aid from the federal government, private industry, and other sources for a collaborative drug therapy program for identified health populations. Any funds that may become available through contributions, gifts, grants-in-aid, or other sources to the boardoffice for a collaborative drug therapy program are appropriated to the boardoffice on a continuing basis.

**SECTION 90. AMENDMENT.** Section 54-52.1-17 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-17. Uniform group insurance program - Collaborative drug therapy program - Funding.**

1. The boardoffice shall establish a collaborative drug therapy program that is to be available to individuals in the medical and hospital benefits coverage group. The purpose of the collaborative drug therapy program is to improve the health of individuals with diabetes and to manage health care expenditures.
2. The boardoffice shall involve physicians, pharmacists, and certified diabetes educators to coordinate health care for covered individuals with diabetes in order to improve health outcomes and reduce spending on diabetes care. Under the program, pharmacists and certified diabetes educators may be reimbursed for providing face-to-face collaborative drug therapy services to covered individuals with diabetes. To encourage enrollment in the plan, the boardoffice shall provide incentives to covered individuals who have diabetes which may include waived or reduced copayment for diabetes treatment drugs and supplies.
3. The North Dakota pharmacists association or a specified delegate shall implement a formalized diabetes management program with the approval of the prescriptive practices committee established in section 43-15-31.4, which must serve to standardize diabetes care and improve patient outcomes. This program must facilitate enrollment procedures, provide standards of diabetes care, enable consistent documentation of clinical and economic outcomes, and structure an outcomes reporting system.

4. The ~~board~~office shall fund the program from any available funds in the uniform group insurance program and if necessary the fund may add up to a two dollar per month charge on the policy premium for medical and hospital benefits coverage. A state agency shall pay any additional premium from the agency's existing appropriation.

**SECTION 91. AMENDMENT.** Section 54-52.1-18 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-18. High-deductible health plan alternative with health savings account option.**

1. The ~~board~~office shall develop and implement a high-deductible health plan as an alternative to the plan under section 54-52.1-02. The high-deductible health plan alternative with a health savings account must be made available to state employees by January 1, 2012. After June 30, 2015, at the ~~board's discretion of the office~~, the high-deductible health plan alternative may be offered to political subdivisions for coverage of political subdivision employees. If a political subdivision elects this high-deductible option the political subdivision may not offer the plan under section 54-52.1-02.
2. Health savings account fees for participating state employees must be paid by the employer.
  - a. Except as provided in subdivision b, subject to the limits of section 223(b) of the Internal Revenue Code [26 U.S.C. 233(b)], the difference between the cost of the single and family premium for eligible state employees under section 54-52.1-06 and the premium for those employees electing to participate under the high-deductible health plan under this section must be deposited in a health savings account for the benefit of each participating employee.
  - b. If the public employees retirement system is unable to establish a health savings account due to the employee's ineligibility under federal or state law or due to failure of the employee to provide necessary information in order to establish the account, the system is not responsible for depositing the health savings account contribution. The member will remain a participant in the high-deductible health plan regardless of whether a health savings account is established.
3. Each new state employee must be provided the opportunity to elect the high-deductible health plan alternative. At least once each biennium, the ~~board~~office shall provide an open enrollment period allowing existing state employees or a political subdivision to change their coverage.

**SECTION 92. AMENDMENT.** Section 54-52.2-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.2-01. Deferred compensation program for public employees - Contract.**

The state or any county, city, or other political subdivision may, by contract, agree with any employee to defer, in whole or in part, any portion of that employee's compensation and may subsequently, with the consent of the employee,

fund a deferred compensation program for the employee. The deferred compensation program may consist of a contract, purchase, or investment in a fixed or variable life insurance or annuity contract from any life underwriter duly licensed by this state who represents an insurance company licensed to contract business in this state, a savings account at a federally insured financial institution or the Bank of North Dakota, an account with or managed by a dealer registered under chapter 10-04, or any combination of contracts or accounts authorized by this section, as specified by the employee. ~~The public employees retirement board~~office shall specify methods of payment of deferred compensation funds to be selected by individual employees. ~~That~~The office shall determine the number of employees participating in a deferred compensation program necessary to qualify for automatic payroll deduction.

**SECTION 93. AMENDMENT.** Section 54-52.2-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.2-02. Deferred employee's compensation - Agreements.**

The public employees retirement ~~board~~system ~~office~~, acting on behalf of each state agency, department, board, commission, or institution, may enter ~~into~~ contractual agreements with employees of a state agency, department, board, commission, or institution on behalf of the state to defer any portion of that employee's compensation allowed under section 457 of the Internal Revenue Code [26 U.S.C. 457].

**SECTION 94. AMENDMENT.** Section 54-52.2-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.2-03. Deferred compensation program - Administration - Contract for services.**

The administration of the deferred compensation program for each state agency, department, board, commission, or institution is under the direction of the public employees retirement ~~board~~system ~~office~~. Each county, city, or other political subdivision shall designate an officer to administer the deferred compensation program or appoint the public employees retirement ~~board~~system ~~office~~ to administer the program on its behalf. Payroll reductions must be made in each instance by the appropriate payroll officer. The public employees retirement ~~board~~system ~~office~~ shall administer the deferred compensation program based on one or more plans in compliance with the appropriate provisions of the Internal Revenue Code and regulations adopted under those provisions. Not later than January 1, 1999, all plan assets and income must be held in trust, custodial accounts, or contracts as described in section 401(f) of the Internal Revenue Code [26 U.S.C. 401(f)] for the exclusive benefit of participants and their beneficiaries as required by section 457 of the Internal Revenue Code [26 U.S.C. 457]. Once the trust, custodial account, or contract is established as required by this section, the ~~board~~office shall act as fiduciary of the plan to the extent required by section 457 of the Internal Revenue Code [26 U.S.C. 457] and the ~~board~~office is authorized to do all things necessary for the proper administration of the plan to ensure that the plan maintains its qualified status.

**SECTION 95. AMENDMENT.** Section 54-52.2-03.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.2-03.2. Deferred compensation program - Board authority - Provider information.**

1. The ~~board~~public employees retirement system office shall adopt rules necessary to implement this chapter and to manage the deferred compensation plan subject to the limitations of this chapter.
2. The ~~board~~office shall do all things necessary to preserve the tax-exempt status of the plan.
3. All providers must be authorized to do business in this state and all agents of providers must be licensed by the appropriate licensing authority or authorities in this state.
4. To continue to participate in the program, each provider must report annually, in a form and manner specified by the ~~board~~office, information related to their products, administrative and management fees, contract and maintenance charges, withdrawal penalties, market rating, and such other information the ~~board~~office may require.
5. The ~~board~~office may suspend participation of any provider that does not meet the requirements of this chapter or the rules adopted by the ~~board~~office.
6. The ~~board has the authority to~~public employees retirement system office executive director may establish a deferred compensation advisory committee, which ~~shall~~must include active providers who have signed a provider administrative agreement with the state of North Dakota deferred compensation plan.

**SECTION 96. AMENDMENT.** Section 54-52.2-03.3 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.2-03.3. Benefit payments to alternate payee under qualified domestic relations order.**

1. The ~~board~~public employees retirement system office or a vendor contracted for by the ~~board~~office shall apportion a participating member's account in the deferred compensation plan under this chapter in accordance with the applicable requirements of any qualified domestic relations order. The ~~board~~office shall review a domestic relations order submitted to the ~~board~~office to determine if the domestic relations order is qualified under this section and pursuant to the plan document established by the ~~board~~office for determining the qualified status of domestic relations orders and administering distributions under the qualified orders.
2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of a participating member, is made pursuant to a North Dakota domestic relations law, and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of the benefits payable to the participating member. A qualified domestic relations order may not require the ~~board~~office to

provide any type or form of benefit, or any option, not otherwise provided under this chapter, or to provide increased benefits. A qualified domestic relations order must specify:

- a. The name and the last-known mailing address of the participating member and the name and mailing address of each alternate payee covered by the order;
- b. The amount or percentage of the participating member's benefits to be paid by the plan to each alternate payee;
- c. That the alternate payee must take a lump sum payment of the benefits allocated to the alternate payee within one hundred twenty days of the later of the ~~board's office's~~ acceptance of the qualified domestic relations order or the entry of the order by the court; and
- d. Each plan to which the order applies.

**SECTION 97. AMENDMENT.** Section 54-52.3-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.3-01. Pretax benefits program for public employees.**

The public employees retirement system ~~board~~office may establish a pretax benefits program for all state employees and employees of district health units, including members of the legislative assembly, under which an employee may reduce the employee's salary and elect benefits to the extent of the reduction. A participating district health unit shall comply with the program conditions and pay all fees established by the ~~board~~office.

**SECTION 98. AMENDMENT.** Section 54-52.3-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.3-02. Authority of board.**

The ~~board~~public employees retirement system office shall determine benefits to be offered under the pretax benefits program, accept proposals from qualified providers, retain consultants, and do all things necessary to administer the pretax benefits program and preserve its tax-exempt status.

**SECTION 99. AMENDMENT.** Section 54-52.3-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.3-03. Employer savings used to defray expenses of administering program - Continuing appropriation.**

The office of management and budget shall transfer funds from the savings accruing to the agencies' salaries and wages line item, as a result of the diminution of the state's employer contribution for the Federal Insurance Contribution Act tax, to a payroll clearing account. The office of management and budget shall transfer funds from the payroll clearing account to the ~~board~~public employees retirement system office as necessary to defray the reasonable expenses of administering the pretax benefits program established under this chapter, including expenses associated with the program's medical spending account. Any revenue collected by the ~~board~~office from participating district health units must be used, and is hereby appropriated, to defray the expenses of administering the program. The amount

necessary to pay consultants retained by the ~~board~~office, vendors retained by the ~~board~~office to provide claims administration services, any insurance costs associated with the medical spending account, and medical reimbursements for the medical spending account if funds are insufficient to pay claims are hereby appropriated from the savings and revenue generated by the program. All other expenses of administering the program must be paid in accordance with the agency's appropriation authority as established by the legislative assembly. The director of the office of management and budget may decrease or suspend the transfer of the savings accruing to the agencies' salaries and wages line item to the payroll clearing account upon determination that the funds deposited under this section are sufficient to offset anticipated obligations. Notwithstanding other provisions in this section, the public employees retirement system ~~board~~office, or any successor state agency, may not establish, enroll, or administer any pretax benefits program for a political subdivision or any other public or private business or entity, except for any program established specifically for employees of the state and employees of district health units.

**SECTION 100. AMENDMENT.** Section 54-52.3-05 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.3-05. Confidentiality of program records.**

Any records and information pertaining to a public employee's medical and dependent care reimbursement under the pretax benefits program are confidential and are not public records subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota. The records and information may be disclosed, under rules adopted by the ~~board~~public employees retirement system office, only to:

1. A person to whom the employee has given written authorization to have the information disclosed.
2. A person legally representing the employee, upon proper proof of representation.
3. A person authorized by a court order.
4. A person or entity to which the ~~board~~office is required to disclose information pursuant to federal or state statutes or regulations.
5. Any person or entity if the purpose of the disclosure is for health care treatment, payment, or operations.

**SECTION 101. AMENDMENT.** Section 54-52.3-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.3-06. Deposit of program moneys - Appropriation.**

All moneys collected pursuant to elections made by public employees under the pretax benefits program for the medical spending account and the dependent care account must be deposited in an account with the Bank of North Dakota. All moneys deposited in the account, not otherwise appropriated, are hereby appropriated for the purpose of making payments to employees participating in the program. The ~~board~~public employees retirement system office shall transfer any surplus in the pretax benefits account at the end of the plan year to the payroll clearing account.

**SECTION 102. AMENDMENT.** Section 54-52.6-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-01. (Effective through July 31, 2017) Definition of terms.**

As used in this chapter, unless the context otherwise requires:

1. "~~Board~~" means the public employees retirement system board.
2. "Deferred member" means a person who elected to receive deferred vested retirement benefits under chapter 54-52.
- 3.2. "Eligible employee" means a permanent state employee who elects to participate in the retirement plan under this chapter.
- 4.3. "Employee" means any person employed by the state, whose compensation is paid out of state funds, or funds controlled or administered by the state or paid by the federal government through any of its executive or administrative officials.
- 5.4. "Employer" means the state of North Dakota.
5. "Office" means the public employees retirement system office.
6. "Participating member" means an eligible employee who elects to participate in the defined contribution retirement plan established under this chapter.
7. "Permanent employee" means a state employee whose services are not limited in duration and who is filling an approved and regularly funded position and is employed twenty hours or more per week and at least five months each year.
8. "Wages" and "salaries" means earnings in eligible employment under this chapter reported as salary on a federal income tax withholding statement plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement, incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between an employee and a participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the ~~board~~office.

**(Effective after July 31, 2017) Definition of terms.** As used in this chapter, unless the context otherwise requires:

1. "~~Board~~" means the public employees retirement system board.
2. "Deferred member" means a person who elected to receive deferred vested retirement benefits under chapter 54-52.

- 3.2. "Eligible employee" means a permanent state employee, except an employee of the judicial branch or an employee of the board of higher education and state institutions under the jurisdiction of the board, who is eighteen years or more of age and who is in a position not classified by North Dakota human resource management services. If a participating member loses permanent employee status and becomes a temporary employee, the member may still participate in the defined contribution retirement plan.
- 4.3. "Employee" means any person employed by the state, whose compensation is paid out of state funds, or funds controlled or administered by the state or paid by the federal government through any of its executive or administrative officials.
- 5.4. "Employer" means the state of North Dakota.
- 5. "Office" means the public employees retirement system office.
- 6. "Participating member" means an eligible employee who elects to participate in the defined contribution retirement plan established under this chapter.
- 7. "Permanent employee" means a state employee whose services are not limited in duration and who is filling an approved and regularly funded position and is employed twenty hours or more per week and at least five months each year.
- 8. "Wages" and "salaries" means earnings in eligible employment under this chapter reported as salary on a federal income tax withholding statement plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement, incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between an employee and a participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the boardoffice.

**SECTION 103. AMENDMENT.** Section 54-52.6-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-02. (Effective through July 31, 2017) Election.**

- 1. The boardoffice shall provide an opportunity for eligible employees who are new members of the public employees retirement system under chapter 54-52 to transfer to the defined contribution plan under this chapter pursuant to the rules and policies adopted by the boardoffice. An election made by a member of the public employees retirement system under chapter 54-52 to transfer to the defined contribution retirement plan under this chapter is irrevocable. For an individual who elects to transfer membership from the public employees retirement system under chapter 54-52 to the defined contribution retirement plan under this chapter, the

boardoffice shall transfer a lump sum amount from the public employees retirement system fund to the participating member's account in the defined contribution retirement plan under this chapter. However, if the individual terminates employment prior to receiving the lump sum transfer under this section, the election made is ineffective and the individual remains a member of the public employees retirement system under chapter 54-52 and retains all the rights and privileges under that chapter. This section does not affect an individual's right to health benefits or retiree health benefits under chapter 54-52.1.

2. If the boardoffice receives notification from the internal revenue service that this section or any portion of this section will cause the public employees retirement system or the retirement plan established under this chapter to be disqualified for tax purposes under the Internal Revenue Code, then the portion that will cause the disqualification does not apply.
3. A participating member who becomes a temporary employee may still participate in the defined contribution retirement plan upon filing an election with the boardoffice within one hundred eighty days of transferring to temporary employee status. The participating member may not become a member of the defined benefit plan as a temporary employee. The temporary employee electing to participate in the defined contribution retirement plan shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by two percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of two percent, beginning with the monthly reporting period of January 2013, and with an additional increase of two percent, beginning with the monthly reporting period of January 2014. The temporary employee shall also pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee until termination of employment or reclassification of the temporary employee as a permanent employee.
4. A former participating member who has accepted a retirement distribution pursuant to section 54-52.6-13 and who subsequently becomes employed by an entity different from the employer with which the member was employed at the time the member retired but which does participate in any state-sponsored retirement plan may, before re-enrolling in the defined contribution retirement plan, elect to permanently waive future participation in the defined contribution retirement plan, whatever plan in which the new employing entity participates, and the retiree health program and maintain that member's retirement status. Neither the member nor the employer are required to make any future retirement contributions on behalf of that employee.

**(Effective after July 31, 2017) Election.**

1. The boardoffice shall provide an opportunity for each eligible employee who is a member of the public employees retirement system on

September 30, 2001, and who has not made a written election under this section to transfer to the defined contribution retirement plan before October 1, 2001, to elect in writing to terminate membership in the public employees retirement system and elect to become a participating member under this chapter. Except as provided in section 54-52.6-03, an election made by an eligible employee under this section is irrevocable. The boardoffice shall accept written elections under this section from eligible employees during the period beginning on July 1, 1999, and ending 12:01 a.m. December 14, 2001. An eligible employee who does not make a written election or who does not file the election during the period specified in this section continues to be a member of the public employees retirement system. An eligible employee who makes and files a written election under this section ceases to be a member of the public employees retirement system effective twelve midnight December 31, 2001; becomes a participating member in the defined contribution retirement plan under this chapter effective 12:01 a.m. January 1, 2002; and waives all of that person's rights to a pension, annuity, retirement allowance, insurance benefit, or any other benefit under the public employees retirement system effective December 31, 2001. This section does not affect a person's right to health benefits or retiree health benefits under chapter 54-52.1. An eligible employee who is first employed and entered upon the payroll of that person's employer after September 30, 2001, may make an election to participate in the defined contribution retirement plan established under this chapter at any time during the first six months after the date of employment. If the boardoffice, in its sole discretion, determines that the employee was not adequately notified of the employee's option to participate in the defined contribution retirement plan, the boardoffice may provide the employee a reasonable time within which to make that election, which may extend beyond the original six-month decision window.

2. If an individual who is a deferred member of the public employees retirement system on September 30, 2001, is re-employed and by virtue of that employment is again eligible for membership in the public employees retirement system under chapter 54-52, the individual may elect in writing to remain a member of the public employees retirement system or if eligible to participate in the defined contribution retirement plan established under this chapter to terminate membership in the public employees retirement system and become a participating member in the defined contribution retirement plan established under this chapter. An election made by a deferred member under this section is irrevocable. The boardoffice shall accept written elections under this section from a deferred member during the period beginning on the date of the individual's re-employment and ending upon the expiration of six months after the date of that re-employment. If the boardoffice, in its sole discretion, determines that the employee was not adequately notified of the employee's option to participate in the defined contribution retirement plan, the boardoffice may provide the employee a reasonable time within which to make that election, which may extend beyond the original six-month decision window. A deferred member who makes and files a written election to remain a member of the public employees retirement system retains all rights and is subject to all conditions as a member of that retirement system. A deferred member who does not make a written election or who does not file the election during the period specified in this section continues to be a member of the public employees retirement system. A deferred member

who makes and files a written election to terminate membership in the public employees retirement system ceases to be a member of the public employees retirement system effective on the last day of the payroll period that includes the date of the election; becomes a participating member in the defined contribution retirement plan under this chapter effective the first day of the payroll immediately following the date of the election; and waives all of that person's rights to a pension, an annuity, a retirement allowance, insurance benefit, or any other benefit under the public employees retirement system effective the last day of the payroll that includes the date of the election. This section does not affect any right to health benefits or retiree health benefits to which the deferred member may otherwise be entitled.

3. An eligible employee who elects to participate in the retirement plan established under this chapter must remain a participant even if that employee returns to the classified service or becomes employed by a political subdivision that participates in the public employees retirement system. The contribution amount must be as provided in this chapter, regardless of the position in which the employee is employed.  
Notwithstanding the irrevocability provisions of this chapter, if a member who elects to participate in the retirement plan established under this chapter becomes a supreme or district court judge, becomes a member of the highway patrol, becomes employed in a position subject to teachers' fund for retirement membership, or becomes an employee of the board of higher education or state institution under the jurisdiction of the board who is eligible to participate in an alternative retirement program established under subsection 6 of section 15-10-17, the member's status as a member of the defined contribution retirement plan is suspended, and the member becomes a new member of the retirement plan for which that member's new position is eligible. The member's account balance remains in the defined contribution retirement plan, but no new contributions may be made to that account. The member's service credit and salary history that were forfeited as a result of the member's transfer to the defined contribution retirement plan remain forfeited, and service credit accumulation in the new retirement plan begins from the first day of employment in the new position. If the member later returns to employment that is eligible for the defined contribution plan, the member's suspension must be terminated, the member again becomes a member of the defined contribution retirement plan, and the member's account resumes accepting contributions. At the member's option, and pursuant to rules adopted by the boardoffice, the member may transfer any available balance as determined by the provisions of the alternate retirement plan into the member's account under this chapter.
4. After consultation with its actuary, the boardoffice shall determine the method by which a participating member or deferred member may make a written election under this section. If the participating member or deferred member is married at the time of the election, the election is not effective unless the election is signed by the individual's spouse. However, the boardoffice may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.
5. If the boardoffice receives notification from the internal revenue service that this section or any portion of this section will cause the public

employees retirement system or the retirement plan established under this chapter to be disqualified for tax purposes under the Internal Revenue Code, then the portion that will cause the disqualification does not apply.

6. A participating member who becomes a temporary employee may still participate in the defined contribution retirement plan upon filing an election with the ~~board~~office within one hundred eighty days of transferring to temporary employee status. The participating member may not become a member of the defined benefit plan as a temporary employee. The temporary employee electing to participate in the defined contribution retirement plan shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by two percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of two percent, beginning with the monthly reporting period of January 2013, and with an additional increase of two percent, beginning with the monthly reporting period of January 2014. The temporary employee shall also pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee until termination of employment or reclassification of the temporary employee as a permanent employee.
7. A former participating member who has accepted a retirement distribution pursuant to section 54-52.6-13 and who subsequently becomes employed by an entity different from the employer with which the member was employed at the time the member retired but which does participate in any state-sponsored retirement plan may, before re-enrolling in the defined contribution retirement plan, elect to permanently waive future participation in the defined contribution retirement plan, whatever plan in which the new employing entity participates, and the retiree health program and maintain that member's retirement status. Neither the member nor the employer are required to make any future retirement contributions on behalf of that employee.

**SECTION 104. AMENDMENT.** Section 54-52.6-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-03. (Suspended from October 1, 2013, through July 31, 2017)  
Transfer of accumulated fund balances.**

For an individual who elects to terminate membership in the public employees retirement system under chapter 54-52, the ~~board~~office shall transfer a lump sum amount from the retirement fund to the participating member's account in the defined contribution retirement plan under this chapter. However, if the individual terminates employment prior to receiving the lump sum transfer under this section, the election made under section 54-52.6-02 is ineffective and the individual remains a member of the public employees retirement system under chapter 54-52 and retains all the rights and benefits provided under that chapter. The ~~board~~office shall calculate the amount to be transferred for persons employed before October 1, 2001, using the two following formulas, and shall transfer the greater of the two amounts obtained:

1. The actuarial present value of the individual's accumulated benefit obligation under the public employees retirement system based on the assumption that the individual will retire under the earliest applicable normal retirement age, plus interest from January 1, 2001, to the date of transfer, at the rate of one-half of one percent less than the actuarial interest assumption at the time of the election; or
2. The actual employer contribution made, less vested employer contributions made pursuant to section 54-52-11.1, plus compound interest at the rate of one-half of one percent less than the actuarial interest assumption at the time of the election plus the employee account balance.

The boardoffice shall calculate the amount to be transferred for persons employed after September 30, 2001, using only the formula contained in subsection 2.

**SECTION 105. AMENDMENT.** Section 54-52.6-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-03.1. Changes to election.**

1. In this section the term "participating member" is limited in application to a participating member who elected to participate in the defined contribution retirement plan established under this chapter as an active employee of a participating employer, is an actively participating member of the defined contribution plan as of July 1, 2015, and is an active employee with a participating employer on the date an election is made under this section. The term does not include a participant who is not actively employed with a participating employer on the date of transfer of the funds under this section, has taken a distribution from the defined contribution plan, is retired, is no longer actively employed with a participating employer, or who is a member who has a qualified domestic relations order or other court order on the member's account.
2. Notwithstanding any other provision of law, the boardoffice shall provide an opportunity for each participating member to elect in writing to terminate membership in the defined contribution retirement plan under this chapter and to elect to become a participating member in the public employees retirement system under chapter 54-52.
3. The boardoffice shall establish a three-calendar-month election period beginning not later than February 1, 2016. A participating member who does not make a written election or who does not file the election with the North Dakota public employees retirement system office during the period specified in this section continues to be a member of the defined contribution plan. A participating member who makes and files a written election with the North Dakota public employees retirement system office under this section ceases to be a member of the defined contribution plan upon receipt by the public employees retirement system of the accumulated fund balance of the member's defined contribution plan under this chapter and waives all rights to that employee's accumulated fund balance under the defined contribution plan. If the executive director of the North Dakota public employees retirement system determines a participating member was not adequately notified of the option to make an election under this section, the executive director may provide that

participating member a reasonable time, not to exceed three months, within which to make that election.

4. The public employees retirement system shall credit the transferring employee with the service credit and salary history reflected on the public employees retirement system's electronic database.
5. The ~~board~~office shall determine the method by which a participating member may make a written election under this section. If the participating member is married at the time of the election, the election is not effective unless the election is signed by the individual's spouse. However, the executive director of the North Dakota public employees retirement system may waive this spousal signature requirement if the spouse's signature cannot be obtained because of extenuating circumstances.
6. For a participating member who elects to terminate membership in the defined contribution plan under this section, the ~~board~~office shall transfer that member's accumulated fund balance, less any rollovers from other plans made into the defined contribution plan, to the public employees retirement system under chapter 54-52. If funds are transferred from the defined contribution plan to the defined benefit plan under an election made under this section, the ~~board~~office shall record this transfer to the defined benefit plan as employee and employer contributions in the same manner as transferred by the defined contribution provider. If a participating member has a separate account attributable to rollover contributions to the defined contribution plan pursuant to section 54-52.6-09.1, the participating member shall make an election to receive a distribution of the entire amount held in the rollover account at the time of transfer.
7. A participating member who elects a transfer under this section is entitled to vested employer contribution amounts under section 54-52-11.1 prospectively from the date of transfer. A participating member who elects a transfer under this section must be assessed and required to pay monthly to the defined benefit plan an additional employee contribution of an additional two percent of the monthly salary or wages paid to the member.

**SECTION 106. AMENDMENT.** Section 54-52.6-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-04. Administration.**

The ~~board~~office shall administer the defined contribution retirement plan established under this chapter and the ~~board~~office or vendors contracted for by the ~~board~~office shall invest the assets of the plan. The ~~board~~office is the fiduciary and the trustee of the plan. The ~~board~~office has the exclusive authority and responsibility to employ or contract with personnel and for services that the ~~board~~office determines necessary for the proper administration of and investment of assets of the plan, including managerial, professional, legal, clerical, technical, and administrative personnel or services.

**SECTION 107. AMENDMENT.** Section 54-52.6-05 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-52.6-05. Direction of investments.**

Each participating member shall direct the investment of the individual's accumulated employer and employee contributions and earnings to one or more investment choices within available categories of investment provided by the boardoffice.

**SECTION 108. AMENDMENT.** Section 54-52.6-06 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-52.6-06. Administrative expenses - Continuing appropriation.**

The administrative expenses of the plan must be paid by the participating members in a manner determined by the boardoffice. The boardoffice or vendors contracted for by the boardoffice may charge reasonable administrative expenses and deduct those expenses from a participating member's account in the defined contribution retirement plan established under this chapter. The boardoffice shall place any money deducted in an administrative expenses account with the state treasurer. The boardoffice may also use funds from the payroll clearing account established pursuant to section 54-52.3-03 to pay for consulting expenses. All moneys in the payroll clearing account, not otherwise appropriated, or so much of the moneys as may be necessary, are appropriated to the boardoffice on a continuing basis for the purpose of retaining a consultant as required for the administration of this chapter.

**SECTION 109. AMENDMENT.** Section 54-52.6-08 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-52.6-08. Credit of transfers.**

The boardoffice shall promptly credit the plan account of a participating member who makes an election under this chapter to terminate membership in the public employees retirement system under chapter 54-52 with any amount transferred from the public employees retirement system.

**SECTION 110. AMENDMENT.** Section 54-52.6-09 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-52.6-09. Contributions - Penalty.**

1. Each participating member shall contribute monthly four percent of the monthly salary or wage paid to the participant, and this assessment must be deducted from the participant's salary in equal monthly installments commencing with the first month of participation in the defined contribution retirement plan established under this chapter. Participating member contributions increase by one percent of the monthly salary or wage paid to the participant beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014.
2. The employer shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Employer contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly

reporting period of January 2012, and with an additional increase of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. If the employee's contribution is paid by the employer under subsection 3, the employer shall contribute, in addition, an amount equal to the required employee's contribution. The employer shall pay monthly such contribution into the participating member's account from its funds appropriated for payroll and salary or any other funds available for such purposes. If the employer fails to pay the contributions monthly, it is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due.

3. Each employer, at its option, may pay the employee contributions required by this section for all compensation earned after December 31, 1999. The amount paid must be paid by the employer in lieu of contributions by the employee. If the employer decides not to pay the contributions, the amount that would have been paid will continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. Contributions paid by the employer may not be included as gross income of the employee in determining tax treatment under this code and the federal Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a combination of a reduction in gross salary and offset against future salary increases. Employee contributions paid by the employer must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made before the date on which employee contributions were assumed by the employer. An employer shall exercise its option under this subsection by reporting its choice to the boardoffice in writing.

**SECTION 111. AMENDMENT.** Section 54-52.6-09.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-09.1. Acceptance of rollovers.**

The plan may allow a participating member to transfer or rollover funds from other qualified plans into the member's account under rules adopted by the boardoffice.

**SECTION 112. AMENDMENT.** Section 54-52.6-11 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-11. Refund beneficiaries.**

A participating or former participating member may nominate one or more individuals as a refund beneficiary by filing written notice of nomination with the boardoffice. If the participating member or former participating member is married at the time of the nomination and the participant's spouse is not the refund beneficiary for

one hundred percent of the account, the nomination is not effective unless the nomination is signed by the participant's spouse. However, the ~~board~~office may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.

**SECTION 113. AMENDMENT.** Section 54-52.6-12 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-12. Qualified domestic relations orders.**

1. The ~~board~~office or a vendor contracted for by the ~~board~~office shall apportion a participating member's account in the defined contribution retirement plan under this chapter in accordance with the applicable requirements of any qualified domestic relations order. The ~~board~~office shall review a domestic relations order submitted to it to determine if the domestic relations order is qualified under this section and under rules adopted by the ~~board~~office for determining the qualified status of domestic relations orders, administering distributions, and apportioning accounts under the qualified orders. Upon determination of the domestic relations order as qualified, the ~~board~~office shall notify the participating member, the named alternate payee, and the vendor, if applicable, of its receipt of the qualified domestic relations order.
2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of a participating member, is made pursuant to a North Dakota domestic relations law, which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of a participating member's account in the defined contribution retirement plan under this chapter. A qualified domestic relations order may not require the ~~board~~office to provide any type or form of benefit, or any option, not otherwise allowed under this chapter. However, a qualified domestic relations order may require distribution from an account in the defined contribution retirement plan under this chapter notwithstanding that the participating member has not terminated eligible employment. A qualified domestic relations order must specify:
  - a. The name and last-known mailing address of the participating member and the 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 ~~board~~office 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 ~~board~~office 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 ~~board~~office 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 ~~board~~office 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 ~~board~~office 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 ~~board~~office 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.
3. A former participating member may elect one or a combination of several of the following methods of distribution of the accumulated balance:
  - a. A lump sum distribution to the recipient.
  - b. A lump sum direct rollover to another qualified plan, to the extent allowed by federal law.
  - c. Periodic distributions, as authorized by the ~~board~~office.
  - d. No current distribution, in which case the accumulated balance must remain in the plan until the former participating member or refund beneficiary elects a method or methods of distribution under this section, to the extent allowed by federal law.
4. If the former participating member's vested account balance is less than one thousand dollars, the ~~board~~office shall automatically refund the

A surviving spouse beneficiary may elect one or a combination of several of the methods of distribution provided in subdivisions a, b, or c if the surviving spouse is the sole refund beneficiary. If the surviving spouse is not the sole refund beneficiary, the refund beneficiary may only choose a lump sum distribution of the accumulated balance.

member's vested account balance upon termination of employment. The member may waive the refund if the member submits a written statement to the boardoffice, within one hundred twenty days after termination, requesting that the member's vested account balance remain in the plan.

**SECTION 115. AMENDMENT.** Section 54-52.6-14 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-14. Disability benefits.**

The boardoffice shall allow distribution of the participating member's vested account balance if the boardoffice determines that the participating member has become totally and permanently disabled. If approved, the disabled member has the same distribution options as provided in subdivisions a and c of subsection 3 of section 54-52.6-13. However, if the member chooses the periodic distribution option, the member may only receive distributions for as long as the disability continues and the member submits the necessary documentation and undergoes medical testing required by the boardoffice, or for as long as the member participates in a rehabilitation program required by the boardoffice, or both. If the boardoffice determines that a member no longer meets the eligibility definition, the boardoffice shall discontinue the disability retirement benefit.

**SECTION 116. AMENDMENT.** Section 54-52.6-15 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-15. ~~Board to provide information~~Information provided.**

The boardoffice shall provide information to employees who are eligible to elect to become participating members under this chapter. The information must include at a minimum the employee's current account balance, the assumption of investment risk under a defined contribution retirement plan, administrative and investment costs, coordination of benefits information, and a comparison of projected retirement benefits under the public employees retirement system under chapter 54-52 and the retirement plan established under this chapter. Notwithstanding any other provision of law, the boardoffice is not liable for any election or investment decision made by an employee based upon information provided to an employee under this chapter.

**SECTION 117. AMENDMENT.** Section 54-52.6-18 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-18. Savings clause.**

If the boardoffice determines that any section of this chapter does not comply with applicable federal statutes or rules, the boardoffice shall adopt appropriate terminology with respect to that section as will comply with those federal statutes or rules. Any plan modifications made by the boardoffice pursuant to this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

**SECTION 118. AMENDMENT.** Section 54-52.6-19 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-52.6-19. Overpayments.**

The boardoffice has the right of setoff to recover overpayments made under this chapter and to satisfy any claims arising from embezzlement or fraud committed by a participating member, deferred member, refund beneficiary, or other person who has a claim to a distribution or any other benefit from a plan governed by this chapter.

**SECTION 119. AMENDMENT.** Section 54-52.6-20 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-52.6-20. Correction of records.**

The boardoffice shall correct errors in the records and actions in plans under this chapter and shall seek to recover overpayments and shall seek to collect underpayments.

**SECTION 120. AMENDMENT.** Section 54-52.6-21 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-52.6-21. Internal Revenue Code compliance.**

The boardoffice shall administer the plan in compliance with the following sections of the Internal Revenue Code, as amended, as they apply to governmental plans:

1. Section 415, including the defined contribution limitations under section 415(c)(1)(A) and (B) of the Internal Revenue Code and the Treasury Regulations thereunder, which are incorporated herein by reference.
  - a. In accordance with the defined contribution limitations under section 415(c) of the Internal Revenue Code, annual additions (as defined in section 415(c)(2) of the Internal Revenue Code) under this plan may not exceed the limitations set forth in section 415(c)(1)(A) and (B), as adjusted under section 415(d) of the Internal Revenue Code, effective January first of each year following a regular legislative session.
    - b. If a participating member's aggregate annual additions exceed the defined contribution limitations under section 415(c) of the Internal Revenue Code, the member's annual additions must be reduced to the extent necessary to comply with section 415(c) of the Internal Revenue Code and the Treasury Regulations thereunder.
2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. A member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.

3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.

**SECTION 121. LEGISLATIVE INTENT - ELECTRONIC DISTRIBUTION OF MATERIALS.** It is the intent of the sixty-fifth legislative assembly that the public employees retirement system office create operating efficiencies when feasible by discontinuing the distribution of paper materials, including newsletters and benefit statements. It is further the intent of the sixty-fifth legislative assembly that the public employees retirement system office develop procedures to electronically distribute materials or provide access to materials through member self-service website applications."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1023 - Public Employees Retirement System - House Action**

	Base Budget	House Changes	House Version
Salaries and wages	\$6,315,360	\$8,263	\$6,323,623
Operating expenses	2,753,643	(132,844)	2,620,799
Contingencies	250,000		250,000
Total all funds	\$9,319,003		\$9,194,422
Less estimated income	9,319,003	(124,581)	9,194,422
General fund	\$0	\$0	\$0
FTE	34.50	(1.00)	33.50

**Department No. 192 - Public Employees Retirement System - Detail of House Changes**

	Adjusts Funding for Base Payroll Changes <sup>1</sup>	Adds Funding for Health Insurance Increases <sup>2</sup>	Removes FTE Position <sup>3</sup>	Adjusts Funding for Operating Expenses <sup>4</sup>	Total House Changes
Salaries and wages	\$55,378	\$102,885	(\$150,000)	(132,844)	\$8,263 (132,844)
Operating expenses					
Contingencies					
Total all funds	\$55,378	\$102,885	(\$150,000)	(\$132,844)	(\$124,581) (124,581)
Less estimated income	55,378	102,885	(150,000)	(132,844)	
General fund	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	(1.00)	0.00	(1.00)

<sup>1</sup> Funding is added for cost-to-continue 2015-17 biennium salaries and benefit increases and for other

base payroll changes.

<sup>2</sup> Funding is added for increases in employee health insurance premiums from \$1,130 to \$1,249 per month.

<sup>3</sup> One FTE position and related funding is removed.

<sup>4</sup> Funding for operating expenses is adjusted as follows:

	Other Funds
Printing and postage costs for newsletters	(\$59,504)
Printing and postage costs for annual benefit statements	(66,440)
Other postage, printing, and supplies	(16,900)
Mobile app hosting costs	(43,000)
Office remodeling	30,000
Other operating adjustments	23,000
Total	<hr/> (\$132,844)

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This amendment also:

- Adds a section detailing the amount of funding provided to the agency for health insurance premium increases.
- Adds a section to limit the use of funding in the health insurance reserve fund for reducing health insurance premium amounts.
- Amends various sections of North Dakota Century Code to provide for the Director of the Public Employees Retirement System to be appointed by the Governor, to remove the Public Employees Retirement System Board, and to adjust the membership of the Employee Benefits Programs Committee.
- Adds a section of legislative intent regarding the electronic distribution of materials by the Public Employees Retirement System office.

2/15/17

## PROPOSED AMENDMENTS TO HOUSE BILL NO. 1023

Page 1, line 2, remove "and"

Page 1, line 2, after "transfer" insert "; and to amend and reenact section 54-35-02.4 of the North Dakota Century Code, relating to the duties of the employee benefits programs committee"

Page 2, after line 2, insert:

**"SECTION 4. AMENDMENT.** Section 54-35-02.4 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-02.4. Employee benefits programs committee - Powers and duties.**

1. The employee benefits programs committee shall meet at least quarterly at the discretion of the chairman.
  - a. The employee benefits programs committee shall consider and report on those legislative measures and proposals over which it takes jurisdiction and which affect, actuarially or otherwise, the retirement programs of state employees or employees of any political subdivision, and health and retiree health plans of state employees or employees of any political subdivision. The committee shall make a thorough review of any measure or proposal which it takes under its jurisdiction, including an actuarial review.
  - b. The committee shall take jurisdiction over any measure or proposal that authorizes an automatic increase or other change in benefits beyond the ensuing biennium which would not require legislative approval. The committee must include in the report of the committee a statement that the proposal would allow future changes without legislative involvement.
  - c. Quarterly, the public employees retirement system office shall report to the committee on the activities of the office, including the status of and any proposed changes to retirement plans and uniform group insurance plans administered by the office. Before each regular legislative session, the office shall present to the committee the executive budget proposals, including any anticipated changes, relating to retirement plans and uniform group insurance plans administered by the office. The committee shall consider and report on these office activities and executive budget proposals.
  - d. The committee shall report its findings and recommendations, along with any necessary legislation, to the legislative management and to the legislative assembly.
2. To carry out its responsibilities, the committee, or its designee, may:
  - a. Enter contracts, including retainer agreements, with an actuary or actuarial firm for expert assistance and consultation. Each retirement,

- insurance, or retiree insurance program shall pay, from its retirement, insurance, or retiree health benefits fund, as appropriate, and without the need for a prior appropriation, the cost of any actuarial report required by the committee which relates to that program.
- b. Call on personnel from state agencies or political subdivisions to furnish such information and render such assistance as the committee may from time to time request.
  - c. Establish rules for its operation, including the submission and review of proposals and the establishing of standards for actuarial review.
3. The committee may solicit draft measures and proposals from interested persons during the interim between legislative sessions, and may also study measures and proposals referred to it by the legislative assembly or the legislative management.
  4. A copy of the committee's report concerning any legislative measure shall, if that measure is introduced for consideration by a legislative assembly, be appended to the copy of that measure which is referred to a standing committee.
  5. A legislative measure affecting a public employees retirement program, public employees health insurance program, or public employee retiree health insurance program may not be introduced in either house unless it is accompanied by a report from the committee. A majority of the members of the committee, acting through the chairman, has sole authority to determine whether any legislative measure affects a program.
  6. Any amendment made during a legislative session to a legislative measure affecting a public employees retirement program, public employees health insurance program, or public employee retiree health insurance program may not be considered by a standing committee unless it is accompanied by a report from the employee benefits programs committee.
  7. Any legislation enacted in contravention of this section is invalid and of no force and effect, and any benefits provided under such legislation must be reduced to the level current prior to enactment."

Renumber accordingly

## PROPOSED AMENDMENTS TO HOUSE BILL NO. 1023

Page 1, line 2, after the semicolon insert "to amend an reenact sections 54-52.1-06 and 54-52.1-18 of the North Dakota Century Code, relating to state and employee contributions for the uniform group insurance program; to provide for application;"

Page 2, after line 2, insert:

**"SECTION 4. AMENDMENT.** Section 54-52.1-06 of the North Dakota Century Code is amended and reenacted as follows:

### **54-52.1-06. State contribution.**

1. Each~~For its eligible employees who first became employed by the state before July 1, 2017, and who are participating in the uniform group insurance program, each department, board, or agency shall pay to the board each month from its funds appropriated for payroll and salary amounts a state contribution in the amount as determined by the primary carrier of the group contract for. The state contribution must be the full single rate monthly premium for each of its eligible employees enrolled in the uniform group insurance program and the full rate monthly premium, in an amount equal to that contributed under the alternate family contract, including major medical coverage, for hospital and medical benefits coverage for spouses and dependent children of its eligible employees enrolled in the uniform group insurance program pursuant to section 54-52.1-07. The board shall then pay the necessary and proper premium amount for the uniform group insurance program to the proper carrier or carriers on a monthly basis.~~
2. For its eligible employees who first became employed by the state after June 30, 2017, and who are participating in the uniform group insurance program, each department, board, or agency shall pay to the board each month from its funds appropriated for payroll and salary amounts a state contribution in the amount as determined by the primary carrier of the group contract less employee contributions as required by this subsection. The state contribution must be the full single rate monthly premium for each of its eligible employees enrolled in the uniform group insurance program and the full rate monthly premium, in an amount equal to that contributed under the alternate family contract less employee contributions as required by this subsection, including major medical coverage, for hospital and medical benefits coverage for spouses and dependent children of its eligible employees enrolled in the uniform group insurance program pursuant to section 54-52.1-07. An eligible employee under this subsection for whom that eligible employee's employer is paying a premium must be assessed and required to pay monthly five percent of the total single or family plan premium applicable to the employee for uniform group insurance program coverage. The assessment must be deducted and retained out of the eligible employee's salary. The board shall pay the necessary and proper premium amount for the uniform group insurance program to the proper carrier or carriers on a monthly basis.

3. Any refund, rebate, dividend, experience rating allowance, discount, or other reduction of premium amount must be credited at least annually to a separate fund of the uniform group insurance program to be used by the board to reimburse the administrative expense and benefit fund of the public employees retirement program for the costs of administration of the uniform group insurance program.
4. ~~In the event~~If an enrolled eligible employee is not entitled to receive salary, wages, or other compensation for a particular calendar month, that employee may make direct payment of the required premium to the board to continue the employee's coverage, and the employing department, board, or agency shall provide for the giving of a timely notice to the employee of that person's~~employee's~~ right to make such payment at the time the right arises.

**SECTION 5. AMENDMENT.** Section 54-52.1-18 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-18. High-deductible health plan alternative with health savings account option.**

1. The board shall develop and implement a high-deductible health plan as an alternative to the plan under section 54-52.1-02. The high-deductible health plan alternative with a health savings account must be made available to state employees ~~by January 1, 2012. After June 30, 2015 and~~, at the board's discretion, the high-deductible health plan alternative may be offered to political subdivisions for coverage of political subdivision employees. If a political subdivision elects this high-deductible option the political subdivision may not offer the plan under section 54-52.1-02.
2. Health savings account fees for participating state employees must be paid by the employer.
  - a. Except as provided in subdivision b, subject to the limits of section 223(b) of the Internal Revenue Code [26 U.S.C. 233(b)], the difference between the cost of the state contribution for the single and family premium for eligible state employees under section 54-52.1-06 and the premium for those employees electing to participate under the high-deductible health plan under this section must be deposited in a health savings account for the benefit of each participating employee.
  - b. If the public employees retirement system is unable to establish a health savings account due to the employee's ineligibility under federal or state law or due to failure of the employee to provide necessary information ~~in order~~ to establish the account, the system is not responsible for depositing the health savings account contribution. The member will remain a participant in the high-deductible health plan regardless of whether a health savings account is established.
3. Each new state employee must be provided the opportunity to elect the high-deductible health plan alternative. At least once each biennium, the board shall provide an open enrollment period allowing existing state employees or a political subdivision to change their coverage.

**SECTION 6. APPLICATION.** This Act applies to health insurance premiums paid under the uniform group insurance program for health insurance coverage after June 30, 2017."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

This amendment adds sections requiring state employees hired after June 30, 2017, to pay 5 percent of the cost of their health insurance premiums.

## SUMMARY - AMENDMENTS TO HOUSE BILL NO. 1023

This document summarizes the amendments to House Bill No. 1023 proposed by the Government Operations subcommittee of the House Appropriations Committee (17.0508.01006), as those amendments relate to the administration of the Public Employees Retirement System (PERS). The following table summarizes the changes in administration of the PERS from its current structure to the structure under the proposed amendments:

North Dakota Century Code Section	Current Structure	Proposed Structure
21-10-01	Three members of the Retirement Board--two elected members and one additional member--serve on the North Dakota State Investment Board.	Two elected members of the Retirement System Advisory Board and the PERS Office Executive Director serve on the North Dakota State Investment Board.
54-35-02.3		Three elected members of the Retirement System Advisory Board serve as nonvoting members of the Employee Benefits Programs Committee.
54-52-03	Retirement Board is created to be the state agency charged with administering PERS.	PERS Office is created to be the state agency charged with administering PERS.
54-52-03	Retirement Board membership: <ul style="list-style-type: none"><li>• Two members of the Legislative Assembly;</li><li>• Citizen member appointed by Governor;</li><li>• Attorney General appointment;</li><li>• State Health Officer;</li><li>• Three active members elected by members; and</li><li>• Retiree member elected by retired members.</li></ul>	Retirement System Advisory Board is charged with advising the PERS Office Executive Director, Governor, and the Legislative Management. Retirement System Advisory Board membership: <ul style="list-style-type: none"><li>• Two members of the Legislative Assembly;</li><li>• Citizen member appointed by Governor;</li><li>• Three active members elected by members; and</li><li>• Retiree member elected by retired members.</li></ul>
54-52-04	Retirement Board shall adopt rules as necessary to manage PERS.	PERS Office shall adopt rules as necessary to manage PERS.
54-52-04	Retirement Board has powers and privileges of a corporation, including the right to sue and be sued.	
54-52-04	Retirement Board shall appoint an Executive Director to serve at the board's discretion and perform duties as assigned by the board.	Governor shall appoint an Executive Director to serve at the Governor's discretion.
54-52-04	Retirement Board authorizes and Executive Director hires PERS staff.	PERS Office shall employ staff.
54-52-04	Retirement Board shall retain an actuary on a consulting basis.	PERS Office shall retain an actuary on a consulting basis.
54-52-04	Retirement Board shall administer the Highway Patrolmen's Retirement System, Uniform Group Insurance Program, and the Deferred Compensation Plan for Public Employees and other optional employee benefit programs.	PERS Office shall administer the Highway Patrolmen's Retirement System, Uniform Group Insurance Program, and the Deferred Compensation Plan for Public Employees and other optional employee benefit programs.
54-52-04	Retirement Board may use money in the uniform group insurance program fund to reduce the amount of premium amounts paid and to reduce any increase in premium.	Subject to appropriation, the PERS Office may use money in the uniform group insurance program fund to reduce the amount of premium amounts paid and to reduce any increase in premium.  Statutory references to the Retirement Board are replaced with references to the PERS Office.

## PROPOSED AMENDMENTS TO HOUSE BILL NO. 1023

Page 1, line 2, remove "and"

Page 1, line 2, after "transfer" insert "; and to amend and reenact section 54-35-02.4 of the North Dakota Century Code, relating to the duties of the employee benefits programs committee"

Page 2, after line 2, insert:

**"SECTION 4. AMENDMENT.** Section 54-35-02.4 of the North Dakota Century Code is amended and reenacted as follows:

### **54-35-02.4. Employee benefits programs committee - Powers and duties.**

1. The employee benefits programs committee shall meet at least quarterly at the discretion of the chairman.
  - a. The employee benefits programs committee shall consider and report on those legislative measures and proposals over which it takes jurisdiction and which affect, actuarially or otherwise, the retirement programs of state employees or employees of any political subdivision, and health and retiree health plans of state employees or employees of any political subdivision. The committee shall make a thorough review of any measure or proposal which it takes under its jurisdiction, including an actuarial review.
  - b. The committee shall take jurisdiction over any measure or proposal that authorizes an automatic increase or other change in benefits beyond the ensuing biennium which would not require legislative approval. The committee must include in the report of the committee a statement that the proposal would allow future changes without legislative involvement.
  - c. Quarterly, the public employees retirement system office shall report to the committee on the activities of the office, including the status of and any proposed changes to retirement plans and uniform group insurance plans administered by the office. Before each regular legislative session, the office shall present to the committee the executive budget proposals, including any anticipated changes, relating to retirement plans and uniform group insurance plans administered by the office. The committee shall consider and report on these office activities and executive budget proposals.
  - d. The committee shall report its findings and recommendations, along with any necessary legislation, to the legislative management and to the legislative assembly.
2. To carry out its responsibilities, the committee, or its designee, may:
  - a. Enter contracts, including retainer agreements, with an actuary or actuarial firm for expert assistance and consultation. Each retirement,

insurance, or retiree insurance program shall pay, from its retirement, insurance, or retiree health benefits fund, as appropriate, and without the need for a prior appropriation, the cost of any actuarial report required by the committee which relates to that program.

- b. Call on personnel from state agencies or political subdivisions to furnish such information and render such assistance as the committee may from time to time request.
- c. Establish rules for its operation, including the submission and review of proposals and the establishing of standards for actuarial review.
3. The committee may solicit draft measures and proposals from interested persons during the interim between legislative sessions, and may also study measures and proposals referred to it by the legislative assembly or the legislative management.
4. A copy of the committee's report concerning any legislative measure shall, if that measure is introduced for consideration by a legislative assembly, be appended to the copy of that measure which is referred to a standing committee.
5. A legislative measure affecting a public employees retirement program, public employees health insurance program, or public employee retiree health insurance program may not be introduced in either house unless it is accompanied by a report from the committee. A majority of the members of the committee, acting through the chairman, has sole authority to determine whether any legislative measure affects a program.
6. Any amendment made during a legislative session to a legislative measure affecting a public employees retirement program, public employees health insurance program, or public employee retiree health insurance program may not be considered by a standing committee unless it is accompanied by a report from the employee benefits programs committee.
7. Any legislation enacted in contravention of this section is invalid and of no force and effect, and any benefits provided under such legislation must be reduced to the level current prior to enactment."

Renumber accordingly

Biennium	Monthly Premium	Percentage Change from Previous Biennium
2001-03	\$409	16.9%
2003-05	\$489	19.6%
2005-07	\$554	13.3%
2007-09	\$658	18.8%
2009-11	\$826	25.5%
2011-13	\$887	7.4%
2013-15	\$982	10.7%
2015-17	\$1,130	15.1%
2017-19 executive recommendation	\$1,249	10.6%

The percentage increase to maintain the existing health insurance plan benefits is 17.4 percent for the 2017-19 biennium. To reduce this percentage increase, the Governor is recommending increasing member out-of-pocket expenses to reduce plan costs by \$49.61 per contract, per month, which would reduce the overall increase by 4.4 percent. *Money from Reserves*

The Governor is also recommending using Public Employees Retirement System (PERS) health insurance reserves to pay an additional \$27.31 of premiums per contract, per month, which would reduce the overall increase by 2.45 percent. The Governor is using approximately \$18.0 million of the estimated \$35.0 million in health insurance reserve funds to reduce the premium rate increase. Of the \$18.0 million utilized, \$10.5 million relates to state employee health insurance plans, \$4.4 million relates to political subdivisions, and \$3.1 million relates to retiree health plans.

### EMPLOYEE ASSISTANCE PROGRAM

The monthly rate for the employee assistance program remains at \$1.54 per month, or \$18.48 annually.

### LIFE INSURANCE

The monthly rate for life insurance provided to state employees remains at \$0.28 per month, or \$3.36 annually.

### UNEMPLOYMENT INSURANCE

Funding is included for unemployment insurance for state employees at a rate of 1 percent of the first \$6,000 of an employee's annual salary (\$60 per year or \$120 per biennium maximum). No unemployment insurance was collected on state employee salaries during the 2013-15 and 2015-17 bienniums.

— Change Plan —

### TOTAL COMPENSATION CHANGES COST

The schedule below provides the total cost of major compensation changes recommended in the 2017-19 executive budget.

	General Fund	Special Funds	Total
Salary increase of 1 percent, effective July 1, 2018	\$5,447,422	\$6,411,108	\$11,858,530
Health insurance premium increases	20,924,659	24,626,376	45,551,035
Total	\$26,372,081	\$31,037,484	\$57,409,565

### FULL-TIME EQUIVALENT POSITIONS

The 2017-19 executive budget includes a total of 15,937.69 FTE positions, an increase of 4,100.12 FTE positions from the 2015-17 authorized level of 11,837.57 FTE positions. The total number of FTE positions for the 2017-19 biennium now reflects certain higher education positions that were previously not reflected in the budget.

*18M of 35M*

The 2017-19 executive budget recommended FTE level of 15,937.69 is an overall decrease of 551.56 FTE positions compared to the adjusted 2015-17 biennium total, including a decrease of 315.27 FTE positions in higher education and a decrease of 215.61 FTE positions in all other state agencies.

The reduction of 215.61 FTE positions resulted in a decrease of \$29.0 million, of which \$15.9 million is from the general fund.

Major changes in FTE positions, excluding higher education, are as follows:

Agency Increases	2015-17 Authorized FTE Positions	2017-19 Executive Budget	Increase
301 - State Department of Health	365.00	381.00	16.00
530 - Department of Corrections and Rehabilitation	836.29	846.29	10.00
475 - Mill and Elevator Association	147.00	153.00	6.00

Agency Decreases	2015-17 Authorized FTE Positions	2017-19 Executive Budget	(Decrease)
380 - Job Service North Dakota	237.76	181.61	(56.15)
180 - Judicial branch	391.00	354.50	(36.50)
640 - Main Research Center	361.12	336.12	(25.00)
405 - Industrial Commission	121.75	105.25	(16.50)
125 - Attorney General	250.00	234.00	(16.00)
630 - North Dakota State University Extension Service	265.98	252.98	(13.00)
627 - Upper Great Plains Transportation Institute	54.98	43.88	(11.10)
628 - Branch research centers	120.29	110.29	(10.00)

## SUMMARY - AMENDMENTS TO HOUSE BILL NO. 1023

This document summarizes the amendments to House Bill No. 1023 proposed by the Government Operations subcommittee of the House Appropriations Committee (17.0508.01006), as those amendments relate to the administration of the Public Employees Retirement System (PERS). The following table summarizes the changes in administration of the PERS from its current structure to the structure under the proposed amendments:

North Dakota Century Code Section	Current Structure	Proposed Structure
21-10-01	Three members of the Retirement Board--two elected members and one additional member--serve on the North Dakota State Investment Board.	Two elected members of the Retirement System Advisory Board and the PERS Office Executive Director serve on the North Dakota State Investment Board.
54-35-02.3		Three elected members of the Retirement System Advisory Board serve as nonvoting members of the Employee Benefits Programs Committee.
54-52-03	Retirement Board is created to be the state agency charged with administering PERS.	PERS Office is created to be the state agency charged with administering PERS.
54-52-03	Retirement Board membership: <ul style="list-style-type: none"><li>• Two members of the Legislative Assembly;</li><li>• Citizen member appointed by Governor;</li><li>• Attorney General appointment;</li><li>• State Health Officer;</li><li>• Three active members elected by members; and</li><li>• Retiree member elected by retired members.</li></ul>	Retirement System Advisory Board is charged with advising the PERS Office Executive Director, Governor, and the Legislative Management. Retirement System Advisory Board membership: <ul style="list-style-type: none"><li>• Two members of the Legislative Assembly;</li><li>• Citizen member appointed by Governor;</li><li>• Three active members elected by members; and</li><li>• Retiree member elected by retired members.</li></ul>
54-52-04	Retirement Board shall adopt rules as necessary to manage PERS.	PERS Office shall adopt rules as necessary to manage PERS.
54-52-04	Retirement Board has powers and privileges of a corporation, including the right to sue and be sued.	
54-52-04	Retirement Board shall appoint an Executive Director to serve at the board's discretion and perform duties as assigned by the board.	Governor shall appoint an Executive Director to serve at the Governor's discretion.
54-52-04	Retirement Board authorizes and Executive Director hires PERS staff.	PERS Office shall employ staff.
54-52-04	Retirement Board shall retain an actuary on a consulting basis.	PERS Office shall retain an actuary on a consulting basis.
54-52-04	Retirement Board shall administer the Highway Patrolmen's Retirement System, Uniform Group Insurance Program, and the Deferred Compensation Plan for Public Employees and other optional employee benefit programs.	PERS Office shall administer the Highway Patrolmen's Retirement System, Uniform Group Insurance Program, and the Deferred Compensation Plan for Public Employees and other optional employee benefit programs.
54-52-04	Retirement Board may use money in the uniform group insurance program fund to reduce the amount of premium amounts paid and to reduce any increase in premium.	Subject to appropriation, the PERS Office may use money in the uniform group insurance program fund to reduce the amount of premium amounts paid and to reduce any increase in premium.  Statutory references to the Retirement Board are replaced with references to the PERS Office.

## PROPOSED AMENDMENTS TO HOUSE BILL NO. 1023

Page 1, line 2, remove "and"

Page 1, line 2, after "transfer" insert "; and to amend and reenact section 54-35-02.4 of the North Dakota Century Code, relating to the duties of the employee benefits programs committee"

Page 2, after line 2, insert:

**"SECTION 4. AMENDMENT.** Section 54-35-02.4 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-02.4. Employee benefits programs committee - Powers and duties.**

1. The employee benefits programs committee shall meet at least quarterly at the discretion of the chairman.
  - a. The employee benefits programs committee shall consider and report on those legislative measures and proposals over which it takes jurisdiction and which affect, actuarially or otherwise, the retirement programs of state employees or employees of any political subdivision, and health and retiree health plans of state employees or employees of any political subdivision. The committee shall make a thorough review of any measure or proposal which it takes under its jurisdiction, including an actuarial review.
  - b. The committee shall take jurisdiction over any measure or proposal that authorizes an automatic increase or other change in benefits beyond the ensuing biennium which would not require legislative approval. The committee must include in the report of the committee a statement that the proposal would allow future changes without legislative involvement.
  - c. Quarterly, the public employees retirement system office shall report to the committee on the activities of the office, including the status of and any proposed changes to retirement plans and uniform group insurance plans administered by the office. Before each regular legislative session, the office shall present to the committee the executive budget proposals, including any anticipated changes, relating to retirement plans and uniform group insurance plans administered by the office. The committee shall consider and report on these office activities and executive budget proposals.
  - d. The committee shall report its findings and recommendations, along with any necessary legislation, to the legislative management and to the legislative assembly.
2. To carry out its responsibilities, the committee, or its designee, may:
  - a. Enter contracts, including retainer agreements, with an actuary or actuarial firm for expert assistance and consultation. Each retirement,

insurance, or retiree insurance program shall pay, from its retirement, insurance, or retiree health benefits fund, as appropriate, and without the need for a prior appropriation, the cost of any actuarial report required by the committee which relates to that program.

- b. Call on personnel from state agencies or political subdivisions to furnish such information and render such assistance as the committee may from time to time request.
- c. Establish rules for its operation, including the submission and review of proposals and the establishing of standards for actuarial review.
3. The committee may solicit draft measures and proposals from interested persons during the interim between legislative sessions, and may also study measures and proposals referred to it by the legislative assembly or the legislative management.
4. A copy of the committee's report concerning any legislative measure shall, if that measure is introduced for consideration by a legislative assembly, be appended to the copy of that measure which is referred to a standing committee.
5. A legislative measure affecting a public employees retirement program, public employees health insurance program, or public employee retiree health insurance program may not be introduced in either house unless it is accompanied by a report from the committee. A majority of the members of the committee, acting through the chairman, has sole authority to determine whether any legislative measure affects a program.
6. Any amendment made during a legislative session to a legislative measure affecting a public employees retirement program, public employees health insurance program, or public employee retiree health insurance program may not be considered by a standing committee unless it is accompanied by a report from the employee benefits programs committee.
7. Any legislation enacted in contravention of this section is invalid and of no force and effect, and any benefits provided under such legislation must be reduced to the level current prior to enactment."

Renumber accordingly

**TESTIMONY OF NDPERS****ENGROSSED HOUSE BILL 1023  
Policy Amendment**

Madame Chair, members of the committee, my name is Sparb Collins. I am the Executive Director of the North Dakota Public Employees Retirement System or NDPERS. I appear before you on behalf of the NDPERS Board. The bill before you today provides for: 1) significant changes for NDPERS and its members, 2) has significant implications for the Executive Branch of state government and, 3) dramatically changes Legislative participation in the NDPERS plan as established last session and sets a precedent for non-legislative members participation in legislative committee considerations. You will note that the significant policy provisions of this bill can be found in sections 5, 8, 27, 28, 32 & 33. I have attached for your information and reference a Summary of Policy Provisions in HB 1023.

As a result of the wide-ranging changes proposed in this bill and their broad implications for our members/employers, the Governor, and the Legislative Branch the NDPERS position on the bill's amendments ranges from opposition to certain sections (5 & 33), to not being able to support other sections at this time without further study and input from our members/employers, to no position on other sections that do not directly affect our fiduciary duty to members/employers. At this point I would like to discuss each of these positions of the board, to what sections they apply, and the boards reasoning.

**Sections 5 & 33 – NDPERS Board Position: Oppose since it will increase member costs while reducing current benefits.**

Sections 5 & 33 of the bill prohibit NDPERS from using reserves to buy down insurance premiums. Three considerations were discussed by the Board relating to this change: 1) how reserves are developed/used, 2) history of reserve use, and 3) effect on 2017-19 health plan benefits.

**1. Reserves (refunds) and how they develop and are used**

Each session the legislature appropriates the amount of premium that it will pay for employee health insurance. In NDCC §54-52.1-06 it requires that the state pay the full cost of the premium for state employees. Consequently, the premiums set by the legislature in the appropriation process tells the NDPERS Board that it must purchase a plan of benefits for state employees that is no more than the amount available to pay the premium as appropriated by the legislature and otherwise

available under law. NDCC §54-52-04 permits the board to use any refund from a carrier to reduce premiums for the members of the plan. Consequently, these two sections mean that the NDPERS board may only provide for state employees a plan of benefits that is no more than the amount of premium provided by the legislature combined with any refund (reserves) that NDPERS has available. In this way the legislature controls the health premium spending. This process has encouraged the NDPERS Board to develop efficiencies that will develop refunds (reserves) that can help to maintain member's benefits and lower our employer's costs. The NDPERS Board has worked hard through innovative contracting, developing competitive bid procedures and plan provisions to manage health care costs so we can capture those savings for our members and employers and reduce future costs. These savings or refunds are what we call our reserves. These would not exist without the efforts of the board, our carriers and members to reduce costs so that member benefits could be maintained through difficult financial periods for the state.

## 2. History of usage of reserves (refunds)

The above process is the same that has been used by the Governor and Legislature in the past when NDPERS reserves (refunds) were available and used. The following table shows when this was done and the amount of NDPERS reserves used per month per contract for state employees:

<b>History of Health Plan Buydowns</b>	<b>State premium % increase</b>	<b>Buydown*</b>
<b>Year</b>		
<b>2017-19</b>	<b>17.40</b>	<b>\$18.67 proposed per contract</b>
<b>2015-17</b>	<b>15.13</b>	<b>None</b>
<b>2013-15</b>	<b>10.72</b>	<b>\$20.04 per active contract</b>
<b>2011-2013</b>	<b>7.40</b>	<b>None</b>
<b>2009-2011</b>	<b>25.50</b>	<b>\$.14 per active contract</b>
<b>2007-2009</b>	<b>19.00</b>	<b>None</b>
<b>2005-07</b>	<b>13.00</b>	<b>\$24.52 per active contract</b>
<b>2003-05</b>	<b>19.00</b>	<b>\$10.00 per active contract</b>
<b>2001-2003</b>	<b>17.00</b>	<b>None</b>
<b>1999-2001</b>	<b>16.00</b>	<b>\$9.35 per active contract</b>
<b>1997-1999</b>	<b>14.00</b>	<b>\$20.71 per active contract</b>

3. The above shows that the amount of reserves (refunds) developed by NDPERS has resulted in reduction of premiums for the state in 6 of the last 10 bienniums and out of those 6 bienniums, in 3 bienniums the buy down amount was more than is proposed in the Executive Budget at this time. The process proposed in the Executive Budget is not new and has been used numerous times in the last

10 years. As a result of NDPERS bidding, contracting and plan design features the board has saved our members/employers millions of dollars over this period while maintaining a sound plan of benefits. Effect on 2017-19 health plan benefits

Let me describe how this process worked in developing the health premium for 2017-19. In the fall of 2016 we developed for the Governor's consideration the premium required to maintain the existing plan (approximately 17% increase for two years or about 8% per year). We also developed and provided to the Governor benefit design changes that could reduce that cost. Finally, we shared with the Governor our expected level of reserves (refunds) so he could consider whether to use them in developing the Executive Budget recommendation. We also shared this information with legislative committees and sent an information packet to all Legislators in the fall. In December the Governor offered his recommendation to the legislature for the health plan. The Governors recommendation for a premium increase was about 10.5% which:

- a. Incorporated making plan design changes that would reduce the 17% increase by about 5% to 12%.
- b. Would use NDPERS reserves (refunds) to offset 1.5% of the increase which means that the NDPERS refunds or reserves would supplement the state premium by this amount in paying the carrier. This would mean that in addition to the premium the state appropriates we would supplement this by about \$18.67 per contract per month to purchase a plan that would maintain a level of benefits that would not cause the plan to lose its status as a "grandfathered plan" under the ACA.

With this process in mind let me describe how sections 5 and 33 would change this process and the effect it would have on the plan. If Section 5 & 33 would pass then the member/employer refunds (reserves) could not be used as proposed by the Governor. This would mean that NDPERS would have to reduce the plan design further to match the premium level appropriated in each agency's budget. As noted in the attached memo from Deloitte this would result in the loss of "grandfathered status" of the plan. Federal law would require certain additional changes in the plan as a result of losing grandfathered status. The additional changes would increase plan costs by 3%. To offset the additional plan cost the plan design would change by reducing benefits, such as:

PPO Plan Design Provision	Current	Changes Required
Pharmacy Copays: (Generic/Formulary/Non-Formulary)	\$5/\$20/\$25	\$10/\$25/\$30
Pharmacy Coinsurance (after copay)	85%/75%/50%	
Pharmacy Coinsurance Maximum (Per Person)	\$1,000	\$1,200
Office Visits	\$25	\$30
Emergency Room	\$50	\$60
Deductible (Single/Family)	\$400/\$1,200	\$1,000/\$3,000
Medical Coinsurance Maximum (Single/Family)	\$750/\$1,500	\$1,000/\$2,000

The NDPERS board opposes sections 5 & 33 because it will require a drastic cut to member benefits by not allowing the use of the existing reserve funds, which have been set aside for this purpose.

Reserve funds are comprised of refunds from carriers that resulted from plan savings that include these sources:

1. State money that has already been appropriated for health premiums
2. Political Subdivision funds
3. Active member employee contributions
4. Retiree contributions

This provision means the legislature would be limiting the use of retiree, employee, and political subdivision funds and requiring appropriating health funds for a second time for health premiums.

**Sections 8 & 32 - PERS Board position: Cannot support without further study and input from members/employers**

The responsibilities of NDPERS fall under two broad categories – retirement and group insurance program administration. Our programs affect over 9,000 retirees, the future retirement of over 40,000 people, and health care for over 65,000 people. In addition to state employees and retirees, this includes employees of political subdivisions who have elected to join NDPERS. The retirement savings are not general assets of the state but rather retirement trust funds that these people have worked hard for and count on for a life of dignity after a lifetime of work.

Concerning the retirement programs, the following table gives you an overview of NDPERS programs and some statistical information:

January 2016

# RETIREMENT PROGRAMS MANAGED AND ADMINISTERED BY NDPERS

	TOTAL RETIREMENT	Main System	Judges	Law Enforcement	Highway Patrol	Job Service	D.C. 401(a)	DEFERRED COMP	HEALTH CREDIT
<b>PARTICIPATION</b>									
<b>AGENCY</b>									
State	95	95	1	2	1	1	95	95	95
Counties	50	50		16				35	50
School Dist	119	119						21	119
Cities	86	85		11				34	86
Others	77	76						34	77
	<b>427</b>							<b>219</b>	<b>427</b>
<b>EMPLOYEES</b>									
State	11,227	10,783	56	68	160	9	151	5,554	11,227
Counties	4,187	3,741		446				767	4,187
School Dist	6,420	6,419		1				81	6,420
Cities	2,012	1,928		84				256	2,012
Others	662	662						228	662
Retirees	9,611	9,291	34	65	92	129			5,212
	<b>34,119</b>	<b>32,824</b>	<b>90</b>	<b>664</b>	<b>252</b>	<b>138</b>	<b>151</b>	<b>6,886</b>	<b>29,720</b>

In this program the state employees represent about ½ of the members.

The deferred compensation program is all employee money that has been contributed for supplemental retirement savings.

Concerning the group insurance programs, the following gives you an overview of the programs and some statistical information:

January 2016

# GROUP INSURANCE PROGRAMS MANAGED AND ADMINISTERED BY NDPERS

PARTICIPATION	HEALTH	LIFE	DENTAL	VISION	EAP	FLEXCOMP	LT Care
<b>AGENCY</b>							
State	95	95	95	95	95	90	95
Counties	45	33					
School Dist	30	14					
Cities	47	29					
Others	60	34	20	20	20	20	20
	<b>277</b>	<b>205</b>	<b>115</b>	<b>115</b>	<b>115</b>	<b>110</b>	<b>115</b>
<b>EMPLOYEES</b>							
State	15,283	16,221	7,158	8,322	16,150	2,657	55
Counties	2,360	2,540					
School Dist	1,165	91					
Cities	1,919	259					
Others	613	388			257		
Legislators	136						
Retirees	7,378	3,207	2,115	1,885			
COBRA	494		61	66			
	<b>29,348</b>	<b>22,706</b>	<b>9,334</b>	<b>10,273</b>	<b>16,407</b>	<b>2,657</b>	<b>55</b>

As you will note, the largest responsibility in this area is the health plan. In this program about 52% of members are state employees and 48% are political subdivisions and other groups such as retirees. These numbers do not include the number of dependents whose health insurance is provided through our member's participation in the plan which would bring the total to about 65,000 members.

On the "PERS Observations and Position" attachment we see that the board's view is that the provisions of section 8 and 32 with one exception will diminish the participation of these members, retirees, political subdivisions and non-state employers, into their retirement and group insurance programs. The board also notes that one of the most important functions of an effective program is fiduciary oversight, and the changes proposed by these sections would alter that oversight to a sole fiduciary. The NDPERS Board is the fiduciary for over 2 billion dollars of retirement assets for state and political subdivision employees and retirees and the administration of the uniform group insurance program for approximately 65,000 individuals. The changes proposed in these sections would alter the structure of fiduciary oversight from a multi-trustee structure in which active and retired state and political subdivision employees have an opportunity to elect their own representatives to the Board, to a sole trustee structure, which is a less common form of pension plan administration. These sections would require implementation of this new structure by July 1, 2017, require repeal and amendment of existing administrative rules, and require elections for the newly created

advisory board. The Board recognizes that it has a fiduciary duty to prudently administer the plan and communicate with plan members and the board is concerned that such a significant shift in governance within such a short period of time, without involving members or going through the process established for legislative oversight for such changes, may result in a significant disservice to members.

Recognizing that our programs affect the lives of so many people and changes need to be so carefully reviewed, the legislature has set up a special legislative oversight committee to ensure that all changes are carefully considered and are not adopted without thorough study and actuarial review, to prevent inadvertent consequences to the detriment of our members, our employers, and the fiscal soundness of the plans. This process is established under NDCC § 54-35-12.4. The Board is concerned that this process was not fully followed on these amendments given that these are some of the most significant changes in the history of NDPERS. The normal process would have resulted in these amendments being filed with the Employee Benefits Programs Committee in March of last year when other proposals were filed. The Committee would have then had a study done on the proposal and offered others the opportunity to review the study and comment at meetings held during the interim. Since this review and opportunity was not done the board feels it cannot support these amendments at this time. The board feels that a change of this magnitude warrants a full study and time needs to be provided for all our members/employers to participate in the process.

**Sections 27 & 28 (32 relating to legislative member of PERS Board) - PERS  
Board position: Neutral**

These sections relate to Legislative functions so NDPERS is neutral in this area. However, we do note that generally this amendment diminishes legislative involvement with NDPERS along with other implications as follows:

That by changing the board to an advisory capacity, the legislature would no longer have any members participating in the governance of the NDPERS programs as they do today as a result of changes made last session to add two legislators to the board.

1. That by adding NDPERS advisory board members to the Employee Benefits Programs Committee this would set a precedent that could have implications for other legislative standing committees.
2. That being, should executive branch advisory members be appointed to other legislative committees and participate in legislative considerations?

In addition to the above you will find attached to this:

1. NDPERS Observations & Position
2. Summary of the Proposed bill
3. Memo from GRS on the bill
4. Memo from Groom Law firm on the bill
5. Memo from Deloitte on the bill
6. Memo from Ice Miller

I would also note that the Legislative Employee Benefits Committee did take jurisdiction over the amendments and gave the amendments an unfavorable recommendation

In summary the NDPERS Board:

1. Would recommend not passing sections 5 & 33 since they will increase the out-of-pocket expenses of the members until a plan has been put into place to address this shortfall in contributions.
2. Does not support adopting Sections 8 & 32 until a detailed study can be done as required in the North Dakota Century Code and time is allowed for all the members/employers to review the results and provide comments.

Madame Chair this completes my testimony. Thank you for providing this opportunity.

## NDPERS Observations &amp; Position on Amendments to Engrossed HB 1023

Attachment #1

<b>Areas of Consideration</b>	<b>HB 1023 Section</b>	<b>Improve/Enhance</b>	<b>No change</b>	<b>Diminish/Inconsistent</b>	<b>Observations</b>
Appropriation of Health Reserves	5 & 33			X	<p>State funds are already appropriated by the legislature when premiums are approved. This change will result in a significant increase in out of pocket costs to members due to the loss of grandfathered status. <u>See attached Deloitte memo for more detailed information.</u></p> <p><b>NDPERS Board position:</b> <b>Oppose since it will increase member out of pocket cost</b></p>
PERS SIB representation	8			X	<p>NDPERS SIB representation will no longer be from NDPERS governing members but rather advisory members. Also the NDPERS Executive Director will be placed in a supervisory capacity over TFFR.</p> <p><b>NDPERS Board position:</b> <b>Cannot support without further study and input from members/employers</b></p>
Legislative Change	27			X	<p>Sets precedence by providing for non voting/ non legislative members to be a part of a legislative committee and its deliberations.</p>
Legislative oversight	27 & 28		X		<p>No change except for as noted above. NDPERS already does reporting to this Committee. Requires the committee to meet quarterly instead of at the call of the chair.</p>
Member	32			X	<p>Members would no longer be involved in overseeing the plan</p> <p><b>NDPERS Board position:</b> <b>Cannot support without further study and input from members/employers</b></p>
Employer	32			X	<p>One employer (State of ND) out of the several hundred employers in the plan would have disproportionate control of the plan</p> <p><b>NDPERS Board position:</b> <b>Cannot support without further study and input from members/employers</b></p>
Political Subdivisions	32			X	<p>Political Subdivisions employees would lose their representation in program governance</p> <p><b>NDPERS Board position:</b> <b>Cannot support without further study and input from members/employers</b></p>
Retiree	32			X	<p>Retirees would lose their representation in program governance</p> <p><b>NDPERS Board position:</b> <b>Cannot support without further study and input from members</b></p>
Governor	32	X			<p>Governor would become the sole fiduciary of the plan and solely responsible for plan administration.</p> <p><u>See attached memo from Groom for more detail on Fiduciary implications</u></p> <p><b>NDPERS Board position:</b> <b>Cannot support without further study and input from members/employers</b></p>
Fiduciary oversight	32			X	<p>Creates the potential for conflict and concentrates the fiduciary responsibility in one person. <u>See attached memos from Groom &amp; Ice Miller Law Firms for more detail on Fiduciary implications</u></p> <p><b>NDPERS Board position:</b> <b>Cannot support without further study and input from members/employers</b></p>
Program administration	32		X		<p>Same staff would do program administration, but would report to the Governor</p> <p><b>NDPERS Board position:</b> <b>Cannot support without further study and input from members/employers</b></p>
Governance	32			X	<p>Instead of representation of all members involved it would concentrate this responsibility in the Executive Branch with the Governor. <u>See attached memo from Groom</u></p> <p><b>NDPERS Board position:</b> <b>Cannot support without further study and input from members/employers</b></p>
Legislative Involvement	32			X	<p>Legislative representatives would no longer be able to participate in the administration of the plan, they would only serve in an advisory capacity</p>
Fiscal effect			X		No change in budget
Compliance with EBPC process				X	Did not follow statutory requirements or process
Actuarial effect			X		Does not improve or diminish the actuarial standing of the plans. <u>See GRS &amp; Deloitte Memos</u>
EBPC finding				X	EBPC gave the bill an unfavorable recommendation

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# Policy Summary relating to HB 1023

**Attachment 2**

<b>Section</b>	<b>Provides</b>	<b>Other comments</b>
5	This section prevents the PERS Board from using the authority granted to it under N.D.C.C. § 54-52-04(13) during the 2017-2019 biennium, by preventing use of the health insurance reserve fund to "buy-down" premiums	Given the cost factors known at this time, this will result in loss of grandfathered status of the main plan effective July 1, 2017, which will require the health plan to cover services and medications not currently covered, resulting in an increased cost and reduction of benefits for plan members.
8	This section changes the membership of the SIB by removing the three PERS Board members and replacing them with 2 members of the newly created Advisory Board and the Executive Director of the PERS office	Being mindful of the fact that due to other amendments in this bill, PERS Advisory Board members may only make recommendations to the PERS office, whereas the Executive Director will have the authority and responsibility to administer the PERS office, it is noteworthy that the Advisory Board members will be granted 2 votes to the Executive Directors 1 vote, and in fact the SIB will be the only board where the Advisory Board members may take action directly affecting the PERS plan. This section also has an interesting impact on the TFFR plan, given the SIB is the governing body of the RIO agency, which administers the TFFR plan, the PERS Executive Director will have a vote and be placed in a supervisory capacity over the TFFR plan, whereas the Executive Director for the TFFR program will not fill a similar role. These changes, and the expansion of the SIB proposed in HB 1175, may impact the governance process of the SIB and RIO.
27	This section increases the membership of the Employee Benefits Program Committee by adding 3 non-voting employee members from the PERS Advisory Board to this Interim Committee	The PERS office shall be responsible for the payment of their attendance. Therefore this change will have an increase in cost associated with it. On its face this would appear to result in a slight executive branch encroachment of the legislative branch (non-voting status notwithstanding), given the Employee Benefits Programs Committee is a standing interim committee and not advisory. Further, there is a potential for conflict given that advisory board members will be in a position to recommend a course of action or position to the PERS office, and then as contributors to the legislative interim committee, and given the powers of oversight granted the committee under N.D.C.C. § 54-35-02.4, comment on the appropriateness of that action.
28	This section amends the statute governing the duties of the Employee Benefits Program Committee under N.D.C.C. § 54-35-02.4 by requiring the PERS office to report to this Committee quarterly on changes to the retirement and insurance plans and also provide executive budget proposals to the Committee in advance of regular legislative sessions	
32	The changes proposed remove the PERS Board as the governing body of the plan, instead granting authority for plan administration to the PERS office through an Executive Director appointed by the Governor.	<ol style="list-style-type: none"> <li>1. It appears this will create a single fiduciary or sole trustee plan, with fiduciary authority/responsibility vested in the Governor but carried out through the appointed Executive Director. A single fiduciary government plan has the potential to result in conflicts of interest for that fiduciary if the individual holds another government office. For example, if the Governor is the plan fiduciary, that individual may be put in the position of making decisions on behalf of the state that run contrary to fiduciary duties to the plan. This is the same potential for conflict faced by the members of the Legislature currently sitting on the PERS Board, however, the risk to these Board members is mitigated by being one member of a nine member board and thus not solely responsible for actions taken by Board majority. It is unclear if the intent of this legislation is to have the PERS executive director be the sole fiduciary or trustee for the plan, however further clarity in statute would be needed to make that assertion on behalf of the plan.</li> </ol>

HB 1023 # Line 1-109

Section	Provides	Other comments
		<p>2. This section also creates an advisory board comprised of the same membership as the current PERS Board, except that the Attorney Generals' designee and Health Officers' designee will be removed. Further, while the current statute requires the PERS Board to be chaired by an individual appointed by the Governor, there is no such requirement for the Advisory Board which may select its own chairman from any of its membership. While these Advisory Board members will be expected to "act" as fiduciaries, ultimately fiduciary responsibility will not reside with this Board because it will be limited to making recommendations as opposed to taking action.</p> <p>3. Finally, this change will require new elections for elected members of the newly created Advisory Board and a comprehensive revision of Administrative Rules.</p>
33	<p>This section modifies N.D.C.C. § 54-52-04, previously the Board authority statute, and transfers all authority for program administration from the Board to the PERS office, with one exception.</p>	<p>1. Similar to the change proposed in Section 5 of the bill, there is a new restriction on the use of the reserve funds under Section 30, 54-52-04(13) which speaks to the ability to use reserve funds to buy-down insurance premiums, and this new restriction makes the authority granted in subsection 13 obsolete. This change states that the ability to use such reserve funds for this purpose is subject to appropriation, it is unclear if the drafter is referring to appropriation for insurance premiums or appropriation of dollars from the reserve fund.</p> <p>2. This amendment will result in loss of grandfathered status of the main plan effective July 1, 2017, which will require the health plan to cover services and medications not currently covered, resulting in an increased cost and reduction of benefits for plan members. Finally, a new section is added to Board/Office authority that tasks the PERS office with making and collecting payments in a cost-effective manner, by use of electronic payments.</p>

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Date: February 15, 2017

**Attachment #3**

To: Senator Krebsbach, Chair

From: Gabriel, Roeder, Smith & Co.  
Groom Law Group  
Deloitte Consulting  
NDPERS Assigned Assistant Attorney General  
NDPERS Staff

cc: Sparb Collins, NDPERS

**Re:** Proposed amendments to House Bill No. 1023 (17.0508.01001)

The purpose of this memo is to provide the collective comments of the parties listed above on the impact of proposed amendments to House Bill No. 1023 (17.0508.01001).

In accordance with the request of NDPERS staff, Gabriel, Roeder, Smith & Company (GRS) has analyzed the actuarial impact of proposed amendments to House Bill No. 1023 (17.0508.01001) on the retirement plans of the North Dakota Public Employees Retirement System (NDPERS).

In addition, other parties, including Deloitte Consulting, Groom Law Group, NDPERS Assigned Assistant Attorney General and NDPERS staff, have also reviewed various aspects of the proposed amendments to House Bill No. 1023 (17.0508.01001) on the North Dakota Public Employees Retirement System (NDPERS).

**Systems Affected:**

North Dakota Public Employees Retirement System

**Summary:**

Although extensive, the Amendments to House Bill No. 1023 include the following primary changes:

- Changes the governance (and membership) of PERS such that the PERS Retirement Board is now made advisory.
- Creates a state agency called the public employees retirement system office (PERS Office) which will now have governing authority over PERS. The changes effectively remove the PERS Board as the governing body of the plan, instead granting authority for plan administration to the PERS Office through an Executive Director appointed by the Governor. It appears this will create a single fiduciary or sole trustee plan, with fiduciary authority/responsibility vested in the Governor but carried out through the appointed Executive Director.
- Codifies that the monies in the health insurance reserve fund may not be used to reduce the amount of premium or increase the coverage, unless there is a legislative appropriation.

### Actuarial Impact of the Amendments to Bill 1023 on NDPERS

#### **Retirement Plans**

**There are no changes to the membership, benefit provisions or funding to PERS.** Therefore, there is no actuarial impact on the funded ratio or contribution requirements of PERS from the amendments. This does not enhance or reduce the funding status of any of the retirement plans under PERS.

The actuarial assumptions which are currently adopted by and the responsibility of the NDPERS Board will now be adopted by and the responsibility of the new PERS Office.

#### **Group Insurance Plans**

**Please see the attached memo from Deloitte Consulting with further discussion of the changes.**

#### Technical Analysis

**As provided by and summarized in the legal review by PERS, the substantive changes in the bill are as follows.**

#### **Governance**

Section 8: This section changes the membership of the SIB by removing three PERS Board members and replacing them with two members of the newly created Advisory Board and the Executive Director of the PERS Board. Due to other amendments in this bill, PERS Advisory Board members may only make recommendations to the PERS Office, whereas the Executive Director will have the authority and responsibility to administer the PERS office. Note that the Advisory Board members will be granted two votes to the Executive Director's one vote, and, in fact, the SIB will be the only Board where the Advisory Board members may take action directly affecting the PERS plan.

This section also has an implication for the TFFR plan. Given the SIB is the governing body of the RIO agency, which administers the TFFR plan, the PERS Executive Director will have a vote and be placed in a supervisory capacity over the TFFR plan, whereas the Executive Director for the TFFR program will not fill a similar role. These changes, and the expansion of the SIB proposed in HB 1175, may impact the governance process of the SIB and RIO.

Finally, it appears there may be an inconsistency in this section. The new language permits the PERS Executive Director or designee to sit on the Board, but only the Executive Director is barred from receiving payment for SIB meeting attendance. So as currently worded, it appears the designee would receive payment for SIB attendance but not the Executive Director. This appears inconsistent with the treatment of other SIB members. For example, neither the WSI Director nor designee may receive payment for SIB attendance.

Section 32: The changes proposed in Section 31 remove the PERS Board as the governing body of the plan, instead granting authority for plan administration to the PERS office through an Executive Director appointed by the Governor. It appears this will create a single fiduciary or sole trustee plan, with fiduciary authority/responsibility vested in the Governor but carried out through the appointed Executive Director. Note that if the single fiduciary holds another government office, this creates the potential for conflicts of interest for that fiduciary. For example, if the Governor is the plan fiduciary, that individual may be put in the position of making decisions on behalf of the state that run contrary to fiduciary duties to the plan. This is the same potential for conflict faced by the members of the legislature currently sitting on the PERS Board. However, the risk to these Board members is mitigated by being one member of a nine member board and thus not solely responsible for actions taken by Board majority.

It is unclear if the intent of this legislation is to have the PERS executive director be the sole fiduciary or trustee for the plan. Further clarity in statute would be needed to make that assertion on behalf of the plan.

This section also creates an advisory board comprised of the same membership as the current PERS Board, except that the Attorney Generals' designee and Health Officers' designee will be removed. Further, while the current statute requires the PERS Board to be chaired by an individual appointed by the Governor, there is no such requirement for the Advisory Board which may select its own chairman from any of its membership. While these Advisory Board members will be expected to "act" as fiduciaries, ultimately fiduciary responsibility will not reside with this Board because it will be limited to making recommendations as opposed to taking action.

Please see the attached memo from Groom Law with further discussion of the changes.

#### Access to Confidential Information

The change in Governance may have implications for the exchange of confidential member and health information under HIPPA and state law. This will require further research.

#### Legislative Employee Benefits Committee

Section 27: This section increases the membership of the Employee Benefits Program Committee by adding three non-voting employee members from the PERS Advisory Board to this Interim Committee. On its face this would appear to result in a slight executive branch encroachment of the legislative branch (non-voting status notwithstanding), given the Employee Benefits Programs Committee is a standing interim committee and not advisory. Further, there is a potential for conflict given that advisory board members will be in a position to recommend a course of action or position to the PERS office, and then as contributors to the legislative interim committee, and given the powers of oversight granted the committee under NDCC 54-35-02.4, be able to comment on the appropriateness of that same proposed course of action.

### Health Plan

**Section 33:** This section modifies 54-52-04, previously the Board authority statute, and transfers all authority for program administration from the Board to the PERS Office, with one exception. Similar to the change proposed in Section 5 of the bill, there is a new restriction on the use of the reserve funds under Section 30, 54-52-04(13) which speaks to the ability to use reserve funds to buy-down insurance premiums. This new restriction makes the authority granted in subsection 13 obsolete. This change states that the ability to use such reserve funds for this purpose is subject to appropriation.

It is unclear, however, if the drafter is referring to appropriation for insurance premiums or appropriation of dollars from the reserve fund. Either way, the amendments would have the same effect as deleting subsection 13 which will result in loss of grandfathered status of the main plan effective July 1, 2017. This will require the health plan to cover services and medications not currently covered, resulting in an increased cost and reduction of benefits for plan members.

See attached Memo from Deloitte Consulting.

### Administration Issues

As noted previously, the PERS staff would be moved to be under the Governor instead of the Board. This would include the following responsibilities such as:

Present PERS Board Duty	Transferred to Governor or Designee (Exec Dir)
Development of proposed Legislation	x
Development of Rules	x
Hiring of Executive Director	x
Development of Budget	x
Hearing benefit appeals	x
Approval of plan documents	x
Development of investment policies	x
Development of Asset Allocation for investments	x
Determining and oversight of investment options	
Approval of contracts for Health, 457 provider, 401(a) provider, life, dental, vision and EAP vendors	x
Approval of retirement plans economic and demographic actuarial assumptions	x
Oversight of all payments (retirement, health, etc)	x
Hiring consultants	x
Adjust service credit when an inequity has occurred	x
Maintain Confidentiality of information	x
Hiring of advisors, consultants, etc.	x
Development of administrative policies	x

This change should not result in any savings or cost increases to the plan.

Attachment: Memo from Deloitte Consulting  
Memo from Groom Law Group

Gabriel Roeder Smith & Company

## MEMORANDUM

February 15, 2017

## ATTACHMENT #4

TO: J. Sparb Collins, Executive Director  
North Dakota Public Employees Retirement System

FROM: David Levine  
Allison Itami  
Scott Mayland  
Arsalan Malik

RE: Issues Involved in Limiting Authority Over Plans to One Individual

It is our understanding that on February 8, 2017, proposed legislation was introduced in the North Dakota House of Representatives (the “Proposed Legislation”) that affects the governance structure of the North Dakota Public Employees Retirement System (“NDPERS”). Among other changes, the Proposed Legislation amends various sections of the North Dakota Century Code to shift the administration authority of NDPERS from a “retirement board” to a new entity called the “public employees retirement system office” (the “Office”). Whereas previously the retirement board had the authority to appoint its executive director, the Proposed Legislation provides that the Governor shall appoint the Office’s executive director “to serve at the governor’s discretion.”

As requested, this memorandum outlines potential issues generally associated with this type of proposed structure.

#### I. Potential Conflicts in Sole Fiduciary/Trustee Structures

We note that by granting the Governor exclusive discretion to appoint the Office’s executive director, while limiting the role of others to an advisory capacity, the Proposed Legislation affects a structure where the Governor is essentially the “sole fiduciary” or “sole trustee” of NDPERS. Without reviewing the specific powers and limitations on such powers under North Dakota law, we note that sole fiduciary/trustee structures tend to implicate potential conflict of interest and other issues, including the following:

- **Public/State Interests vs. Participant Interests.** As a general matter, public officials, particularly elected officials, may be placed in a position where they have divided loyalties between their constituents (*i.e.*, the public at large) and plan participants. If any such conflicts occur, they may be amplified when decision-making authority is limited to one individual.

- **Competing Interests from Other Activities.** Public officials may have divided loyalties as result of their association with or activities relating to for-profit companies, non-profit organizations, or other arms of the government (*e.g.*, serving on boards or committees).
- **Political Influence on Asset Allocation/Investing.** Political pressures could influence or limit where plan assets are invested. For example, pressures to provide for the allocation of a certain percentage of plan assets to certain underperforming state industries may be beneficial for the state as a whole but may not be prudent investments for participants.
- **Risks Associated with Current Events and Public Sentiments.** Public sentiments (*e.g.*, outrage at certain industries or policies) could raise pressures to make investment or administrative decisions that conflict with the interests of participants. Similarly, international events (*e.g.*, calls for sanctions against certain countries or predominant industries in certain international regions) could give rise to pressures to immediately divest certain investments in a manner that may not be in the best interest of participants as determined under applicable laws.
- **Abrupt Changes/“Whipsaw” Effect.** There is a greater potential for sudden or dramatic changes in policy (commonly referred to as a “whipsaw” effect) when a single person is endowed with the ability to dictate plan administration and influence investments.
- **Susceptibility to Lobbying.** There could be enhanced lobbying efforts in sole fiduciary/trustee structures. Moreover, such efforts may be more influential and could be impacted by state statutes governing lobbying.
- **“Revolving Door” Concerns.** When decision-making authority is limited to the discretion of one person, there could be a potential for decisions to be influenced by the promise or allure of future employment in the private sector or by other private interests (*i.e.*, future personal investments).
- **Self-Dealing.** Sole fiduciary/trustee structures are especially vulnerable to self-dealing problems or the appearance of self-dealing. Specifically:
  - When made in the sole discretion of one individual, service provider selections (*e.g.*, actuaries, consultants, investment advisers) and other appointments and delegations could be more likely affected by ulterior motives, such as financial interests, nepotism, and interests in rewarding family, friends, and political allies.
  - Increased likelihood that decisions could be affected by campaign contributions, political endorsements, gifts, awards, gratuities, kickbacks, and other personal or professional favors.
  - There is a potential for bribery, “pay to play” schemes, and other similar conduct with fewer individuals overseeing a system.
  - Appearance of impropriety or self-dealing can result even without intent affecting public confidence.

## II. Misconduct Involving Sole Fiduciary/Trustee Structures

There have been several prominent scandals involving state pension plans with sole fiduciary/trustee structures. In 1999, the treasurer and sole fiduciary for the Connecticut state pension plan pled guilty to, among other allegations, receiving cash kickbacks in return for placing pension plan assets to certain investments.<sup>1</sup> Similarly, in the 2000s, the New York State Comptroller, the sole trustee for the state pension fund, was convicted in a “pay to play” scheme involving financial firms handling plan investments.<sup>2</sup>

Notably, state plans with sole fiduciary/trustee structures have attracted controversy even in the absence of criminal wrongdoing or other misconduct. For example, in 2016, then North Carolina State Treasurer Janet Cowell was criticized for serving on the boards of two corporations (and receiving compensation) at the same time that she was sole fiduciary of the state pension system.<sup>3</sup>

## III. Governmental Retirement Systems With Authority Centralized in One Individual

Set forth below is a list of governmental plans or retirement systems governed by statutes providing governance authority to a single official.

- **Connecticut Retirement Plans and Trust Funds.** The assets of several Connecticut retirement systems are held and invested in the Connecticut Retirement Plans and Trust Funds. C.G.S.A. § 3-13c. The Treasurer of Connecticut is the trustee of the Connecticut Retirement Plans and Trust Funds and is responsible for investing their assets. C.G.S.A. §§ 3-22h-i.
- **Florida Department of Management Services.** The Secretary of the Florida Department of Management Services, who is appointed by the Governor and confirmed by the Florida Senate, is responsible for the administration of the Florida Retirement System, as well as other state health, disability, and insurance plans. F.S.A. §§ 110.123; 121.025. A separate board of three members, which includes the Governor, Chief Financial Officer of Florida, and Attorney General of Florida, invests the assets of the Florida Retirement System.
- **New York Common Retirement Fund.** The New York Common Retirement Fund (“CRF”) holds and invests the assets of the New York State and Local Retirement System. The sole trustee of the CRF, and the administrative head of the system, is the New York State Comptroller. NYRSSL §§ 11; 422.
- **North Carolina Retirement Systems.** The Treasurer of the State of North Carolina is responsible for the investment of the assets of several North Carolina retirement and other employee benefit systems. N.C.G.S.A. § 147-69.2.

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<sup>1</sup> See Mike Allen, *Treasurer's Downfall in Kickback Scheme Shakes Connecticut Political Establishment*, N.Y. TIMES, Oct. 25, 1999.

<sup>2</sup> See Danny Hakim, *Hevesi, Jailed for Corruption, Is Given Parole*, N.Y. TIMES, Nov. 15, 2012.

<sup>3</sup> See David Sirota, *North Carolina Treasurer Will Run State Pension While Serving On Corporate Boards*, International Business Times, May 6, 2016.

# Deloitte

## ATTACHMENT #5

Deloitte Consulting LLP  
 50 South Sixth Street  
 Suite 2800  
 Minneapolis, MN 55402  
 USA  
 Tel: 612 397 4000  
 Fax: 612 397 4450  
[www.deloitte.com](http://www.deloitte.com)

## Memo

**Date:** February 15, 2017

**To:** Senator Krebsbach, Chair  
 Legislative Employee Benefits Programs Committee  
**From:** Josh Johnson and Jon Herschbach, Deloitte Consulting LLP

**Subject: ACTUARIAL REVIEW OF PROPOSED BILL 17.0508.01001a**  
**(Amendments to House Bill No. 1023)**

The following summarizes our review of the proposed legislation as it relates to actuarial impact to the Group Insurance Program.

### OVERVIEW OF PROPOSED BILL

The following is a summary of the proposed amendments:

- 1) Add 3 non-voting members to the Employee Benefits Programs Committee (these 3 members are the 3 employee representative elected members on the new Retiree System Advisory Board – formerly the PERS Retirement Board)
- 2) Changes the governance of PERS. The changes make the PERS Retirement Board advisory and changes the membership of this board, creates a state agency called the PERS Office, and provides the Governor appoints an Executive Director to the PERS Office.
- 3) Codifies that the monies in the health insurance reserve fund may not be used to reduce the amount of premium or to increase coverage unless there is legislative appropriation.

### ESTIMATED ACTUARIAL IMPACTS

Items 1) and 2) above change the membership and governance of the PERS Board/Office and we would not expect any actuarial or financial impact on the Group Insurance Program specifically attributable to these changes.

The impact of 3) depends on which scenario is chosen to address the shortfall between the appropriated funds and the currently proposed premium. The currently proposed premium beginning July 1, 2017 is \$1,268.14 (12.2% increase) per employee per month (PEPM) after plan changes resulting in a 4.4% reduction in plan value. The plan design

To: Legislative Employee Benefits Programs Committee

Subject: REVIEW OF PROPOSED BILL 17.0508.01001a (HB 1023)

Date: February 15, 2017

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changes were identified by Sanford Health Plan and include all possible plan design changes that would allow the plan to reduce premium while maintaining grandfathered status under the ACA. The approved budget appropriation allows for a premium of \$1,249.47 PEPM (\$10.55% increase). The difference of \$18.67 PEPM is approximately 1.47% of premium. The current plan is to use the health insurance reserve fund to offset this difference. Over the two-year biennium, the total reserve spend is estimated at \$7.2M for State employees (\$10.3 million for all participants). The following scenarios highlight possible ways to deal with the funding difference under the proposed amendment in item 3) above restricting the use of reserves:

- 1) No change to current plan; reserve is spent down by ~\$7.2M for State employees (\$10.3M for all)
  - a. This would require legislative appropriation under the proposed amendment
- 2) The appropriated budget goes up from an increase of 10.55% to an increase of 12.2% to cover the full premium increase. This represents a biennium increase of approximately \$7.2M for state employees.
  - a. This would require an increase in the appropriated budget for the biennium
- 3) The plan design could be adjusted to bring the proposed premium down to the appropriated budget level. This would require a reduction in actuarial value of the plan by approximately 1.5%. However, since the proposed premium already included all possible plan design changes that allow the plan to maintain grandfathered status under the ACA, any new changes will result in a loss of grandfathered status and introduce various other mandated ACA coverage provisions. Sanford estimates the expected cost increase of these mandated plan design changes would be approximately 3%. Additional plan design reductions would therefore be needed to offset the cost increase caused by the mandated plan provisions. An example of projected plan design changes required to lower premiums by an additional ~1.5% plus the additional 3% to offset the loss of Grandfathered status are shown in the table below.

The plan design modeled by Sanford that most closely matches the required total reduction is as follows:

PPO Plan Design Provision	Current	Proposed
Pharmacy Copays: (Generic/Formulary/Non-Formulary)	\$5/\$20/\$25	\$10/\$25/\$30
Pharmacy Coinsurance (after copay)	85%/75%/50%	
Pharmacy Coinsurance Maximum (Per Person)	\$1,000	\$1,200
Office Visits	\$25	\$30
Emergency Room	\$50	\$60
Deductible (Single/Family)	\$400/\$1,200	\$1,000/\$3,000
Medical Coinsurance Maximum (Single/Family)	\$750/\$1,500	\$1,000/\$2,000

**MEMORANDUM****ATTACHMENT #6**

**TO:** Sparb Collins, Executive Director, North Dakota Public Employees Retirement System

**FROM:** Christopher S. Sears, Ice Miller LLP

**DATE:** March 1, 2017

**RE:** Fiduciary Responsibilities In Health Plan Administration

You have asked for a brief and high level memorandum that addresses the question of whether the North Dakota Public Employees Retirement System Board ("Board") has fiduciary responsibilities for the administration of the uniform group insurance program ("Program"). As explained below, we believe that the Board likely has fiduciary responsibilities in connection with the Program.

**General Description of Fiduciary Responsibilities**

In the employee benefits context, a fiduciary is a person or entity that exercises discretion in administering and managing a plan or controlling the plan's assets. A description of fiduciary principles and obligations may come from several sources such as state law or the Restatement Third, Trusts. For non-governmental plans, the Employee Retirement Income Security Act of 1974 ("ERISA") imposes strict and specific responsibilities on plan fiduciaries. While the Program is a governmental plan and not subject to ERISA, we often look to ERISA for guiding principles when understanding the responsibilities of fiduciaries of governmental plans.

In general, fiduciaries must:<sup>1</sup>

- Act solely in the interest of plan participants and their beneficiaries and with the exclusive purpose of providing benefits to them;
- Administer the plan in accordance with its terms and applicable law;
- Administer the plan as a prudent person would in light of the purposes, terms, and other circumstances of the plan using reasonable care, skill, and caution;
- Exercise reasonable effort and diligence in the administration of the plan, in making an implementing administrative decisions, and in monitoring the plan, with due attention to the plan's objectives and the interests of the beneficiaries;
- Act in the interest of the plan and its beneficiaries as if the fiduciary had no other competing interest to protect;

---

<sup>1</sup> See generally Restatement Third, Trusts, §§ 76, 77, 78, 80, 81, 85, and 90

- Delegate responsibilities that are outside of the fiduciary's skill set; and
- Exercise reasonable care to prevent a co-fiduciary from committing a breach of fiduciary duty and, if a breach occurs, to obtain redress.

### **Common Fiduciary Functions in Health and Welfare Plans**

Following are some common functions that may constitute fiduciary functions with respect to health and welfare plans:

- Acceptance and Application of Employee Contributions and Other Plan Assets: If a plan requires that employees contribute some or all of the premium associated with the plan, those employee contributions are plan assets and the plan fiduciary must use those contributions solely for purposes related to the plan such as paying benefits and reasonable administrative expenses. Furthermore, if employer contributions are held in a trust to be used exclusively for the benefit of the plan and its beneficiaries (as opposed to benefits being paid out of the employer's general assets or a state's general fund), then the fiduciary must act prudently with respect to the investment disbursement, and use of the funds, including monitoring the investments in which the funds are placed. In many cases, prudence would require the engagement of an investment advisor or manager (the selection of which would also constitute a fiduciary function).
- Hiring Service Providers and Selecting Insurers: In connection with ERISA, the U.S. Department of Labor takes the position that hiring service providers to a plan can be a fiduciary function. Common service providers for health and welfare plans include third-party administrators, pharmacy benefit managers, and medical management firms. When selecting service providers, plan fiduciaries must consider, among other things, the services offered, the fees charged by the service provider, the financial health and experience of the service provider, and the quality of services. Likewise, the choice of an insurer for an insured health plan can constitute a fiduciary function. Fiduciaries must carefully document the process of selecting service providers and insurers, avoid conflicts of interest when choosing them, and continually monitor the service providers through a formal review process.
- Maintaining and Applying Claims and Appeals Procedures Under the Plan: Health plans must have reasonable claims procedures for participants to submit claims for benefits. They must also have appeals procedures for when claims are denied. Deciding these claims and appeals (e.g., whether a medical service is covered under a plan, whether a service is medically necessary or experimental, and how much the plan will pay for the service) is a core fiduciary function. A plan sponsor might delegate some or all claims decisions to a third-party administrator; however, if the plan sponsor retains final decision-making authority over plan appeals, it remains the claims fiduciary under the plan.

- Communicating With Participants: Communicating with participants can be fiduciary function when the fiduciary is communicating about plan benefits. Misrepresentations made in participant communications can constitute fiduciary breaches.

### **The Board's Role and Potential Fiduciary Functions**

The Board is tasked under law with a number of functions that require the use of discretion in the administration of the Program that would likely constitute fiduciary functions with respect to the Program.

- The Board is generally tasked with the administration of the Program.<sup>2</sup>
- The Board is statutorily deemed the trustee, and is in exclusive control, of the retiree health benefits fund which is established for prefunding and providing hospital benefits coverage and medical benefits coverage under the Program for eligible retirees and their spouses and dependents.<sup>3</sup>
- The Board may determine whether to insure or self-insure the health benefits under the Program and may receive bids and award contracts to insurers or health maintenance organizations to provide benefits under the Program.<sup>4</sup> In addition, the Board has discretion renew insurance contracts without a new solicitation process if it determines that the current contract meets the Board's expectations.<sup>5</sup>
- The Board is empowered to establish a self-insurance plan providing for health insurance benefit coverage, including prescription drug coverage. If it does so, it is empowered with the ability evaluate and choose a third-party administrator to administer the self-insured benefits.<sup>6</sup>
- The Board receives state contributions to fund benefits under the Program and those funds include salary reductions from employees' paychecks which would likely constitute plan assets over which the Board would have to exercise prudent fiduciary care.<sup>7</sup>
- The Board has wide discretion to promulgate rules and regulations to administer the Program. It has "the responsibility" to "account for and disburse premium payments, maintain records, prepare reports, and to perform such other functions

<sup>2</sup> NDCC § 54-52-04(7).

<sup>3</sup> NDCC § 54-52.1-03.2.

<sup>4</sup> NDCC §§ 54-52.1-04 and 54-52.1-04.1.

<sup>5</sup> NDCC § 54-52.1-05.

<sup>6</sup> NDCC § 54-52.1-04.2.

<sup>7</sup> NDCC § 54-52.1-06.

as may be necessary to carry out the provisions" of the chapter authorizing the Program. It also has the power arrange for medical advisors.<sup>8</sup>

Given the principles and examples of fiduciary functions discussed above, we believe that the many of the powers and responsibilities given to the Board in the North Dakota Century Code are discretionary and would constitute fiduciary functions. This would require the Board to act with the care, skill, and caution of a prudent person, in addition to observing the other duties of a fiduciary, when executing these powers and responsibilities under the Program. We note that our review is somewhat high level and that a more detailed review of the Board's powers and the way they are exercised and delegated is advisable.

We would be very happy to discuss these matters with you in more detail at your convenience.

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<sup>8</sup> NDCC §§ 54-52-04(4) and 54-52.1-08.



NORTH DAKOTA  
PUBLIC EMPLOYEES  
RETIREMENT SYSTEM

## Health Insurance Renewal

**SANFORD<sup>®</sup>**  
**HEALTH PLAN**

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# SANFORD<sup>®</sup>

## HEALTH PLAN



2

#3

HB 1023 3-2-17 #3

**Dear NDPERS Board Members,**

Sanford Health and Sanford Health Plan are honored to provide health insurance coverage to state employees of North Dakota, both active and retired. It's a responsibility and a commitment we do not take lightly.

Sanford Health is dedicated to the work of health and healing and delivering the highest quality care. Sanford Health Plan shares that commitment and is supported by the strength of the \$4 billion Sanford Health organization.

Since its inception nearly two decades ago, Sanford Health Plan has a proven record of integrity and adeptness in providing comprehensive insurance coverage to all our members. We honor our promises and leave no stone unturned in serving our members. Sanford and NDPERS share the same geographic footprint and population, which further reinforces our commitment to serve this area.

A sincere thank you to the board and staff of NDPERS who worked side by side with us this past year during the transition. It was a significant undertaking after 37 years with a legacy provider. We remain firm in our commitment to do everything in our power to provide the best member experience and service possible and to address any issues or concerns quickly and efficiently.

This book highlights the past year's performance, the robust provider network, the sustainability of the plan, examples of our support for NDPERS members and renewal details. Today, we are pleased to show we've honored our promises, managed a significant transition and delivered on performance, all while increasing access.

Our continued partnership with you will be necessary as we move forward and seek opportunities to keep insurance affordable and sustainable for all members.

Thank you for choosing Sanford Health Plan. We look forward to the opportunity to serve you for many years to come.

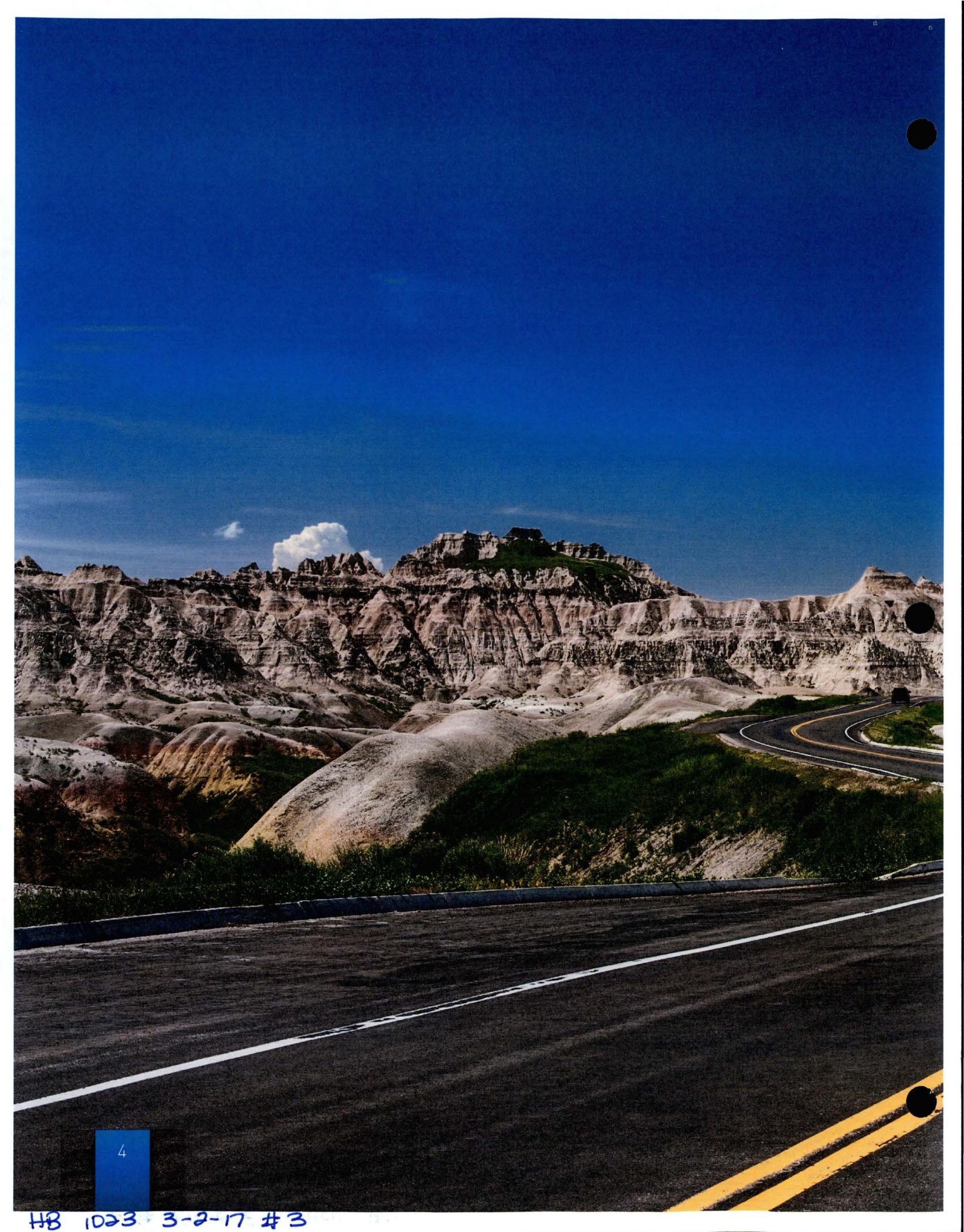
Sincerely,



**Kelby Krabbenhoft**  
President and CEO  
Sanford Health



**Kirk Zimmer**  
Executive Vice President  
Sanford Health Plan



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# EXECUTIVE SUMMARY

## Milestones Reached:

- 1 Opened **TWO** North Dakota offices
- 2 Hired **85 NEW STAFF**
- 3 Provided a **DEDICATED ACCOUNT EXECUTIVE** to NDPERS
- 4 Hired a **DEDICATED ASSOCIATE CHIEF MEDICAL OFFICER**
- 5 **LED THE SEAMLESS TRANSITION** from a 37 year legacy provider
- 6 Held **72 FACE-TO-FACE** member transition meetings **IN 18 CITIES**
- 7 **EXPANDED THE NETWORK** of providers and pharmacies
- 8 Created a **NEW WEB PORTAL**, with provider directory, and communication avenues for members
- 9 Launched a **ROBUST WELLNESS PORTAL**
- 10 **MET PERFORMANCE GOALS** ahead of schedule to date



**“Every Sanford person I have dealt  
with or spoke to has been just wonderful! ”**

ANNE H., DAKOTA GRANDFATHERED ACTIVE

### Accomplishments:

 **67,248** ID cards printed

 **67,971** Member calls received

 **13,689** Members logged in  
to mySanfordHealthPlan

### Claims paid:

 **1,008,022** Total claims

**\$254,724,441** Total claim dollars

**490,250** Prescription claims

### Dakota Wellness Program

 Health assessments completed

- **8,145** Completed July 1 - Dec. 31, 2015
- **5,790** Completed April 1 - June 30, 2016

 **21,847** Members engaged in  
non-health assessment activities

### Redemption Center Orders

- 
- **3,563** Orders July 1 - Dec. 31, 2015
  - **2,259** Orders April 1 - June 30, 2016

# ACCESS



Sanford Health Plan wants to ensure NDPERS members have access to a comprehensive network of providers. During this year, we achieved our goal of building a robust and complete network of providers across the region for you and your members.



**99%** Previous NDPERS providers are contracted

**853** New provider contracts since February 2015

**214** Additional providers not offered by legacy carrier

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Our team continues to work with Express Scripts, Inc. (ESI) and the ND pharmacy board for better pharmacy coverage.



**194** Pharmacies in-network

**43** Rural pharmacies recontracted to achieve a complete at-market rural network



**The Sanford Health Plan NDPERS Network Encompasses:**

- 99% Facilities
- 99% Professional providers
- 96% Pharmacy network

**“I am thoroughly impressed with Sanford Health Plan thus far. Your automatic voice in your queue stated it would be a long hold time, however I got a member services representative within 30 seconds. You guys are pleasant to work with.”**

MARY M., RETIREE MEDICARE SUPPLEMENT



# PERFORMANCE

Our goal is to not only meet, but exceed NDPERS' expectations of our performance.

- An independent consultant performed an operational review validating our performance and performance guarantees.
- We have met or exceeded four performance guarantees due on or before July 1, 2016.
- A survey of our performance with your membership was completed, and results show high member satisfaction with Sanford Health Plan.

**“Everyone I have spoken to has been very helpful and kind. I feel reassured the transition is going to work out fine.”**

MARILYN B., RETIREE MEDICARE SUPPLEMENT



## Performance Levels

An independent operational review was performed and encompassed audit claims, contract configurations and performance guarantees. Today, five of the six performance goals have been met, and the Sanford Health Plan team is tracking data and will bring our 97.25 percent claims timeliness status to the 99 percent goal by the deadline next July.

Operational Review Executive Summary	Goal	Current Status Level*
Claims financial accuracy	$\geq 99\%$	<b>99.73%</b>
Claims payment incident accuracy	$\geq 97\%$	<b>97.71%</b>
Claims paid timeliness	$\geq 99\%$	<b>97.25%</b>
Minimum provider discount from in-network providers	$\geq 30\%$	<b>34.5%</b>
Average speed of call answered	$\leq 45 \text{ sec.}$	<b>41.4 sec.</b>
Call abandon rate	$\leq 7\%$	<b>5.70%</b>

\*All measures due at the biennium.

**“What a great job the customer service team did, even going out of their way to get the pharmacy on the phone to get my situation straightened out.”**

BRANDY Z., DAKOTA GRANDFATHERED ACTIVE

## Performance Guarantees

Five performance guarantees were due on or before July 1, 2016.

Measure	Goal	Outcome Reporting Date	Outcome
Health Risk Assessment	<b>≥ 10%</b>	<b>Dec. 31, 2015</b>	<b>17.7%</b>
Hospitals and Physicians within Network	<b>Hospital ≥ 85% MDs &amp; DOs ≥ 85%</b>	<b>Dec. 31, 2015</b>	<b>Hospital=94% MDs &amp; DOs=87%</b>
bWell Participation	<b>≥ 10%</b>	<b>Dec. 31, 2016</b>	<b>10.8%</b>
Health Club Credit	<b>≥ 1,950</b>	<b>July 1, 2016</b>	<b>1,857*</b>
Medical Home Enrollment	<b>≥ 30%</b>	<b>July 1, 2016</b>	<b>36.5%</b>

\*Vendor expects to submit Health Club Reimbursements to Sanford Health Plan within three months to determine final outcome.

## NDPERS Member Experience Survey

From June to early July 2016, a random sampling of the NDPERS membership was surveyed on their experience. Less than one year following the transition from the NDPERS long-term health insurance provider, most members are satisfied with their service from Sanford Health Plan.

### General Survey:

- **80.7%** Agree that their health insurance claims are processed accurately.
- **77.2%** Agree that their claims are processed in a timely manner.
- **80.4%** Agree that the printed materials or internet resources are helpful.

### Member Services:

- **86.9%** Reported that their issue was resolved, including 61.3 percent who reported that the information or help they needed was provided during the initial call.
- **69.3%** Of Sanford Health Plan Member Services callers are satisfied with the service received when they called.
- **90.5%** Agree that the service representative was courteous and respectful.

“Change is hard for people my age,  
but so far you are doing an amazing job.”

KATHLEEN S., RETIREE MEDICARE SUPPLEMENT

# SUSTAINABILITY



Sanford Health Plan is committed to a long-term partnership with NDPERS. During the bidding process, we developed a proposal based on limited trend information and detailed claims assumptions.

We have learned a great deal about the NDPERS membership since becoming your provider and that has better enabled us to develop a sustainable, renewal proposal. As part of Sanford Health, we are prepared to meet that long-term commitment to you.

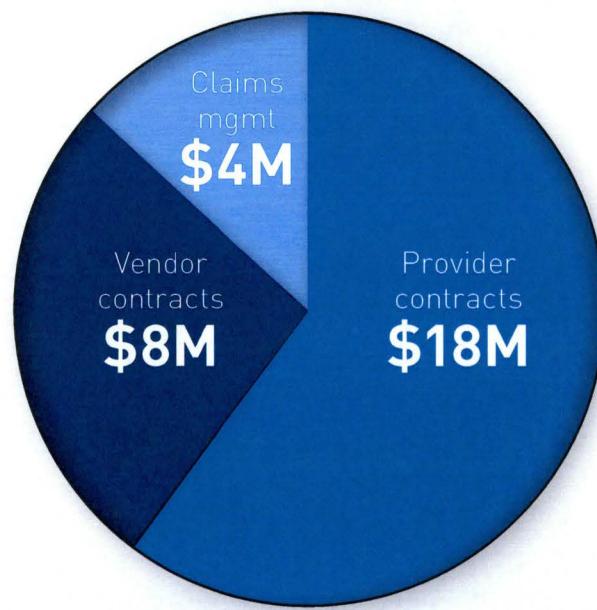
## Financial Opportunities

- New market-based contracts with providers
- Claims management software
- Vendor contracts re-negotiation:
  - Pharmacy Benefit Management
  - National Wrap Network



1749

### Operational Savings



Total annual improvement of **\$30 million** achieved from contracting and claims management implementation.

# RENEWAL



In 2014, we submitted a bid comparable to the legacy insurer. That bid was developed using national trend data and assumptions on historical NDPERS utilization. Today, based on increased understanding of your memberships' trends this past year, we are bringing forward solutions in order to provide you and your members affordable and quality coverage.

## Trends

- Trend assumptions were analyzed to determine a **6.0 percent increase for medical** and **12.0 percent increase for prescriptions** per year (7.0 percent weighted average).
- Over the last twelve years, the average NDPERS premium trend is an increase of **7.3 percent** per year. This trend is driven by price (e.g. specialty drugs, etc.) and not utilization.

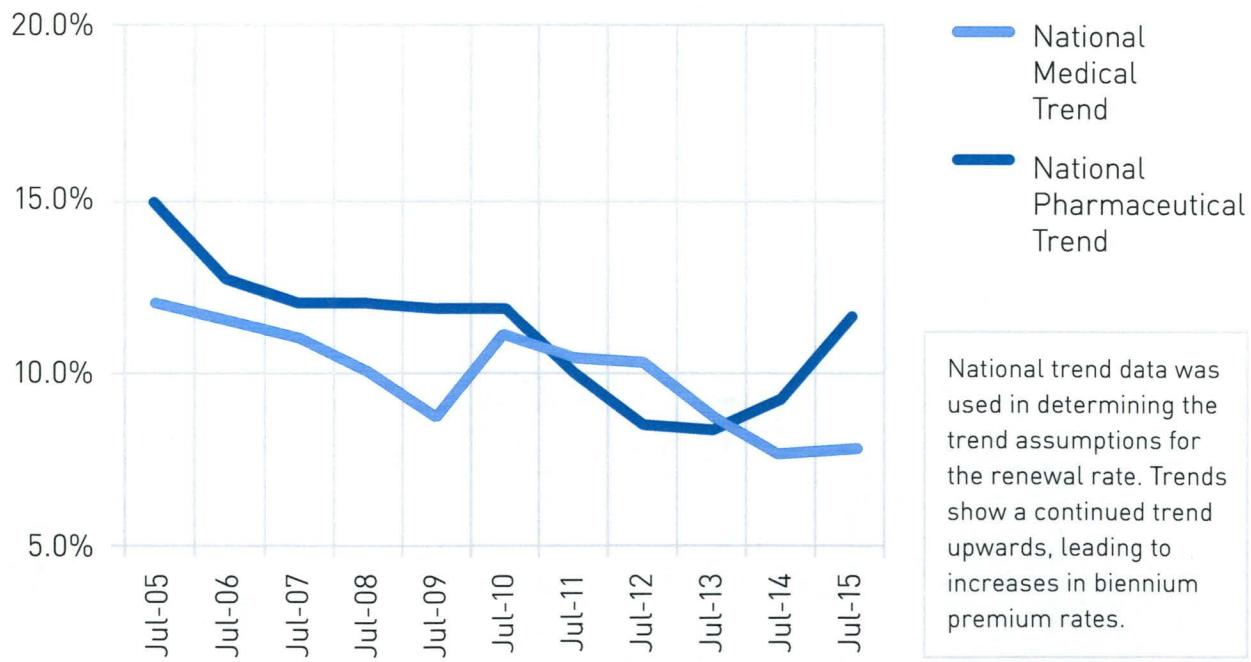
## Renewal Rate

Using these national medical and pharmacy trends, along with information we have learned this past year as your insurer, we propose these renewal rates for the next biennium.

- A NDPERS renewal increase of **17.4 percent**, or **8.7 percent per year**.
- A Medicare supplement increase of **6.5 percent** based on 5.0 percent trend.



## Benchmark Medical/Pharmaceutical Trend



## **NDPERS Alternative Innovative Options**

### **In-State Network**

An in-state network benefits NDPERS by keeping the renewal rate as low as possible. This option gives members access to quality providers in North Dakota, where this network includes 99 percent of the providers within the state.

It also keeps more dollars in the state. According to NDPERS claim data, an estimated \$40 million dollars leaves the state due to care provided outside of North Dakota.

	<b>Current Services</b>	<b>Next Biennium In-State Services</b>	<b>Next Biennium Out-of-State Services</b>
Deductible			
• Individual	<b>\$500</b>	<b>\$500</b>	<b>\$2,500</b>
• Family	<b>\$1,500</b>	<b>\$1,500</b>	<b>\$5,000</b>
Ccoinsurance	<b>80%</b>	<b>80%</b>	<b>50%</b>
Out of pocket maximum			
• Single	<b>\$1,500</b>	<b>\$1,500</b>	<b>\$5,000</b>
• Family	<b>\$3,500</b>	<b>\$3,500</b>	<b>\$10,000</b>

# IN SUMMARY

The team at Sanford Health Plan is prepared and committed to continued service to the members of NDPERS and the State of North Dakota. State statute requires validation and review of certain criteria, and we are proud to have met all specified performance expectations during our first year as your provider.

- A review of performance guarantees revealed five of six goals were met ahead of schedule.
- A comprehensive member survey showed high member satisfaction with Sanford Health Plan.
- A robust and comprehensive network of providers was developed to increase access across the region.
- Opened two new North Dakota offices with dedicated staff and chief medical officer.
- Launched new communication and wellness portals for members.

Sanford Health Plan is dedicated to a long-term partnership with NDPERS. With the resources and financial backing of Sanford Health, we expect continued growth within the State of North Dakota. Our Sanford Health Plan team looks forward to serving as your insurance provider for the next two years and many years to come.



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## Summary of Cost Savings

Options	Estimated PPO Change Percentage	Savings for State Employees (Millions)	Savings for Political Subs & Retirees (Millions)
<b>Annual Premium Reduction for Pharmaceutical Changes</b>	<b>1.1%</b>	<b>\$2.8</b>	<b>\$1.0</b>
*From \$5 to \$10 change in generic copay *From \$20 to \$25 change in formulary brand copay *From \$25 to \$30 copay in non-formulary copay *From \$1,000 coinsurance to \$1,200 coinsurance			
<b>Increase in Office Visit/Emergency Room Copays</b>	<b>0.9%</b>	<b>\$2.3</b>	<b>\$0.8</b>
*From \$25 to \$30 copay in office visit *From \$50 to \$60 copay in emergency room copay			
<b>Annual Premium Reduction to Deductible</b>	<b>0.6%</b>	<b>\$1.5</b>	<b>\$0.6</b>
*From \$400 single/\$1,200 family to \$500 single/\$1,500 family			
<b>Annual Premium Reduction to Change in Coinsurance Maximum</b>	<b>1.8%</b>	<b>\$4.5</b>	<b>\$1.7</b>
*Change from \$750/\$1,500 to \$1,000/\$2,000			
<b>SUB-TOTAL Grandfathered Savings</b>	<b>4.4%</b>	<b>\$11.1</b>	<b>\$4.2</b>
<b>Create In-State Network</b>	<b>5.0%</b>	<b>\$12.6</b>	<b>\$4.7</b>
<b>Change to Non-Grandfathered Option of \$1,500</b>	<b>7.6%</b>	<b>\$19.1</b>	<b>\$7.2</b>
<b>Include Grandfathered Plan Design Changes</b>	<b>4.4%</b>	<b>\$11.1</b>	<b>\$4.2</b>
<b>Loss of Grandfathered status</b>	<b>-3.0%</b>	<b>-\$7.5</b>	<b>-\$2.8</b>
*Includes 100% preventative care *Includes other grandfathered option changes above			
<b>SUB-TOTAL Non-Grandfathered Savings</b>	<b>14.0%</b>	<b>\$35.3</b>	<b>\$13.3</b>
<b>Add 5% to Employee Contribution to Premium</b>	<b>5.0%</b>	<b>\$12.6</b>	<b>\$4.7</b>
<b>TOTAL OPPORTUNITY (Non-Grandfathered)</b>	<b>19.0%</b>	<b>\$47.9</b>	<b>\$18.0</b>



Great Public Schools

Great Public Service

***Testimony before the Senate GVA Committee*****HB 1023****March 2, 2017**

Sen. Poolman, members of the Committee, for the record my name is Nick Archuleta and I am the president of North Dakota United. I rise today to associate my organization with the remarks of the executive director of PERS, Mr. Sparb Collins, and urge this Committee to strip away the eighty five pages of amendments and give a DO PASS recommendation to this PERS funding bill.

Senator Poolman and members of the Committee, ND United opposes passage of HB 1023 with these amendments for three main reasons:

First and foremost, the amendments to HB 1023 change the PERS Board from one that governs the Public Employee Retirement System to one that serves a mere advisory role to the Governor or his designee. This change mutes the employee voice in the governance of the plan and concentrates that power in the hands of the Governor or a political appointee. Making the Governor the sole fiduciary of the plan and solely responsible for the administration of the plan will have the potential unfortunate effect of putting the Governor in a rather untenable position. As the sole fiduciary of both the state of North Dakota and the ND PERS, the governor will have an obligation of putting the well-being of both entities first. What will he do if the budgetary morass continues and he has to choose a balanced budget at the expense of the health of the plan? If he chooses the state's health over the plan's health, he will have failed his responsibility to the plan.

ND United and the public employees we represent have several other serious concerns with the eighty five pages of amendments that were added to the PERS funding bill on very short notice. Our office has been contacted several times by public employees who, knowing that they will not be receiving a salary increase for the next two years, are very nervous that these amendments are the first step in a scheme to eliminate their pensions.

This confusion is not surprising considering that the Employee Benefits Programs Committee did not have sufficient time to consider the amendments let alone offer constructive insights that might have improved them. In addition, we believe that had these amendments had a proper hearing in the light of day, the true nature of the amendments would have received a fair debate and beneficial input from legislators, public employees and the public at large.

Again, Sen. Poolman and members of the Committee, on behalf o ND United's 11,500 members, I urge you to strip away these amendments and give a DO PASS recommendation to the underlying PERS funding as originally allowed in HB 1023.

Thank you for your time today. I am happy to stand for any questions.

HB1023

3/17/17

#1

17.0508.02002

Title.

Prepared by the Legislative Council staff for  
Senator Poolman

March 16, 2017

## PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1023

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide an appropriation for defraying the expenses of the public employees retirement system; to provide for a transfer; to create and enact a new subsection to section 54-02-04 of the North Dakota Century Code, relating to public employees retirement system payments; to provide for a legislative management study; and to provide for legislative intent."

## BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys from special funds derived from income to the public employees retirement system for the purpose of defraying the expenses of the public employees retirement system, for the biennium beginning July 1, 2017, and ending June 30, 2019, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$6,315,360	\$8,263	\$6,323,623
Operating expenses	2,753,643	(132,844)	2,620,799
Contingencies	<u>250,000</u>	<u>0</u>	<u>250,000</u>
Total special funds	\$9,319,003	(\$124,581)	\$9,194,422
Full-time equivalent positions	34.50	(1.00)	33.50

**SECTION 2. HEALTH INSURANCE INCREASE.** The salaries and wages line item in section 1 of this Act includes the sum of \$102,885 from other funds for increases in employee health insurance premiums from \$1,130 to \$1,249 per month.

**SECTION 3. ONE-TIME FUNDING.** The following amounts reflect the one-time funding 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>
Public employees retirement system - temporary salaries	\$100,000	\$0
Desktop support services	<u>77,370</u>	<u>0</u>
Total special funds	\$177,370	\$0

**SECTION 4. APPROPRIATION LINE ITEM TRANSFERS.** The public employees retirement system office may transfer from their contingencies line item in section 1 of this Act to all other line items. The agency shall notify the office of management and budget of each transfer made pursuant to this section.

**SECTION 5.** A new subsection to section 54-52-06 of the North Dakota Century Code is created and enacted as follows:

The board shall establish policies and implement procedures to make and collect payments in the most cost-effective manner, including the use of electronic transfer of funds.

**SECTION 6. PUBLIC EMPLOYEES RETIREMENT SYSTEM - LEGISLATIVE MANAGEMENT STUDY.** During the 2017-18 interim, the legislative management shall consider studying the powers and duties of the public employees retirement system's retirement board, including the board's fiduciary duties; the administrative structure of the public employees retirement system, including the feasibility and desirability of changing this structure; the powers and duties of the employee benefits programs committee, including the feasibility and desirability of increasing the committee's oversight of the public employees retirement system; the feasibility and desirability of implementing a self-funded insurance plan; and the feasibility and desirability of changing the contract bidding process to every two years. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

**SECTION 7. LEGISLATIVE INTENT - ELECTRONIC DISTRIBUTION OF MATERIALS.** It is the intent of the sixty-fifth legislative assembly that the public employees retirement system office create operating efficiencies when feasible by discontinuing the distribution of paper materials, including newsletters and benefit statements. It is further the intent of the sixty-fifth legislative assembly that the public employees retirement system office develop procedures to electronically distribute materials or provide access to materials through member self-service website applications."

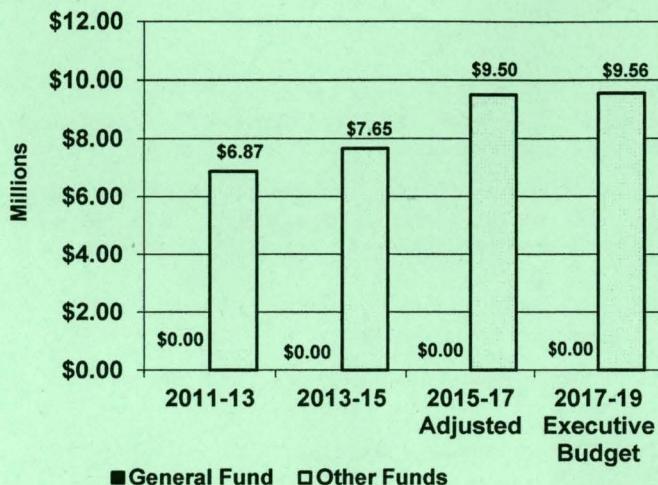
Renumber accordingly

**Department 192 - Public Employees Retirement System**  
**House Bill No. 1023**

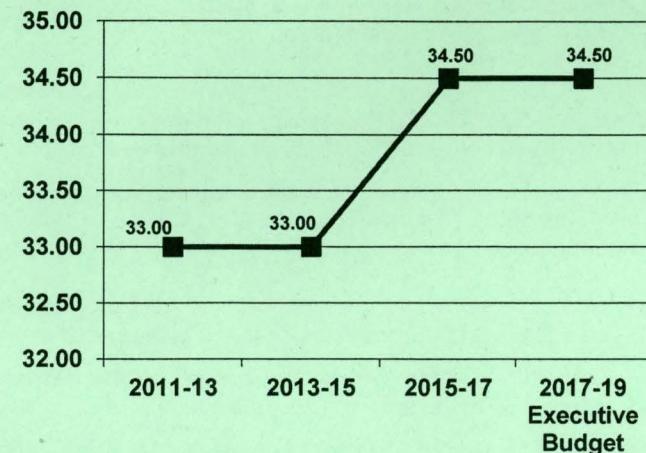
**Dalrymple Executive Budget Comparison to Prior Biennium Appropriations**

	FTE Positions	General Fund	Other Funds	Total
2017-19 Dalrymple Executive Budget	34.50	\$0	\$9,556,106	\$9,556,106
2015-17 Adjusted Legislative Appropriations	34.50	0	9,496,373	9,496,373
Increase (Decrease)	0.00	\$0	\$59,733	\$59,733

**Agency Funding**



**FTE Positions**



**Dalrymple Executive Budget Comparison to Base Level**

	General Fund	Other Funds	Total
2017-19 Dalrymple Executive Budget	\$0	\$9,556,106	\$9,556,106
2017-19 Base Level	0	9,319,003	9,319,003
Increase (Decrease)	\$0	\$237,103	\$237,103

**First House Action**

Attached is a comparison worksheet detailing first house changes to base level funding and the executive budget.

**Dalrymple and Burgum Executive Budget Highlights  
(With First House Changes in Bold)**

- |  | General Fund | Other Funds | Total       |
|--|--------------|-------------|-------------|
| 1. Provides funding for state employee salary and benefit increases, of which \$25,900 is for salary increases and \$102,885 is for health insurance increases. (The Burgum budget removed funding for salary increases and provided for employees to pay for a portion of health insurance.) <b>The House removed funding for the salary increases.</b> | \$0          | \$128,785   | \$128,785   |
| 2. Adjusts funding for operating expenses. <b>The House reduced funding for operating expenses by \$185,844 of other funds.</b>  |              | \$23,000    | \$23,000    |
| 3. Adds funding for office remodel   |              | \$30,000    | \$30,000    |
| 4. The Burgum budget removed 1 FTE position  |              | (\$150,000) | (\$150,000) |

**Other Sections in House Bill No. 1023**

**Health insurance increase** - Section 2 identifies the amount included in the agency appropriations relating to increases in employee health insurance premiums from \$1,130 to \$1,249 per month.

**Contingencies line item** - Section 4 provides, upon approval of the board, the Public Employees Retirement System may transfer from the contingencies line item in section 1 of the bill to all other line items.

**Health insurance reserve fund - Limitations** - Section 5 prohibits the Public Employees Retirement System office from spending funds in the health insurance reserve fund for the purpose of reducing uniform group insurance premium amounts.

**Public Employees Retirement System Board** - Sections 6 through 121 amend North Dakota Century Code relating to removing the public employees' retirement board, changes to the Public Employees' Retirement System, and the membership of the Employee Benefits Programs Committee.

**Use of electronic transfers of funds** - Section 33 amends Section 54-52-04 to require the Public Employees Retirement System office to establish policies to implement procedures to make and collect payments in the most cost-effective manner, including use of electronic transfers of funds.

**Discontinuation of paper copies** - Section 122 adds legislative intent that the department discontinue printing and mailing paper copies of the newsletter and annual benefit statements, and that it make newsletters and benefit statements available electronically on the department's website.

### **Continuing Appropriations**

**Public Employees Retirement System** - Various sections - For benefit payments, investments, and actuarial and technical consulting for each program area.

### **Significant Audit Findings**

The audit for the Public Employees Retirement System conducted by CliftonLarsonAllen LLP, Certified Public Accountants, for the period ending June 30, 2015, identified one significant audit finding relating to census data reconciliation requirements.

The schedule of employer allocations and pension amounts by employer prepared for the Public Employees Retirement System and audited by CliftonLarsonAllen LLP, Certified Public Accountants, for the period ending June 30, 2015, identified one significant audit finding related to review of current process to determine completeness and accuracy of census data.

### **Major Related Legislation**

**House Bill No. 1148** - Provides changes to the public employee retirement plan for firefighters.

**House Bill No. 1156** - Provides changes to the definition of medical marijuana and prohibiting the payment of workers' compensation benefits for medical marijuana.

**House Bill No. 1175** - Provides changes to the membership of the State Investment Board.

**House Bill No. 1403** - Provides changes to the public employee health benefits transparency.

**House Bill No. 1406** - Provides changes to the public employee uniform group health insurance benefits.

**House Bill No. 1407** - Provides changes to the term of the public employee uniform group insurance contract for health benefits coverage.

**House Bill No. 1434** - Mandates health insurance coverage for autism services.

**Senate Bill No. 2052** - Provides changes to the Public Employees' Retirement System uniform group insurance coverage of telehealth services.

**Senate Bill No. 2053** - Provides changes relating to the definitions of retirement and retirement board, decreased employee contributions under the Public Employees Retirement System for peace officers employed by the Bureau of Criminal Investigation, eligibility for disability retirement and early retirement benefits under the Public Employees Retirement System, employee enrollment, billing for the retiree health insurance credit, failure to maintain a health savings account when the high-deductible health plan is elected, payment of administrative expenses of the defined contribution plan, and penalties for employers failing to pay contributions under the defined contribution plan.

**Senate Bill No. 2107** - Provides retroactive health insurance coverage since August 19, 2016, for National Guard service members performing state active duty in response to state emergencies.

# Public Employees Retirement System - Budget No. 192

House Bill No. 1023

## Base Level Funding Changes

### 2017-19 Biennium Base Level

#### 2017-19 Ongoing Funding Changes

Base payroll changes  
**Salary increase - Performance**  
 Health insurance increase  
**Employee portion of health insurance**  
 Adjusts funding for operating expense  
 Adjusts funding for temporary salaries  
 Adds funding for office remodel  
**Remove 1 FTE position**  
 Reduce postage, printing, and supplies and requiring ACH payments  
 Reduce printing and postage costs for newsletters  
 Reduce printing and postage costs for annual benefit statements  
 Reduce hosting costs for the mobile app  
 Total ongoing funding changes

#### One-time funding items

No one-time funding items  
 Total one-time funding changes

#### Total Changes to Base Level Funding

### 2017-19 Total Funding

## Other Sections in Public Employees Retirement System - Budget No. 192

Health insurance increase

Contingencies line item transfers

### Burgum Executive Budget Recommendation (Changes to Dalrymple Budget in Bold)

	FTE Position	General Fund	Other Funds	Total		FTE Position	General Fund	Other Funds	Total
2017-19 Biennium Base Level	34.50	\$0	\$9,319,003	\$9,319,003		34.50	\$0	\$9,319,003	\$9,319,003
2017-19 Ongoing Funding Changes									
Base payroll changes			\$55,378	\$55,378				\$55,378	\$55,378
<b>Salary increase - Performance</b>			<b>0</b>	<b>0</b>				<b>0</b>	<b>0</b>
Health insurance increase			102,885	102,885				102,885	102,885
<b>Employee portion of health insurance</b>			(52,398)	(52,398)				<b>0</b>	<b>0</b>
Adjusts funding for operating expense			23,000	23,000				23,000	23,000
Adjusts funding for temporary salaries			(60)	(60)				0	0
Adds funding for office remodel			30,000	30,000				30,000	30,000
<b>Remove 1 FTE position</b>	<b>(1.00)</b>	<b>(150,000)</b>	<b>(150,000)</b>	<b>0</b>		<b>(1.00)</b>	<b>(150,000)</b>	<b>(150,000)</b>	<b>0</b>
Reduce postage, printing, and supplies and requiring ACH payments			0	0				(16,900)	(16,900)
Reduce printing and postage costs for newsletters			0	0				(59,504)	(59,504)
Reduce printing and postage costs for annual benefit statements			0	0				(66,440)	(66,440)
Reduce hosting costs for the mobile app			0	0				(43,000)	(43,000)
Total ongoing funding changes	(1.00)	\$0	\$8,805	\$8,805		(1.00)	\$0	(\$124,581)	(\$124,581)
One-time funding items									
No one-time funding items									\$0
Total one-time funding changes	0.00	\$0	\$0	\$0		0.00	\$0	\$0	\$0
<b>Total Changes to Base Level Funding</b>	<b>(1.00)</b>	<b>\$0</b>	<b>\$8,805</b>	<b>\$8,805</b>		<b>(1.00)</b>	<b>\$0</b>	<b>(\$124,581)</b>	<b>(\$124,581)</b>
2017-19 Total Funding	33.50	\$0	\$9,327,808	\$9,327,808		33.50	\$0	\$9,194,422	\$9,194,422

### Burgum Executive Budget Recommendation (Changes to Dalrymple Budget in Bold)

House Version

Section 2 identifies \$102,885 from other funds is for increases in employee health insurance premiums from \$1,130 to \$1,249 per month.

Section 4 provides the Public Employees Retirement System office may transfer from the contingencies line item in Section 1 of the bill to all other line items.

Section 3 provides, upon approval of the Public Employees Retirement System Board, the Public Employees Retirement System office may transfer from the contingencies line item in Section 1 of the bill to all other line items.

Other Sections in Public Employees Retirement System - Budget No. 192

Health insurance reserve fund

Public Employees Retirement System Board

Use of electronic transfers of funds

Discontinuation of paper copies

**Burgum Executive Budget Recommendation  
(Changes to Dalrymple Budget in Bold)**

**House Version**

Section 5 prohibits the use of money in the health insurance reserve fund to reduce health insurance premiums.

Sections 6 through 121 amends Century Code to remove the Public Employees Retirement System Board.

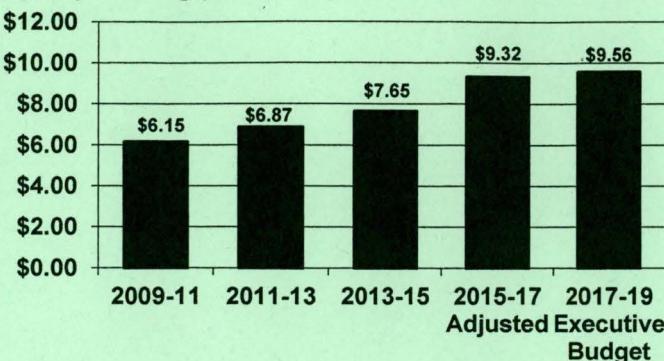
Section 33 also amends Section 54-52-04 to require the Public Employees Retirement System office to establish policies to implement procedures to make and collect payments in the most cost-effective manner, including use of electronic transfers of funds.

Section 122 adds legislative intent that the department discontinue printing and mailing paper copies of newsletters and annual benefit statements, and that the department make newsletters and benefit statements available electronically on the department's website.

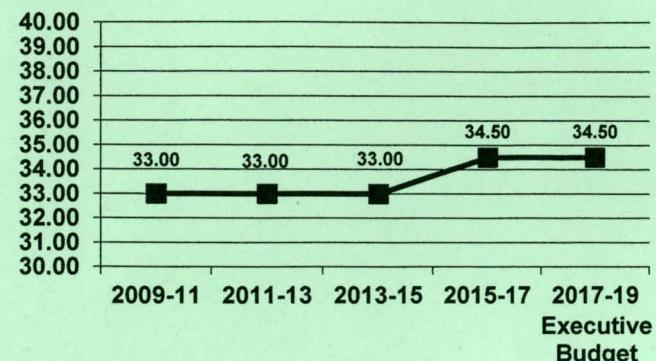
## Department 192 - Public Employees Retirement System

**Historical Appropriations Information****Ongoing Other Funds Appropriations Since 2009-11**

Agency Funding (in Millions)



FTE Positions

**Ongoing Other Funds Appropriations**

	2009-11	2011-13	2013-15	2015-17 Adjusted	2017-19 Dalrymple Executive Budget
Total fund appropriations	\$6,146,488	\$6,867,890	\$7,650,450	\$9,319,003	\$9,556,106
Increase (decrease) from previous biennium	N/A	\$721,402	\$782,560	\$1,668,553	\$237,103
Percentage increase (decrease) from previous biennium	N/A	11.7%	11.4%	21.8%	2.5%
Cumulative percentage increase (decrease) from 2009-11 biennium	N/A	11.7%	24.5%	51.6%	55.5%

**Major Increases (Decreases) in Total Fund Appropriations****2011-13 Biennium**

1. Added funding for changes in the agency information technology plan to support PERSLink \$447,348

**2013-15 Biennium**

1. Added funding for information technology activities included in the agency's IT Strategic Plan \$281,130

**2015-17 Biennium**

1. Added funding for 1 FTE chief financial officer position \$216,069
2. Added funding for 0.50 FTE benefit support position \$51,346
3. Added funding for additional workload due to the portability of retiree health credit \$43,052
4. Added funding for general operating expenses increases \$134,470
5. Added funding for PERSLink system refinements \$147,000
6. Added funding for website redesign \$90,080
7. Added funding for a secure reception area \$27,500
8. Added funding for additional temporary support salaries \$122,352
9. Added funding for desktop support services \$75,580

**2017-19 Biennium (Dalrymple and Burgum Executive Budget Recommendations)**

1. Adjusts funding for operating expenses, including:
  - Inflationary increases \$35,489;
  - Desktop support services \$77,370;
  - Licensing fees of new PERSLink mobile app \$77,531;
  - Postage and printing for board elections \$29,492;
  - Lower telephone call volume (\$735);
  - Reduced information technology contractual services for PERSLink and system refinements (\$142,140); and

- Discontinued fees, including Blue Cross Blue Shield file fees, IRS determination letters, temporary phone support for retiree health insurance credit portability and health carrier transition, and service fees (\$54,007).
  - **The House reduced funding for operating expenses by \$185,844 of other funds.**
2. Adds funding for office remodel \$30,000  
3. The Burgum budget removed 1 FTE position (\$150,000)

HB 1023 3/23/17

Senate Appropriations  
March 23, 2017

NDPERS  
HB 1023

Harvest Room

HB 1023  
3-23-17 #1  
P 1

## TESTIMONY OF NDPERS

### ENGROSSED HOUSE BILL 1023

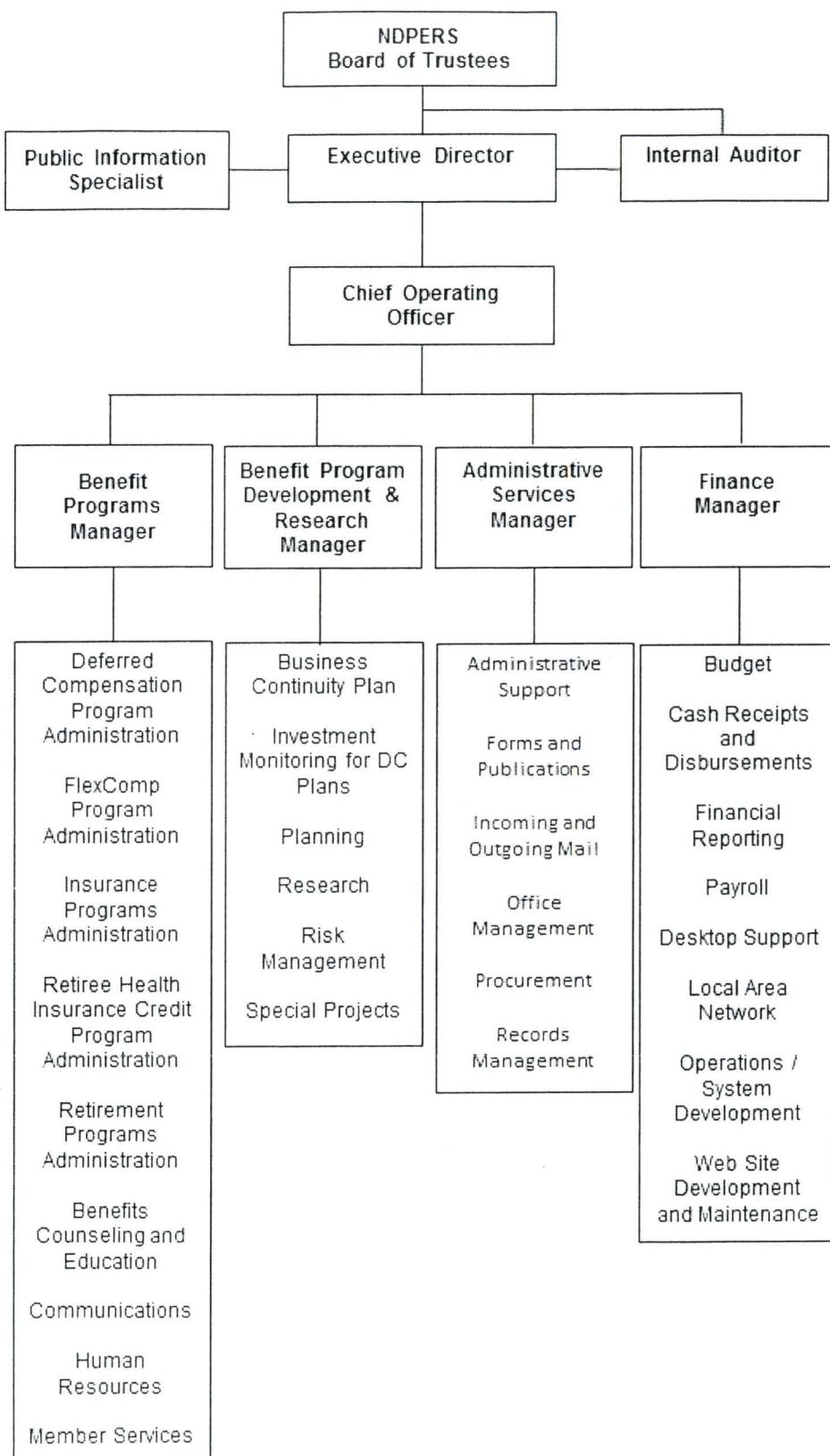
Mr. Chairman, members of the committee, good morning my name is Sparb Collins. I am the Executive Director of the North Dakota Public Employees Retirement System or PERS. With me is Sharon Schiermeister, our Chief Operating Officer. Today we appear before you to give you an overview of our agency, our work efforts and our budget request.

#### Agency Overview

First let me start by providing an overview of our agency. PERS is directed by a Board composed of the following members:

Chair (appointed by Governor)	Jon Strinden
Appointed by Attorney General	Troy Seibel
State Health Officer	Mylynn Tufte
Elected	Kim Wassim
Elected	Casey Goodhouse
Elected	Mike Sandal
Elected Retiree	Yvonne Smith
Legislative Appointee	Senator Dick Dever
Legislative Appointee	Representative Pam Anderson

Administratively PERS is organized as illustrated:



The PERS program responsibilities fall under two broad categories – retirement and group insurance. Section 54-52-02 states the overall mission for the retirement program as: "...to provide for the payment of benefits to state and political subdivision employees or to their beneficiaries thereby enabling the employees to care for themselves and their dependents and which by its provisions will improve state and political subdivision employment, reduce excessive personnel turnover, and offer career employment to high grade men and women". Similarly, state statute establishes the overall mission for the group insurance plan as: "In order to promote the economy and efficiency of employment in the states service, reduce personnel turnover, and offer an incentive to high grade men and women to enter and remain in state service, there is hereby created a uniform group insurance program".

Concerning the retirement programs, the following table gives you an overview of the programs and some statistical information:

January 2016

## RETIREMENT PROGRAMS MANAGED AND ADMINISTERED BY NDPERS

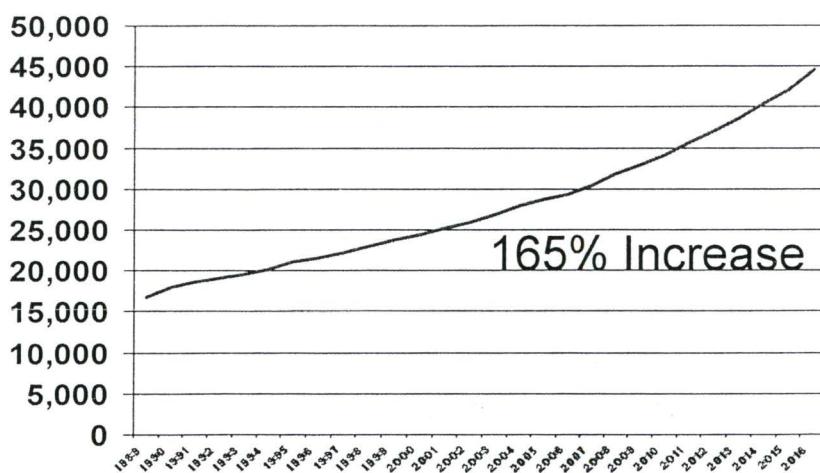
PARTICIPATION	TOTAL RETIREMENT	Main System	Judges	Law Enforcement	Highway Patrol	Job Service	D.C. 401(a)	DEFERRED COMP	HEALTH CREDIT
<b>AGENCY</b>									
State	95	95	1	2	1	1	95	95	95
Counties	50	50		16				35	50
School Dist	119	119						21	119
Cities	86	85		11				34	86
Others	77	76						34	77
	<b>427</b>						<b>219</b>	<b>427</b>	
<b>EMPLOYEES</b>									
State	11,227	10,783	56	68	160	9	151	5,554	11,227
Counties	4,187	3,741		446				767	4,187
School Dist	6,420	6,419		1				81	6,420
Cities	2,012	1,928		84				256	2,012
Others	662	662						228	662
Retirees	9,611	9,291	34	65	92	129			5,212
	<b>34,119</b>	<b>32,824</b>		<b>90</b>	<b>664</b>	<b>252</b>	<b>138</b>	<b>151</b>	<b>6,886</b>
									<b>29,720</b>

As you will note, our agency is responsible for the administration of 9 different retirement plans. The Law Enforcement Plan is divided into two plans, those with past

service and those without. Several of the above plans were assigned to our agency by the 2001 and 2003 legislative session. Those were the Job Service Retirement Plan and the Law Enforcement Plans for political subdivisions. The Law Enforcement Plan has since been expanded to certain State employees. The 401(a) plan or optional defined contribution plan for non-classified state employees was assigned to our agency in 1999. Eligibility for this plan was expanded to provide new State employees with this option effective August 1, 2013 through July 31, 2017. The other retirement programs have been a part of PERS since the 1980's. You will note the largest retirement plan we administer is the Main/Hybrid retirement system which provides services to not only the State, but also to political subdivisions. In this plan about 50% of the active members are State employees and 50% are political subdivision employees. School districts are our second largest group followed by counties and cities.

Some historical statistics about the retirement plan include membership:

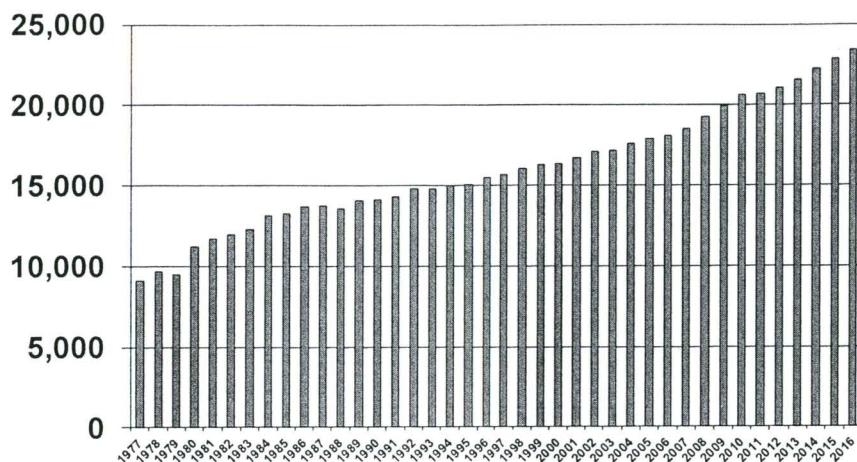
## NDPERS Retirement Plan Membership



Of this, the number of active members has grown:

## NDPERS Retirement Actives

(Main System, Judges & Law Enforcement Systems)

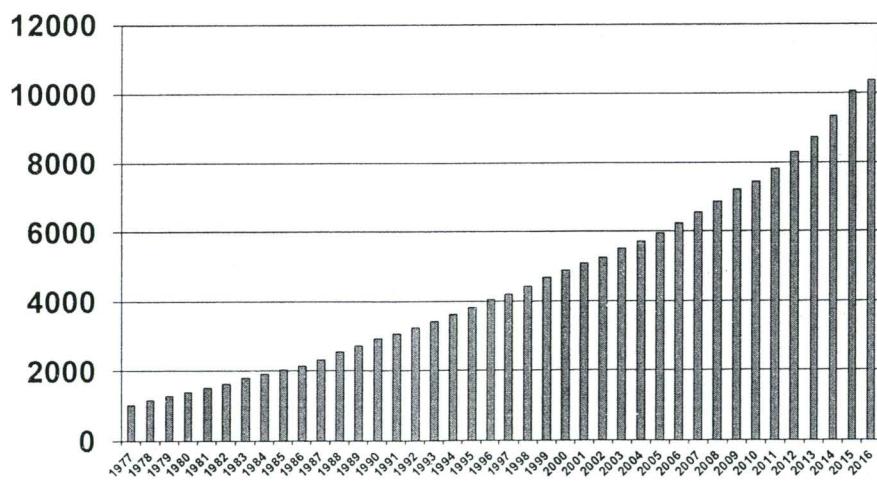


1

The number of retired members has grown as well and at an even greater rate than our active members:

## NDPERS Retirement Retirees

(Main System, Judges & Law Enforcement Systems)



2

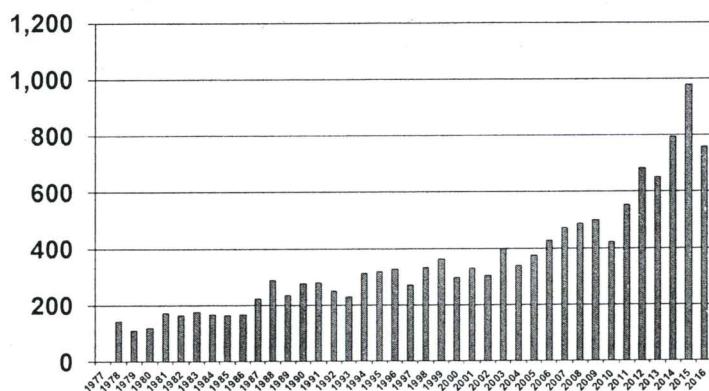
Another interesting statistic about the retirement plan is since 1977 the PERS plan has received approximately \$1.67 billion in contributions and as of the last fiscal year (July

2016) we had \$2.41 billion in assets. During that same period we paid out about \$1.64 billion in benefits.

The number of new retirees each year continues to grow. The table below shows that in the last three fiscal years (July – June) there were 793, 980 and 760 new retirees.

## NDPERS New Pensions

(Main System, Judges & Law Enforcement Systems)

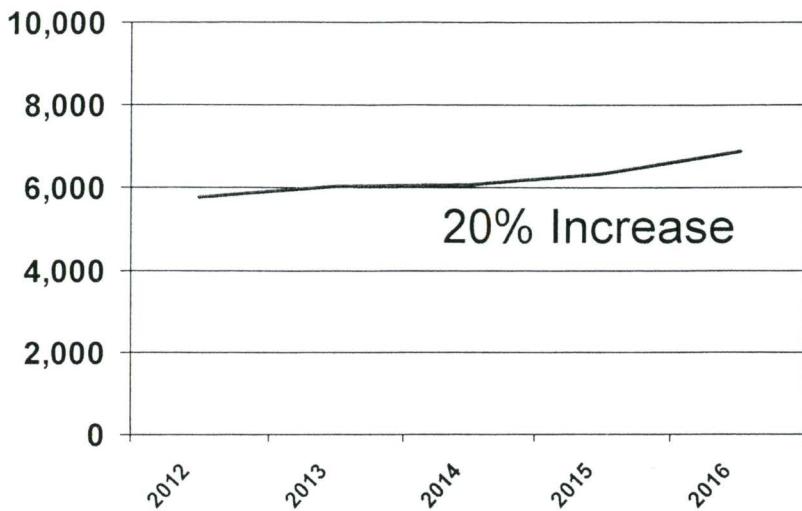


As we look to the future, we see the retired membership continuing to grow and the number of active members remaining about the same. Servicing the present and future needs of the retired membership is a growing challenge for PERS.

In addition to the administration of the traditional retirement plans, PERS administers the state's supplemental savings program as well. The membership in that program has also grown over the years (this shows both active and inactive accounts):

## NDPERS

### Deferred Compensation Plan Membership



We are pleased by this growth since it is important that our members save for retirement. In 1999 the legislature started the Portability Enhancement Provision, or PEP, in our retirement plan, thereby turning the Main plan into a hybrid plan to encourage employees to do supplemental savings.

Deferred Compensation offers our members the following 8 providers to choose from in addition to the PERS Companion Plan (presently with TIAA):

American Trust Center	Jackson National
AXA Equitable	Nationwide Life
Bank of North Dakota	VALIC
Mass Mutual	Waddell & Reed

The investment and recordkeeping contract for the 401(a) defined contribution plan is currently out for bid as the contract with TIAA will be ending June 30, 2017. The investment and recordkeeping contract for the 457 Companion Plan is also currently out to bid. This program originally started with Valic as the provider. Fidelity then won the bid and about 5 years ago TIAA won the bid. With each change, the cost of this program has gone down or the services have increased.

Concerning the group insurance programs, the following gives you an overview of the programs and some statistical information:

January 2016

## GROUP INSURANCE PROGRAMS MANAGED AND ADMINISTERED BY NDPERS

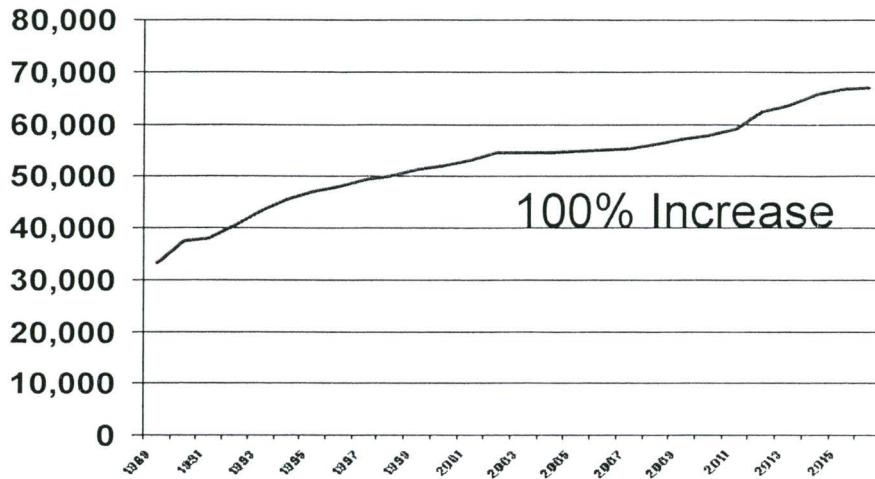
PARTICIPATION	HEALTH	LIFE	DENTAL	VISION	EAP	FLEXCOMP	LT Care
<b>AGENCY</b>							
State	95	95	95	95	95	90	95
Counties	45	33					
School Dist	30	14					
Cities	47	29					
Others	60	34	20	20	20	20	20
	<b>277</b>	<b>205</b>	<b>115</b>	<b>115</b>	<b>115</b>	<b>110</b>	<b>115</b>
<b>EMPLOYEES</b>							
State	15,283	16,221	7,158	8,322	16,150	2,657	55
Counties	2,360	2,540					
School Dist	1,165	91					
Cities	1,919	259					
Others	613	388			257		
Legislators	136						
Retirees	7,378	3,207	2,115	1,885			
COBRA	494		61	66			
	<b>29,348</b>	<b>22,706</b>	<b>9,334</b>	<b>10,273</b>	<b>16,407</b>	<b>2,657</b>	<b>55</b>

As you will note, the largest responsibility in this area is the health plan. In this program about 52% of members are state employees and 48% are political subdivisions or other groups such as retirees. We continue to focus on compliance with the Affordable Care Act (ACA) which includes maintaining the grandfathered status of the plan, assisting our participating employers with compliance and conducting a special enrollment each year for temporary employees.

The following table shows the history of the membership in the health plan:

## NDPERS

### Health Plan Membership



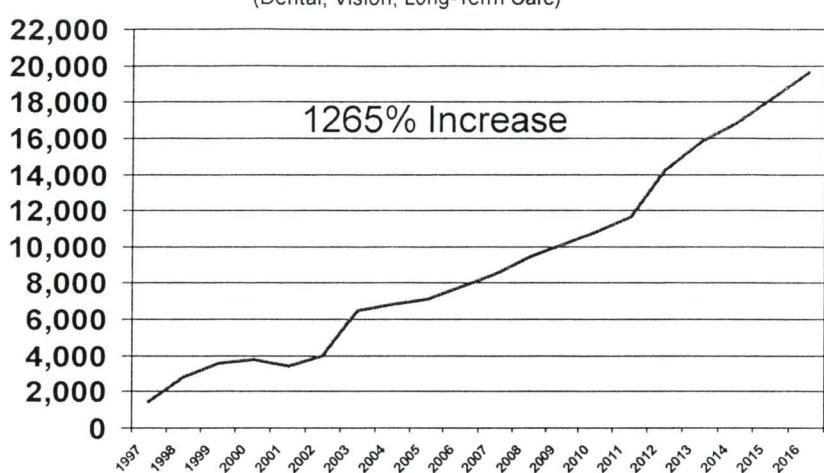
This plan went to bid last in 2014 and the plan was changed from BCBS to Sanford Health Plan effective 7/1/2015. The group health and life insurance programs have been a part of the agency since the early 1970s.

In the late 1990's the Employee Assistance Program, Long Term Care Plan, Dental Plan & Vision Plan were added to PERS. The following table is the history of those voluntary programs (not including the EAP):

# NDPERS

## Voluntary Insurance Plans Membership

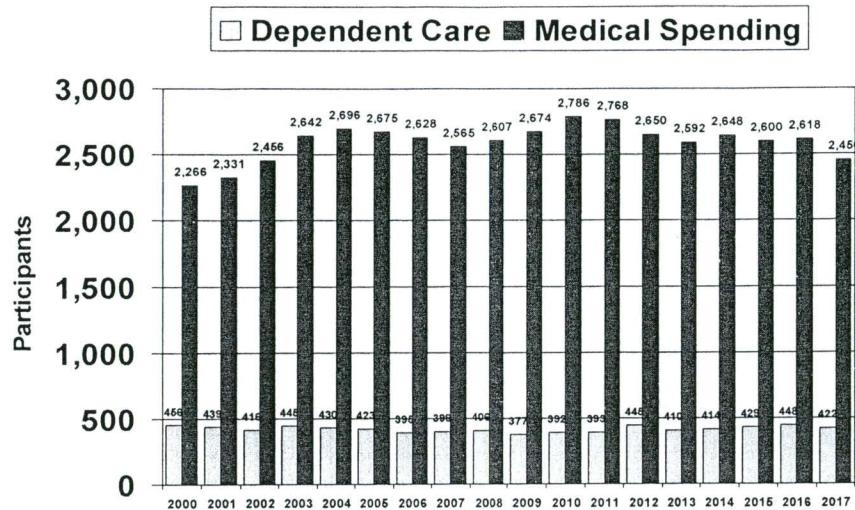
(Dental, Vision, Long-Term Care)



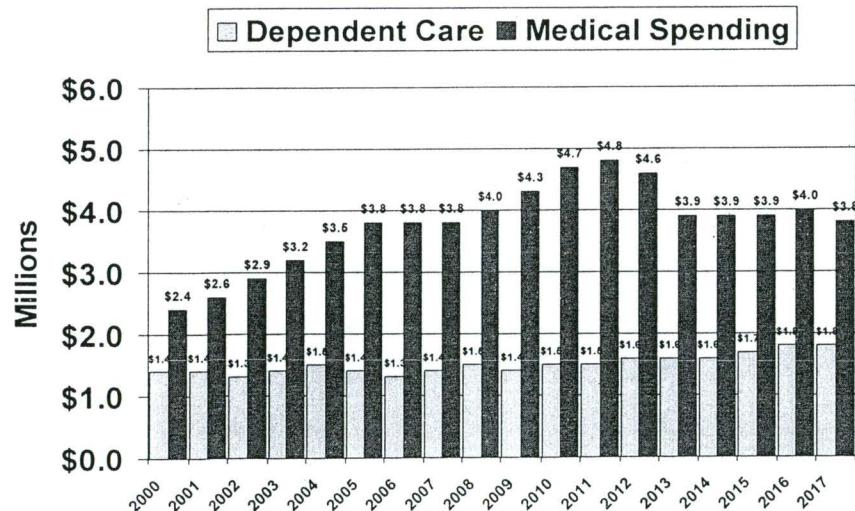
The life insurance plan is currently out for bid, as the contract with the current carrier will end June 30, 2017. The vision plan will be going out for bid in 2017 and the dental plan will be bid in 2018.

The Flex Comp Program which has been a part of the agency since 1989 allows members to pretax certain insurance premiums, dependent care expenses and medical expenses. The following tables show the history of the number of members and deferrals:

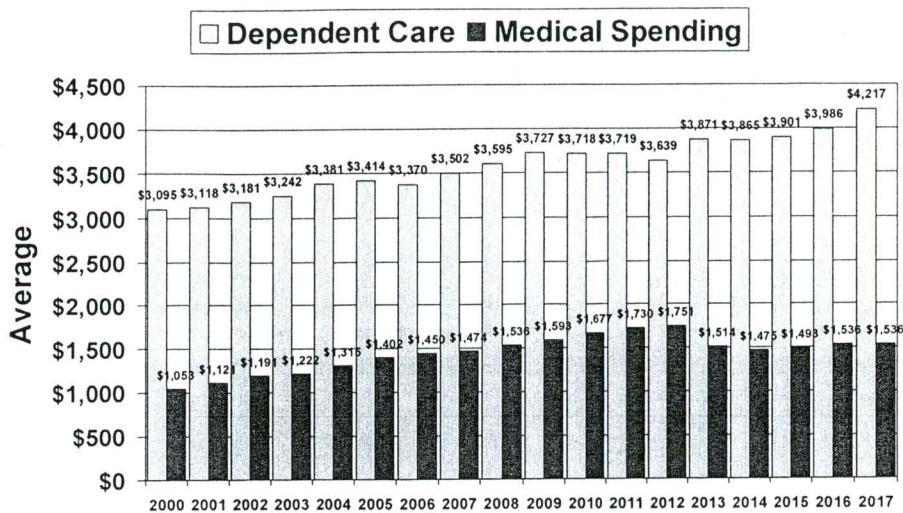
## NDPERS Flexcomp Participation



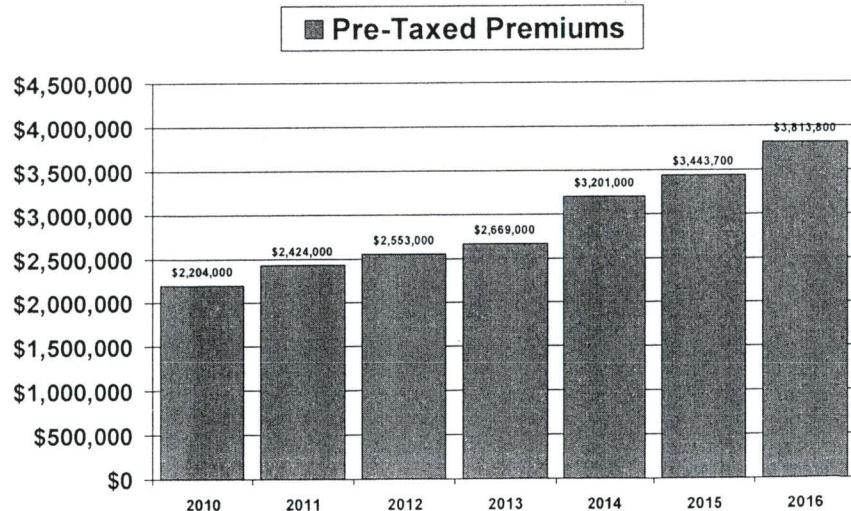
## NDPERS Flexcomp Participation



## NDPERS Flexcomp Participation



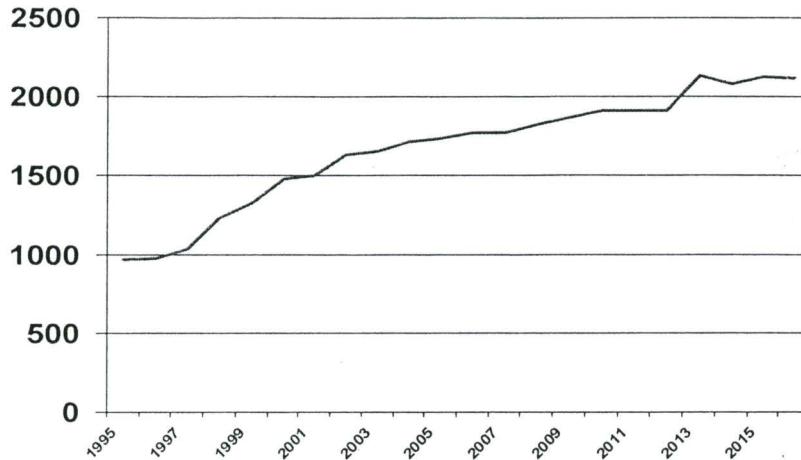
## NDPERS Flexcomp Participation



While we have been serving more members in more programs over time, we have also been serving more employers as they join PERS. The following table shows each

employer relationship for each program (an employer in more than one program would count more than once):

## NDPERS Participating Employers (All Programs)



As shown above, PERS has faced two challenges over the years. First, is the growth of program responsibilities. Second, is the growing membership needs for assistance.

We are also concerned with maintaining the quality of what we do. To that extent, we have sought national review of our systems and other reviews as noted in the following:

- We have received the Public Pension Achievement Award and the Recognition Award for Administration.
- We have received the Certificate of Achievement for Excellence in Financial Reporting for the past 20 years (1996-2015).
- We have had unqualified audit opinions for over 26 years.

In addition, we send out report cards to members who request information from our office to evaluate our customer service. Our average ratings for the past 2 years show overall satisfaction with our customer service. The ratings are shown below based on a scale of 1-4, with 4 being the most satisfied:

Year	# of responses	Courtesy received from NDPERS Staff.	Promptness of NDPERS response.	Information easy to understand.	How well did we review and explain the information.
2015	464	3.82	3.67	3.62	3.73
2016	478	3.83	3.73	3.62	3.75

At this time, I will turn the presentation over to Sharon Schiermeister to review our work efforts and budget request.

## **Work Efforts**

Following are some of the major work efforts since we last reported to you in the 2015 session:

- Group Insurance
  - Transitioned the health plan to a new carrier effective July 1, 2015 and also transitioned the retiree prescription drug plan to a new carrier January 1, 2016.
  - Implemented legislation passed in the 2013 session to close the non-Medicare health insurance group to new retirees after June 30, 2015. This substantially reduced the implicit liability associated with offering this coverage to terminating active employees from \$65 million in 2011 to \$7 million in 2015.
  - Renewed contracts with the existing carriers for the health, dental and vision plans.
  - Continued to work with our participating employers on the implementation of the provisions of the Affordable Care Act.
  - Pursuant to legislative direction, began studying the merits of telehealth for the group health insurance plan.

- Worked with the Department of Health, Department of Human Services and Indian Affairs Commission to prepare a report for the legislature on the status of diabetes efforts in North Dakota
  - Prepared and issued a request for proposal for the life insurance plan
  - Prepared and issued a request for proposal for the vision plan
- Retirement
  - Implemented a change passed in the 2013 session to make the retiree health credit portable starting July 2015. This change allows retirees to receive this benefit to apply towards premiums for any medical or prescription drug plan, as well as premiums for the NDPERS sponsored dental, vision and long-term care plans. Prior to this change, approximately 5,212 or 52% of eligible retirees were receiving this benefit; now there are approximately 10,320 or 98% of eligible retirees receiving the benefit.
  - Implemented legislation passed during the 2015 session which included transferring current and newly eligible members of the National Guard system into the Law Enforcement System effective August 1, 2015; a new benefit tier for employees hired after January 1, 2016; and allowing a special election opportunity for members in the NDPERS Defined Contribution Plan to elect to rejoin the NDPERS Defined Benefit Plan.
  - Completed an actuarial experience study and implemented actuarial assumption changes in the annual actuarial valuations for July 2015.
  - Issued a request for proposal for retirement actuarial and consulting services and selected Gabriel Roeder Smith & Company as the new plan actuary in 2016.
  - Worked with the plan actuary and our audit firm to prepare financial information for participating employers in the pension plans pursuant to Governmental Accounting Standards Board (GASB) Statement Number 68. GASB 68 requires each participating employer to report a proportionate share of the pension liability on their financial statements.

- Completed an Asset Liability Study and approved a modified asset allocation which will be implemented in fiscal year 2017.
  - Conducted an IRS compliance review and submitted an application to the IRS for a determination letter for the PERS and Highway Patrol plans. We have received a positive determination letter for both the Highway Patrol plan and the PERS Main Plan.
  - Prepared and issued a request for proposal for the 457 Companion Plan and 401(a) defined contribution plan.
- Administrative Accomplishments
  - Started exploring external communication channels that include social media and a mobile app. The agency went live with a mobile app for the PERSLink business system in July 2016 and launched a Facebook page in the summer of 2016.
  - Developed and implemented the Financial Essentials Workshop (FEW), a new educational program for members in the early to mid-career stage to assist members with financial planning and retirement savings goals.
  - Began working with a website design firm on the website redesign project. The new website launched in March of 2017.
  - Transitioned the agency's desktop support to ITD in February 2016.

## **PERS Budget**

**2015-17 Budget.** The PERS budget is all special funds, therefore, the agency was not subject to the budget reductions approved during the August 2016 special legislative session for the 2015-17 biennium. However, in recognition of the State's fiscal situation, the agency did restrict spending in our salary line item. Last session, PERS received appropriation authority for a salary equity package to move staff up in the pay grades so their C-Ratio is comparable to the average C-Ratio for all state employees in the same pay grade with similar years of service. The first year of the equity increases were implemented effective July 1, 2015; however, the agency did not implement the increases for the second year of the biennium, as was originally planned. This, in

addition to filling positions at lower pay grades than projected, will result in an estimated 4.5% of appropriation authority remaining at the end of this biennium.

**2017-19 Budget.** The proposed budget before you today is all special funds. The following is a summary comparing the current budget to the House version.

	2015-17 Appropriation	One-time Funding	2015-17 Base Level	Adjustments	2017-19 House Version
Salaries & Wages	6,415,360	(100,000)	6,315,360	8,263	6,323,623
Operating Expenses	2,831,013	(77,370)	2,753,643	(132,844)	2,620,799
Contingencies	250,000		250,000		250,000
Total Special Funds	9,496,373	(177,370)	9,319,003	(124,581)	9,194,422
FTE	34.5		34.5	(1.0)	33.5

### **Salaries and Wages**

The salaries and wages line item accounts for 68% of the base level budget and includes funding for 34.5 FTE. The base budget also includes funding for 2 temporary staff; a full-time temporary position to assist the benefits division with compliance reviews of retirement accounts for new retirees and a part-time intern to assist the PERS Internal Audit division with implementing expanded audit steps to verify payroll data provided by employers, as a result of new GASB 67/68 financial statement reporting requirements.

The increase of \$8,263 consists of:

- \$102,885 for the health insurance increase
- \$89,614 cost to continue the 2<sup>nd</sup> year of the biennium salary increase and payments to new Board members
- (\$34,236) reduction in salaries due to positions being classified at a lower grade than what was originally projected
- (\$150,000) removed by the House to reflect the reduction of 1 FTE

## Operating Expenses

Operating expenses account for 30% of the base level budget. Information technology costs account for 60% of the operating expense line item, which is a combination of fees paid to a software vendor to support the agency's PERSLink business system, and fees paid to ITD for hosting, desktop support, disaster recovery, network and email access, document storage in FileNet and telecommunications. Postage, printing, office rent and operating fees and services represent 32% of the operating line item. The benefits programs administered by the agency serve over 40,000 active and retired members and over 400 employer groups, therefore, communication is a substantial portion of the printing and postage expenses.

The Executive Budget Recommendation includes increases totaling \$53,000 which consist of the following:

- \$107,500 for inflation increases primarily for office rent, software licensing fees and support costs for the PERSLink system, data processing fees paid to ITD and central service cost allocation
- \$62,700 in IT Software/Hardware for the mobile app licensing fee
- \$12,500 in Printing and \$14,800 in Postage for board elections that will be occurring throughout the biennium
- (\$147,000) reduction for one-time costs in the PERSLink system
- (\$27,500) by not moving forward with our project to secure our main entry area. PERS was given appropriation authority in the 15-17 budget for this project to improve privacy when discussing confidential information with our members and to increase our office security; however, the decision was made to defer this expense until it is determined whether or not there would be an opportunity for the agency to relocate to the WSI building.
- \$30,000 (increased for inflation) was requested as an optional request and included in the Executive Recommendation to allow us to move forward with the project to secure our main entry area. This is essentially moving unused

appropriation authority from the current biennium into next biennium to allow us to move forward on this project.

The House version includes additional reductions in operating expenses totaling \$185,844 as follows:

- (\$16,900) reduction in postage, printing and supplies as a result of requiring all retirement checks to be paid through direct deposit and all individual insurance premiums to be deducted from a bank account
- (\$59,504) reduction in printing and postage costs by only having newsletters available on the NDPERS website instead of printing and mailing to all active and retired members
- (\$66,440) reduction in printing and postage costs by only having annual benefit statements for active and retired members available on-line through member self service instead of printing and mailing to all members
- (\$43,000) reduction in ITD hosting costs by reducing the number of servers dedicated for our mobile app

### **Optional Budget Requests**

The following optional budget requests were not included in the Executive

Recommendation:

1. Cyber risk insurance
2. Office relocation to the WSI building
3. Funding for 2 additional FTE and related operating expenses in the event the health plan was awarded on a self-insured arrangement.

### **Requested Changes to House Version**

We are requesting that the Senate consider the following two changes to the House version:

1. **Restore FTE (\$150,000).** As discussed at the beginning of the testimony, PERS has been faced with two challenges over the years: growth of program

responsibilities and growing membership needs for assistance. Looking to the future, we expect this growth to continue and feel strongly that in order to maintain service to our members and provide adequate fiduciary oversight to the programs we administer, we need to be staffed at 34.5 FTE. Therefore, we are requesting that consideration be given to restore the 1 FTE and associated funding of \$150,000. However, we do recognize the fiscal challenges that the state is facing, so if it is not possible to add back in the \$150,000 of appropriation authority, we would request that you consider restoring the FTE authority. We would be able to fund the FTE within the appropriation authority in the House version as a result of our actual salary base being less than projected because we did not fully implement our salary equity package in the current biennium.

2. **Restore printing/postage (\$142,844).** The agency agrees that member communications and services should move to more cost efficient methods and is moving forward with this initiative over a 4-6 year horizon. Over the past few years, we have invested in technology to allow on-line access to our PERSLink business system for our participating employers and for active and retired members. Most recently, we expanded our member self service to include a mobile app, rolled out a more user friendly website and launched a Facebook page. The agency believes that over time, we can reduce our printing and mailing costs by requiring direct deposit and ACH, providing newsletters and other communications electronically and directing members to access annual benefit statements on-line. However, we also recognize that a mailing may be the only communication channel we have for members who do not use electronic devices. Therefore, we are asking that consideration be given to restore the reductions to printing and postage in the amount of \$142,844 to allow us time to continue with our plan to transition our members over to electronic communications, rather than implementing this immediately in the new biennium. If you do prefer an accelerated implementation schedule, we would request being given to July 1, 2018 instead of July 1, 2017 as proposed by the House. This would require adding back in \$71,422.

## **Additional Requested Information**

The following information is attached as requested:

1. A comparison of the optional adjustment requests requested and those included in the executive recommendation.
2. A summary of changes recommended by Governor Burgum and changes made by the House
3. An itemized listing of any changes the agency is asking the committee to make to the budget.

### Optional Requests

	Not included			Included
	Request #1 - Cyber Risk Insurance	Request #2 - WSI Office Move	Request #3 - Self-insured health plan	Request #4 - Secure Reception Area
Salaries	-	-	392,773	0
Operating	125,000	11,318	35,366	30,000
Contingency	-	-	-	0
<b>Total</b>	<b>125,000</b>	<b>11,318</b>	<b>428,139</b>	<b>30,000</b>
FTE	0.00	0.00	2.00	0.00

Optional Requests

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### Summary of Changes

	Governor Dalrymple's Recomm	Governor Burgum's Changes	Governor Burgum's Recomm	Operating Expense Reductions	Restores 5% Employee Paid Health	House Version
Salaries	6,499,463	(228,298)	6,271,165	60	52,398	6,323,623
Operating	2,806,643	-	2,806,643	(185,844)		2,620,799
Contingency	250,000	-	250,000			250,000
<b>Total</b>	<b>9,556,106</b>	<b>(228,298)</b>	<b>9,327,808</b>	<b>(185,784)</b>	<b>52,398</b>	<b>9,194,422</b>
FTE	34.50	(1.00)	33.50	-	-	33.50

Summary of Changes

Etd d

**Changes Requested of the Senate Appropriations Committee**

- Restore 1.00 FTE and related funding (\$0 - \$150,000)
- Extend transition period for implementing electronic communications (\$71,422 - \$142,844)

**Changes Requested**

P24

March 28, 2017

HB 1023  
3-29-17

#1

## PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1023

In lieu of the amendments adopted by the Senate as printed on pages 811-813 of the Senate Journal, Engrossed House Bill No. 1023 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide an appropriation for defraying the expenses of the public employees retirement system; to provide for a transfer; to create and enact a new subsection to section 54-02-04 of the North Dakota Century Code, relating to public employees retirement system payments; to provide for a legislative management study; and to provide for legislative intent.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys from special funds derived from income to the public employees retirement system for the purpose of defraying the expenses of the public employees retirement system, for the biennium beginning July 1, 2017, and ending June 30, 2019, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$6,315,360	\$809	\$6,316,169
Operating expenses	2,753,643	(61,422)	2,692,221
Contingencies	<u>250,000</u>	<u>0</u>	<u>250,000</u>
Total special funds	\$9,319,003	(\$60,613)	\$9,258,390
Full-time equivalent positions	34.50	0.00	34.50

**SECTION 2. HEALTH INSURANCE INCREASE.** The salaries and wages line item in section 1 of this Act includes the sum of \$95,431 from other funds for increases in employee health insurance premiums from \$1,130 to \$1,241 per month.

**SECTION 3. ONE-TIME FUNDING.** The following amounts reflect the one-time funding 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>
Public employees retirement system - temporary salaries	\$100,000	\$0
Desktop support services	<u>77,370</u>	<u>0</u>
Total special funds	\$177,370	\$0

**SECTION 4. APPROPRIATION LINE ITEM TRANSFERS.** The public employees retirement system office may transfer from their contingencies line item in section 1 of this Act to all other line items. The agency shall notify the office of management and budget of each transfer made pursuant to this section.

**SECTION 5.** A new subsection to section 54-52-06 of the North Dakota Century Code is created and enacted as follows:

The board shall establish policies and implement procedures to make and collect payments in the most cost-effective manner, including the use of electronic transfer of funds.

**SECTION 6. PUBLIC EMPLOYEES RETIREMENT SYSTEM - LEGISLATIVE MANAGEMENT STUDY.** During the 2017-18 interim, the legislative management shall consider studying the powers and duties of the public employees retirement system's retirement board, including the board's fiduciary duties; the administrative structure of the public employees retirement system, including the feasibility and desirability of changing this structure; the powers and duties of the employee benefits programs committee, including the feasibility and desirability of increasing the committee's oversight of the public employees retirement system; the feasibility and desirability of implementing a self-funded insurance plan; and the feasibility and desirability of changing the contract bidding process to every two years. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

**SECTION 7. LEGISLATIVE INTENT - ELECTRONIC DISTRIBUTION OF MATERIALS.** It is the intent of the sixty-fifth legislative assembly that, by July 1, 2018, the public employees retirement system office create operating efficiencies when feasible by discontinuing the distribution of paper materials, including newsletters and benefit statements. It is further the intent of the sixty-fifth legislative assembly that the public employees retirement system office:

- Develop procedures to electronically distribute materials or provide access to materials through member self-service website applications.
- Consider options to charge members a fee for continued distribution of paper materials to that member."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1023 - Public Employees Retirement System - Senate Action**

	Base Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$6,315,360	\$6,323,623	(\$7,454)	\$6,316,169
Operating expenses	2,753,643	2,620,799	71,422	2,692,221
Contingencies	250,000	250,000		250,000
Total all funds	\$9,319,003	\$9,194,422	\$63,968	\$9,258,390
Less estimated income	9,319,003	9,194,422	63,968	9,258,390
General fund	\$0	\$0	\$0	\$0
FTE	34.50	33.50	1.00	34.50

**Department No. 192 - Public Employees Retirement System - Detail of Senate Changes**

Adjusts Funding for Health Insurance Increases <sup>1</sup>	Restores back FTE position <sup>2</sup>	Restores Funding for Operating Expenses <sup>3</sup>	Total Senate Changes
(\$7,454)		71,422	(\$7,454) 71,422
	\$0	\$71,422	
			\$63,968

Total all funds				
Less estimated income	(7,454)	0	71,422	63,968
General fund	\$0	\$0	\$0	\$0
FTE	0.00	1.00	0.00	1.00

<sup>1</sup> Funding for employee health insurance is adjusted to reflect the updated premium amount of \$1,241 per month. Section 2 is also adjusted to reflect the change.

<sup>2</sup> One FTE position removed by the House is restored.

<sup>3</sup> A portion of the funding reduced by the House for operating expenses is restored as follows:

	Other Funds
Printing and postage costs for newsletter	\$29,752
Printing and postage costs for annual benefit statements	\$33,220
Other postage, printing, and supplies	\$8,450

This amendment also:

- Removes a section that limited the use of funding in the health insurance reserve fund for reducing health insurance premium amounts.
- Removes various sections of North Dakota Century Code that were amended relating to providing for the Director of the Public Employees Retirement System to be appointed by the Governor, removing the Public Employees Retirement System Board, and adjusting the membership and duties of the Employee Benefits Programs Committee.
- Adjusts a section of legislative intent relating to charging members a fee for paper materials.

*April 14, 2017**HIB1023**Attachment A***Public Employees Retirement System - Budget No. 192****House Bill No. 1023****Base Level Funding Changes**

	House Version				Senate Version				Senate Changes to House Version					
	FTE Position	General Fund	Other Funds	Total	FTE Position	General Fund	Other Funds	Total	Increase (Decrease)		FTE Positions	General Fund	Other Funds	Total
<b>2017-19 Biennium Base Level</b>	34.50	\$0	\$9,319,003	\$9,319,003	34.50	\$0	\$9,319,003	\$9,319,003	0.00	\$0	0.00	\$0	\$0	\$0
<b>2017-19 Ongoing Funding Changes</b>														
Base payroll changes			\$55,378	\$55,378			\$55,378	\$55,378						\$0
Health insurance increase			102,885	102,885			95,431	95,431					(7,454)	(7,454)
Adjusts funding for operating expense			23,000	23,000			23,000	23,000					0	0
Adds funding for office remodel			30,000	30,000			30,000	30,000					0	0
Adds back 1 FTE position	(1.00)		(150,000)	(150,000)	0.00		(150,000)	(150,000)	1.00				0	0
Reduce postage, printing, and supplies and requiring ACH payments			(16,900)	(16,900)			(8,450)	(8,450)					8,450	8,450
Reduce printing and postage costs for newsletters			(59,504)	(59,504)			(29,752)	(29,752)					29,752	29,752
Reduce printing and postage costs for annual benefit statements			(66,440)	(66,440)			(33,220)	(33,220)					33,220	33,220
Reduce hosting costs for the mobile app			(43,000)	(43,000)			(43,000)	(43,000)					0	0
Total ongoing funding changes	(1.00)	\$0	(\$124,581)	(\$124,581)	0.00	\$0	(\$60,613)	(\$60,613)	1.00	\$0	\$63,968	\$63,968		
<b>One-time funding items</b>														
No one-time funding items				\$0										\$0
Total one-time funding changes	0.00	\$0	\$0	\$0	0.00	\$0	\$0	\$0	0.00	\$0	\$0	\$0	\$0	\$0
<b>Total Changes to Base Level Funding</b>	(1.00)	\$0	(\$124,581)	(\$124,581)	0.00	\$0	(\$60,613)	(\$60,613)	1.00	\$0	\$63,968	\$63,968		
<b>2017-19 Total Funding</b>	33.50	\$0	\$9,194,422	\$9,194,422	34.50	\$0	\$9,258,390	\$9,258,390	1.00	\$0	\$63,968	\$63,968		

**Other Sections in Public Employees Retirement System - Budget No. 192**

	House Version	Senate Version
Health insurance increase	Section 2 identifies \$102,885 from other funds is for increases in employee health insurance premiums from \$1,130 to \$1,249 per month.	Section 2 identifies \$95,431 from other funds is for increases in employee health insurance premiums from \$1,130 to \$1,241 per month.
Contingencies line item transfers	Section 4 provides the Public Employees Retirement System office may transfer from the contingencies line item in Section 1 of the bill to all other line items.	Section 4 provides the Public Employees Retirement System office may transfer from the contingencies line item in Section 1 of the bill to all other line items.
Health insurance reserve fund	Section 5 prohibits the use of money in the health insurance reserve fund to reduce health insurance premiums.	
Public Employees Retirement System Board	Sections 6 through 121 amends Century Code to remove the Public Employees Retirement System Board.	

**Other Sections in Public Employees Retirement System - Budget No. 192**

Use of electronic transfers of funds

**House Version**

Section 33 also amends Section 54-52-04 to require the Public Employees Retirement System office to establish policies to implement procedures to make and collect payments in the most cost-effective manner, including use of electronic transfers of funds.

**Senate Version**

Section 5 also amends Section 54-52-04 to require the Public Employees Retirement System office to establish policies to implement procedures to make and collect payments in the most cost-effective manner, including use of electronic transfers of funds.

Legislative Management study - Public employees retirement system

Section 6 provides for a Legislative Management study regarding the powers and duties of the public employees retirement system's retirement board.

Discontinuation of paper copies

Section 122 adds legislative intent that the department discontinue printing and mailing paper copies of newsletters and annual benefit statements, and that the department make newsletters and benefit statements available electronically on the department's website.

Section 7 provides legislative intent for the Public Employees Retirement System office to create operating efficiencies by discontinuing the distribution of paper materials.

*April 21, 2017**HB1023**Attachment A*

## NATIONAL CONFERENCE of STATE LEGISLATURES

## State Employee Health Benefits, Insurance and Costs

2/1/2017

Richard C

All 50 states provide health insurance coverage for their state employees.

Most have done so for decades. However, the amount of coverage, who is eligible to enroll, and the portions paid by state employer and by the individual worker always have varied from state to state.

In the past five years these state benefit plans have attracted much more attention among legislators, governors and policymakers. Often, this is because:

- Rapidly rising commercial premiums are impacting state budgets;
- State fiscal pressures are leading to more proposals to increase employee share of costs;
- Co-payments and deductibles are on the rise in many places, separate from the established premiums.

A few general facts about state employee health plans, based on several national surveys:<sup>1</sup>

- State government employees covered by employer health insurance totaled **5,281,911 in 2013** (compared to 5,331,393 in 2010.)
- Local government employees similarly covered totaled 13,804,380 in 2013 (compared to 14,273,847 in 2010), as reported by the AHRQ 2013 MEPS Survey III.B.1 [Source updated 12/30/2015]
- For the state employees surveyed above:
  - 81.8% had a choice of 2 or more plans
  - 100.0% could choose a managed care plan
  - 96.5% could choose a mixed provider plan
  - 45.4% could choose an exclusive provider plan
  - 3.2% could choose a conventional indemnity plan
  - 56.1% of plans had a waiting period

[Source: AHRQ/MEPS 2013]
- An earlier commercial survey projected that states provided coverage for about 3.4 million state government employees and retirees. When their covered dependents and family members were included, the total was at seven million people.
- State and local employee health plans cover about 10 percent of the total U.S. workforce and hold more than 1 percent of the nation's total pension assets. (CPR Report, 10/2014 & Center for Retirement Research at Boston College, 9/2009)
- The average state and local employee tends to be older and more expensive to insure compared to private sector employees.
- In 2013, six states paid 100 percent of the premium for employee-only coverage. (CPR Report, 10/2014)
- Nearly all full-time state workers were eligible for coverage (97%), and take-up was high across most plans, averaging 91%.
- 74% of part-time state employees had the option of electing health benefits (compared to 48% nationally.)
- In state employee plans, 37% of workers were in HMOs, 42% in PPOs, 16% in POS plans and 5% were in conventional indemnity coverage. However, Indemnity plans enrolled a majority of *retirees* in the Midwest, Northeast and South.<sup>2</sup>
- State employer retiree or "post-employment benefits" (OPEB) liabilities and funding progress are featured in a November 2014 report from Standard & Poor's that contains information about each state's actions (see Table 2). This research suggests that 3 states now hold some amount in trust, though the amounts are generally quite small, as 93 percent of state liabilities remain unfunded. Also a December 2014 issue brief from National Association of State Retirement

Administrators and the Center for State and Local Government Excellence highlights the relative distribution of state OPEB assets and unfunded liabilities. [added Dec. 2014]

Elected state legislators naturally are state employees; however within state personnel definitions, some are consider part-time employees. The following states offer health insurance to legislators but describe it as "optional at legislative expense" -- Nebraska, Nevada, New Hampshire, New Mexico, Vermont and West Virginia. In addition, South Dakota and Wyoming do not offer health benefits to legislators, but do cover legislative staff.<sup>3</sup>

At times states have used their employee benefit plans as a demonstration for a policy or idea - for example several states initiated a mental health coverage mandate specific to the state plan. At least half the states provide for select non-state employees to be covered under the same, or parallel, health benefit plans. Most commonly, states include city, town and/or county workers; public school teachers or employees, or public higher education employees. A few states have experimented with including segments of the general population in their state plan - see the examples from Connecticut and West Virginia, below. In the past several years there also are some trends or innovations listed and linked below, included in the Table of Contents:

## TABLE OF CONTENTS: LINKS TO RECENT BENEFIT PROGRAMS AND TRENDS

Premium Rates for Employers & Workers, '13	ACA Effects on State Programs
State Employee Health Plan Agencies	Health Savings Accounts
Self-funded state programs (2017 update)	Premium Surcharges for smoking
Retiree Health - <i>latest</i>   Retiree Benefit cutbacks	State Contractors to Provide Health Ins.
State plus local enrollees pooled	State Employees' Children covered by CHIP
Wellness Programs for Employees	Same-Sex Marriage and Domestic Partner Benefits

This web-based report pulls together diverse resources on this growing area of health and personnel policy.

- 2013 State Employee Health Premiums: Family and Individual Coverage: Provides state examples of the employee share, the employee share and total premium for 25 states, collected through summer, 2013. Results published by NCSL and posted 4/1/2014. [download report]
- 2012 State Employee Health Premiums: Comparative data for 45+ states. [download report]
- Reducing State Employee Health Insurance Costs: NCSL LegisBrief, October, 2014 [download report - member password may be required]

### 2014 State Employee Health Spending Report | Released by Pew (August 2014)

A groundbreaking new report examines how states' employee health plan benefits and costs compare to one another and to other large, private sector employers. The State Health Care Spending Project has worked with global actuarial firm Milliman, Inc. to examine each state's employee health plan spending and design characteristics, as well as how states compare to one another and to health plans offered in the private sector. The result is nationwide comparison benchmarks never before available to policymakers and other stakeholders. Download report.

View related State Employee Health PowerPoint presentation to NCSL on Aug. 22 by Maria Schiff from Pew. [PDF]

- **Minnesota, Employee Group Insurance Program:** PowerPoint presentation to NCSL Midwest States Fiscal Leaders Meeting, Aug. 19, 2014. [PDF]

Key findings from the Pew analysis include:

- Average per employee premiums; before and after controlling for certain cost-drivers

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- Employer and employee premium contribution arrangements
- Plan characteristics, including cost sharing arrangements (deductibles, copays, coinsurance)
- Major cost drivers and sources of spending variation among states, and between states and large private sector employers
- Key policy approaches available to state policymakers to influence costs

#### State Retiree Health Plan Spending:

**Retiree Health:** An examination of funding trends and plan provisions. Read the summary report and a full report [2 pp, PDF] by The Pew Charitable Trusts, May 2016. [Added 9/27/2016]

- **A Look at Access to Employer-Based Retirement Plans in the Nation's Metropolitan Areas:** Who's in, who's out. Read the full report by The Pew Charitable Trusts, May 24, 2016
- **A Majority of States Enroll Early Retirees in Active Employee Plans at Same Premium Rate.** A 2014 multimedia report by Pew

#### Value Based Purchasing Strategies for State Employees: Sponsored by Catalyst for Payment Reform; a KPMG Report, November, 2014. (20 pages; PDF)

- A Center for State and Local Government Excellence (SLGE) survey released found that 57 percent of respondents made employees pay more for their premiums, 19 percent moved to a high-deductible plan with health savings account, and 14 percent set up a health reimbursement program, which pays employees for out-of-pocket medical expenses and premiums. Some respondents reported decreased costs as a result of dependent-care audits and on-site clinics. Corpus Christi, Texas, for example, has saved \$1.84 million in health care costs by starting an on-site clinic for its 3,000 employees and running an eligibility audit on all dependents covered by city health insurance plans, which helped to remove ineligible participants. Read the Governing Magazine article.
- **NCSL sessions: The ACA Impact on States as Employers.** The ACA affects states in many ways. One of the least explored roles of state governments and the ACA is state government's role as an employer. This session highlights important issues for states as employers.(8/20/2014)
- **Dolores Mitchell**, (former) executive director, Massachusetts Group Insurance Commission, Boston, Mass. Resource: Massachusetts: "Going Bold and Implementing Health Care Payment Reform through the Centered Care Initiative
- How Health Reform Affects States as Employers (December 2012): In many places state government is the second largest employer. Federal health reform changes some provisions of state employee insurance – programs that affect coverage for more than 6 million enrollees nationwide, including most NCSL members. Speaker: J. Rich Johnson, Senior Vice-President, National Public Sector Health Practice Leader, Segal & Company, Washington D.C. - "PowerPoint" ([PDF file online](#)-16 pages)

- **"2013 State Legislator Compensation- Health, Dental and Optical Benefits"** - compiled and researched by NCSL Legislative Management Program. Request your copy by email 8/2014.
- **In The News....** The following reports and news articles are examples of the policy discussions in individual states. NCSL is not responsible for the content or opinions expressed in these outside linked articles.

- 2016 Health Plan Cost Trend Survey - Segal & Co. Download PDF | 2015 edition, Download PDF
- 2012 Study of State Employee Health Benefits - Segal & Company report, Spring 2013 [link updated 2/2016]
- Public Sector Capping Part-Time Hours to skirt Health Care Law, NY Times, 2/21/2014
- Strategies for Curbing Health Insurance Costs for State Employees: Benefit Design, Wellness Programs and Data Mining examines several models for employees' insurance plans Published by the National Governor's Association, October 2013

#### Archives

- 2011 State Employee Health Premiums, by NCSL.
- 2009 State Employee Health Premiums: Family and Individual Trends in State Employee Health Benefits - Presentation by Richard

- Cauchi, NCSL staff, for use by the Michigan Legislature, 9/2009.
- Innovations in Health: State Employee Programs: Presentation by Richard Johnson, Segal Company at NCSL Legislative Summit, 7/21/09.
- More public employees are contributing - Since 2009, 28 states have increased required employee contribution rates. (NAS Issue Brief, Jan. 2013)
- Essential Health Benefits: Comparing Benefits in Small Group Products and State and Federal Employee Plans - The new allows states to use their state employee programs as a template for health exchanges starting in 2014. Published by HHS/AES Dec. 16, 2011. [7 pages, PDF]



## Health Reform News for State Employee Plans

The Affordable Care Act (ACA) creates some new requirements and new options for state and public employee health programs. Examples are summarized below.

**CMS overview of "Self-Funded Non-Federal Government Plans"** The Affordable Care Act has given Americans rights and benefits, by helping more children get health coverage, ending lifetime and most annual limits on care, allowing young adults under 26 to stay on their parent's health insurance, and giving patients access to recommended preventive services without cost.

Prior to enactment of the Affordable Care Act, sponsors of self-funded, non-federal governmental plans were permitted to elect to exempt those plans from, or "opt out of," certain provisions of the Public Health Service (PHS) Act. This election was authorized under section 2722(a)(2) of the PHS Act (42 USC § 300gg-21(a)(2)). The Affordable Care Act made a number of changes, with the result that sponsors of self-funded, non-federal governmental plans can no longer opt out of as many requirements of Title XXVII. On March 14, 2014, the Department of Health and Human Services, Centers for Medicare and Medicaid Services, published a proposed rule titled "Patient Protection and Affordable Care Act: Exchange and Insurance Market Standards," with details on "Non-Federal Governmental Plans." related to exemptions listed below.

This section is intended to provide information about this opt out provision. The information in this section will be of interest to state and local governmental employers that provide self-funded group health plan coverage to their employees, administrators of those group health plans, and employees and dependents who are enrolled, or may enroll, in those plans. Although self-funded nonfederal governmental plans may still opt out of certain provisions of the PHS Act, they are not exempt from other requirements of the law including the restrictions on annual limits and other provisions of the Patient's Bill of Rights.

Provisions subject to opting out included:

- Limitations on pre-existing condition exclusion periods; requirements for special enrollment periods; prohibition of health status discriminations;
- Newborn and mother benefits standards; mental health and substance abuse disorder benefit parity requirements; coverage of reconstructive surgery after mastectomy requirements; and coverage of dependent students on medically necessary leave of absence.

Under the ACA, self-funded non-federal governmental plans may no longer opt out of the first three of these requirements, although they may still opt out of the later four. Group health plans maintained pursuant to a collective bargaining agreement ratified before March 23, 2010, however, that were exempted from any of the first three requirements do not need to come into compliance with any of these provisions until the first plan year following the expiration of the last plan year governed by the collective bargaining agreement. These changes had earlier been implemented by guidance, but the proposal would modify the existing rule to bring it into conformity with the statutory provisions. The amendment would also require electronic submission of the opt-out.

**Additional Resources:** Fact Sheets & FAQs | Other Resources

- **NCSL explains public employer coverage:** "ACA Requirements for Medium and Large Employers to Offer Health Coverage" - a 2015 report applicable to states, state legislatures and local governments as employers [download full report; 6 pages, PDF]
- **The So-Called "Cadillac Tax" on High Cost Employer Plans: POSTPONED:**
- The thresholds for triggering the tax will continue to be indexed until the tax goes into effect in 2020 (the thresholds for 2018 were slated to be \$10,200 for self-only coverage and \$27,500 for other than self-only coverage);
- Replacing a "nondeductible" definition, employers will be allowed to deduct any "Cadillac" tax payments; and
- The comptroller general, in consultation with the National Association of Insurance Commissioners, will study suitable benchmarks to use for age and gender adjustments to the thresholds triggering the tax.
- Other ACA-related changes include a one-year moratorium on the ACA's annual fee on health insurers' net premiums (for US risks) and a two-year halt to the tax on sales of medical devices. These fees and taxes were likely to be passed on to employers through increased insured plan premiums and provider costs, and thus will welcome relief to employers.
- Fact sheet by Health Leaders Media and Truven Health Analytics, October 2014. (2 pp., PDF)
- **FAQs about Grandfathered Health Plans in 2014:** Important facts and requirements; compiled 8/26/2013 by United Benefit Advisors.
- **State Plans as Essential Health Benefits Template:** The HHS bulletin issued December 2011 on Essential Health Benefits allows states to use "one of the three largest state employee health plans" as the coverage standard for all non-grandfathered health insurance plans offered in and out of exchanges. As of mid-2015, just two states selected this option --- Details online.

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#### Self-Funding Decisions for State Employee Health Programs

Forty-eight (96%) of the fifty states currently self-fund at least one of their state employee health plans. Twenty-nine (58%) of the fifty states currently self-fund all of their health plan offerings, as shown in the list below. When self-funding, an employer generally pays a third party administrator an administrative fee to process claims, but the employer is ultimately at risk for paying these claims. Self-funding has the advantages that it eliminates most premium taxes and gives the employer more control over the benefits they offer, but the employer is ultimately at risk for setting premium levels and paying claims for these plans.

As of each state's most recent plan year, effective either July 1, 2016 or January 1, 2017, states made the following selections regarding self-funding.<sup>1</sup>

All Self-Funded	Some Self-Funded Options	All Fully Insured
Alabama	New Hampshire	California
Alaska	New Jersey	Texas
Arizona	New Mexico	Idaho
Arkansas	North Carolina	Virginia
Connecticut	Hawaii	North Dakota
Delaware	Illinois	Washington
Indiana	Pennsylvania	Georgia
Iowa	Rhode Island	Wisconsin
Kansas		Louisiana
		Maryland
		Massachusetts

Kentucky	South Carolina	Michigan
Maine		Missouri
Minnesota	South Dakota	Nevada
Mississippi	Tennessee	New York
Montana	Utah	Oklahoma
Nebraska	Vermont	Oregon
		West Virginia
		Wyoming

1 - Results are summarized from the Milliman Atlas of Public Employer Health Plans, which is a research effort to support and improve public-sector decision making through data-driven health plan benchmarking and analysis. More information about the Milliman Atlas and links to recent analyses can be found online at: <http://us.milliman.com/Solutions/Services/Milliman-Atlas-of-Public-Employer-Health-Plans/> or by contacting [atlas@milliman.com](mailto:atlas@milliman.com).

This report is to be used for research and informational purposes only

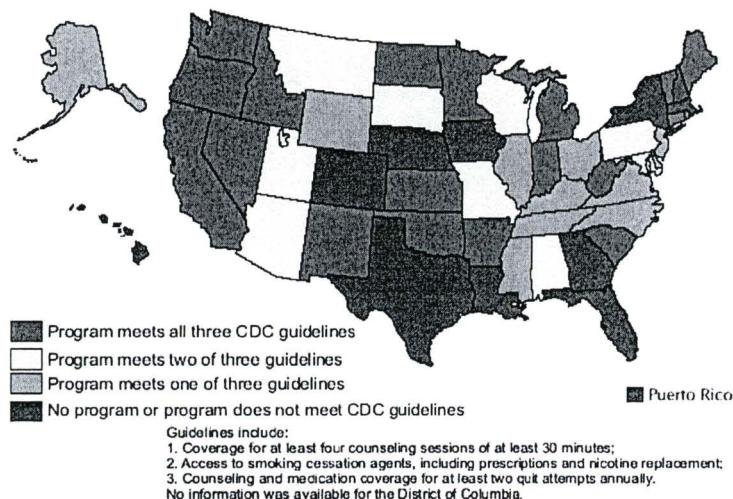
ARCHIVE: Earlier Actions and Provisions for State Employee Health Plans (2004-2013) - >Restored 1/6/2017

#### **PREMIUM SURCHARGE FOR SMOKERS (Examples of Early Adoptors)**

- **West Virginia** first included such a feature in part more than a decade ago..
- **Kentucky** in late 2004, (in H 1a) created a smoker surcharge of \$15/month for individuals and \$30/month for family coverage. [2008 article]
- **Alabama** in December 2004 (in HB 2) authorized smoker rates during special legislative sessions. For 2010 the smoker surcharge increased from \$25 to \$30 per month. In August 2008, Alabama added a premium for obesity [see description below]
- **Georgia** initiated a smoker surcharge. Beginning July 2005, more than 54,000 people covered by the insurance plan for state employees are paying an extra \$40 per month because they smoke or use tobacco. For 2013, an additional \$80 will be added to the monthly premium if you or your covered dependents use Tobacco products.
- **Indiana** added a non-smoker rate incentive in 2006. For 2007, enrollees save up to \$500 /year on annual deductibles when the Tobacco Incentive is applied.
- **Kansas** has a smoker surcharge authorized in 2008.
- **Missouri** law generally provides that public and private employers may provide health insurance at a reduced premium rate and reduced deductible level for employees who do not smoke or use tobacco products.
- **North Carolina** has taken a parallel approach. Beginning July 1, 2010, state employees will be defaulted into the state's PPO Basic plan. Those who don't smoke have the option of enrolling in the Standard plan—which has an 80/20 enrollee payment split compared with 70/30 enrollee payment split under the Basic plan—by attesting that they and their dependents do not use tobacco products.
- **South Carolina's** Budget and Control Board voted in August 2008 to impose a \$25 monthly surcharge for state public employees and their family members who smoke or chew tobacco, effective 2010. According to the Augusta Chronicle, an estimated 58,600 people, or roughly 20 percent of the state's more than 400,000 insurance participants, will pay the surcharge.
- **South Dakota** has a smoker surcharge authorized in 2008.

**SMOKING CESSATION PROGRAMS (2010 article)**

A large majority of states, totaling 39 as of mid-2010, have operational tobacco cessation programs and policies, primarily using positive incentives. The following are just a few examples. >Restored 1/6/2017

**State Employee Tobacco Cessation Coverage**

- Tobacco Cessation: State and Federal Efforts to Help - NCSL report features 50-state map, laws and program information.
- Alabama's Tobacco Cessation Program is now provided by the SIB for its covered members; for 2009 the state reimburse each member 80% of the cost of the program, with no deductible. There is a lifetime maximum benefit of \$150. Tobacco cessation seminars and all forms of nicotine replacement are covered services. Prescription medications for tobacco cessation are covered and are not subject to the \$150 lifetime maximum benefit. [2/09]
- Idaho's Wellness Program: First Phase -Tobacco Cessation. For 2008 there will be a \$10 co-payment for every thirty-day supply of quit aids. Pharmacists will require a state Blue Cross of Idaho identification card to dispense the quit aids.
- North Carolina, "37 percent of all preventable deaths are attributed to tobacco. Each smoker represents approximately \$1,623 in excess medical expenditures. By making nicotine replacement therapy patches free and counseling, the State Health Plan anticipates improved member health and significant long-term savings for the plan and for taxpayers".
- North Dakota's Public Employees Retirement System recently received a grant to help state employees and their dependents age 18 and older quit smoking or chewing tobacco. The grant will help pay for participating in one or more than 20 approved smoking cessation programs. Most of these programs are available through public health departments across the state of North Dakota. This project is administered by Blue Cross Blue Shield of North Dakota. The program will pay 100 percent of your out-of-pocket expenses for your office visit and prescription over-the-counter medication up to \$500, for a total benefit of \$700. The program will end April 30, 2009. Program description.
- List of state statutes for Public Employee Wellness, 2006-2010 (updated 7/31/2010)**  
(Includes Illinois, Kentucky, Maine, Mississippi, North Carolina, Oklahoma, Texas and Washington)
- State Employee Health Benefits: Coverage for Weight Loss Interventions - 50 State Survey – published by George Washington University [Link added Feb. 2012]
- Alabama was the first state to seek to charge overweight state workers who don't work on slimming down. The State Employees' Insurance Board in August 2008 approved a plan to charge state workers starting in January 2010 if they don't have free health screenings. If the screenings turn up serious problems with blood pressure,

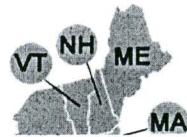
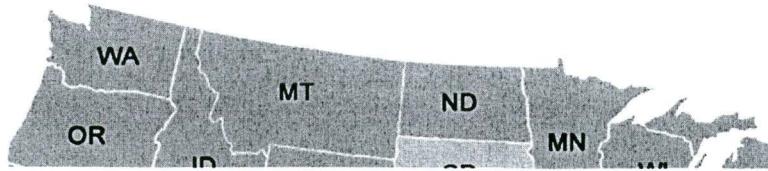
cholesterol, glucose or obesity, employees will have a year to see a doctor at no cost, enroll in a wellness program or take steps on their own to improve their health. If they show progress in a follow-up screening, they won't be charged. But if they don't, they must pay starting in January 2011. The State Employees' Insurance Board implementation plan also includes a discount for participation in Wellness Screenings, with a \$30 per month wellness premium discount off the single coverage provided the employee has submitted baseline readings for the following health risk factors: Blood pressure, Cholesterol, Glucose and Body mass index.

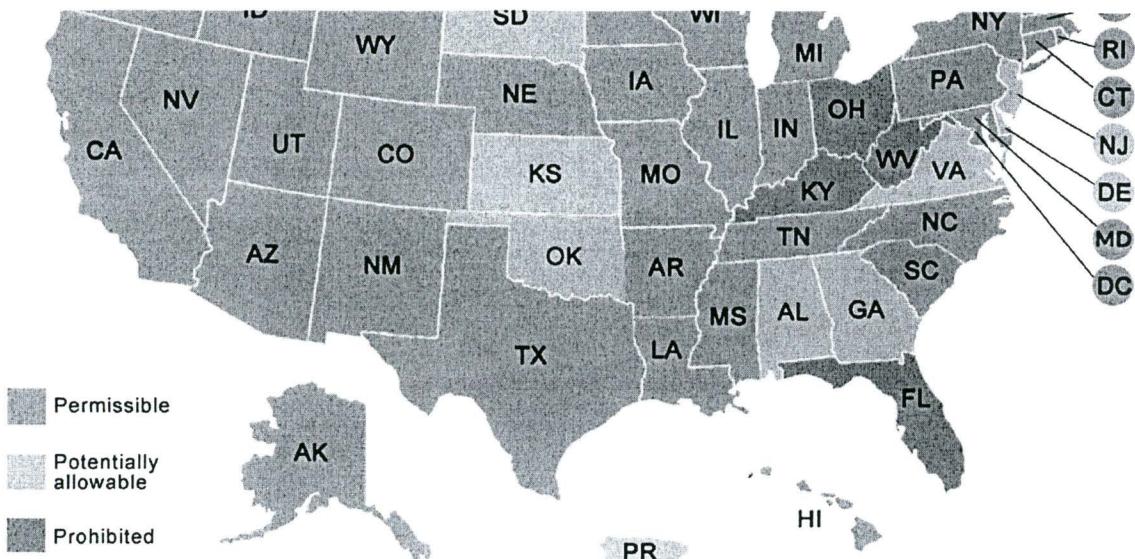
- **Arkansas** Incentives for Wellness. Arkansas provides health care benefits through plans offered to state and public school employees and their families, covering approximately 120,000 people. In this role, the state has financial interest in improving the health status of this population. In 2004, it began a long-term strategy to avoid preventable diseases and encourage healthy behaviors. It introduced Health Risk Assessments (HRA) to gauge member behaviors in five areas: smoking, alcohol consumption, seat belt usage, body mass index, and weekly physical activity. The state's strategy relies heavily on incentives for positive behaviors. Members who complete an HRA receive a \$10 monthly discount to their health insurance premium; those who are found to be at low risk receive an additional \$10 discount. In 2005, more than half of members completed the HRA. Arkansas has introduced enhanced tobacco cessation and obesity management (including nutrition counseling) benefits, and proposed a further expansion of coverage for clinically directed weight-loss programs and surgical obesity interventions. State employees who assist in management of their health risks are also eligible for three days of vacation, known as "health days." This is complementary to the state's effort, through the Healthy Arkansas initiative, to advance the idea of "worksites wellness." This effort promotes the notion that because adults spend most of their waking lives at work, work environments should promote healthy choices and healthy behaviors. Arkansas also has an expanded Healthy Lifestyle program, whereby state employees can earn up to three days per year for participating in a voluntary program that focuses on increasing physical activity, increasing consumption of fruits and vegetables and decreasing or eliminating the use of tobacco products. See savings examples in the 2009 premium rate chart.  
Arkansas Wellness Benefits (updated Sept 2009). [Sources: Arkansas Governor's Office SHAPES survey response, presentation by Rhonda Jaster, presentation by Joseph Thompson.]
- **Connecticut:** State Plan Offers Employees Incentives To Access Needed Services and Health Enhancement Activities, Leading to High Participation, More Appropriate Utilization, and Slower Cost Growth. Read the full report January 2014. by AHRQ.
- **Delaware** officially launched DelaWELL on April 1, 2007, as a comprehensive wellness program for state employees. This statewide initiative is available free to all full-time State employees, school district, charter school and higher education employees and pre-65 retirees currently enrolled in group health insurance programs. The program assesses employee health risks and provide confidential, personalized feedback, and coaching interventional strategies that target lifestyle topics such as back care, blood pressure management, exercise, nutrition, and stress management through various modes of communication and health-related events.  
> Starting Oct. 1, 2010, eligible members earn **Wellness Credits** for participating in program activities; credits can translate into DelaWELL Rewards of \$100-\$200.
- **Indiana:** The state personnel health plan has a cutting edge "Upgrade your health plan" that lowers premiums for documented healthy actions. For 2014-15 they describe it this way: "To qualify for the Wellness CDHP plan, employees currently enrolled in state medical benefits qualify for the Wellness CDHP plan by completing three easy steps before Aug. 31, 2014. These steps help you to take control of your health and improve your overall well-being. By upgrading your health, you have the opportunity to upgrade your plan." [Updated 6/2014]
- **Kansas**, in September 2007, launched a program so that state workers will be able to volunteer for personal health-risk assessments.
- **Minnesota** highlights various health improvement services offered through the Minnesota Advantage Health Fund for insurance-eligible state employees and their covered family members. An online wellness chart provides details for 2010. [6/10]
- **Massachusetts:** For 2014 most active state employees have an opportunity to improve their health with the G pilot WellMASS program; it "provides helpful tools to improve participant's health and wellbeing including Health Assessments, Online Resources and Health Coaching for eligible participants." [Updated 6/2014]
- **Mississippi:** 2010 "Healthy You!" Health/Wellness Initiative, administered by BC/BS of Mississippi.

- **Missouri** has incentive rates for employees, saving up to \$25 /mo, who take the PHA and participate in Lifesty Ladder or Smart Steps® to be eligible for the incentive rate.
- **Montana** announced Wellness Programs including, new for 2007, all State employees and their adult dependents have access to free health coaching, intended to "help individuals make permanent changes in their lives." The wellness program also offers options such as health screenings, spring fitness, and lunch and learn programs, which are designed to maintain and promote healthy lifestyles for members. New features for 2010.
- **New Hampshire's** wellness program includes a risk assessment, run by Anthem. (2008)
- **North Carolina** - explanation of 2016 Wellness Premium Credits (2015) \*NEW\*
- **North Dakota** wellness services are included in the state BC/BS managed plan.
- **Ohio:** The Healthy Ohioans initiative, which includes wellness activities and resources, is sponsored by the State Employee Health and Fitness Task force. The task force was charged with: (1) developing guidelines for state agency health and fitness programs; (2) identifying tools to annually measure the effectiveness of such programs; (3) identifying models for on-site wellness programs; and (4) identifying community partnerships or resources that might be utilized to further wellness programming for state employees. For 2010 Ohio's "Take Charge! Live Well!" program can earn employees a \$25-\$200 incentive payment.
- **Oklahoma** in 2006 launched "OK Health wellness program," providing "All active state employees the opportunity to participate in the state's wellness mentoring program offered by the Employees Benefits Council State Wellness Program. The goal of OK Health is to give you the right tools to help you feel better and improve your health." Enrollment in the OK Health Program, involves completing an online health risk assessment (HRA). An OK Health representative will call and arrange an initial visit with your Primary Care Physician for some basic measurements and labs. They say, "As a program participant, the initial cost to visit your physician and receive care (specific to OK Health) will be waived by your health care provider. Following your initial PCP visit, you will receive your first orientation call from a professional health mentor."
- **South Dakota:** For 2010, members who attend a free Health Screening will receive a \$50 non-tax Health Screening incentive.
- **Utah** Public Employee Health Plan Wellness Works is an interactive PEHP Wellness Works website for diet, nutrition, and fitness support exclusively for PEHP members. For 2011, it offers an array of customizable tools and wellness information. PEHP Waist Aweigh is for PEHP members with a BMI of 30 or higher. It provides support, education, and financial incentives. Healthy Utah is a free program for eligible PEHP members and their spouses. It offers a variety of programs, services, and resources to help you get and stay well. Among its many tools and services is a rebate program that offers cash rewards for good health and health improvements. Enrolled employees may submit results to Healthy Utah and receive rebates for making the health improvements in the following areas: BMI Improvement (\$50 each drop of 5 BMI points); Blood Pressure Improvement (\$50); Diabetes Management (\$300); Lipid Improvement (\$50); Tobacco Cessation Program (\$100).
- **Virginia:** (2007-08): Routine wellness care is covered for children through age 6 and for children and adults age 6 and over. There is no deductible, copayment or coinsurance for the member to pay before the plan pays for routine wellness coverage. Routine well child care through age 6 covers at no cost office visits at specified intervals, immunizations, routine lab tests and x-rays at facilities and doctors' offices. Routine well adult care age 7 and over includes a routine annual wellness check-up at no cost, as well as routine lab tests, immunizations and x-rays at facilities and doctors' offices. Preventive care benefits include for specified ages at no cost an annual gynecological exam or prostate exam, and the following services once per calendar year: a Pap test, mammography screening, prostate specific antigen (PSA) test and colorectal cancer screening.
- **Washington:** Washington Wellness, 4 Steps to Better Health, 2010
  - Wellness Initiative, 2006: King County, which comprises the greater Seattle area and is the 12th largest county in the nation, is projecting a reduction in rising healthcare costs by as much as \$40 million over the 2007-2009 period due to wellness initiatives. (10/17/06; link update 6/10)
- **West Virginia** created the Pathways to Wellness program by law (W. Va. Code § 5-16-8). It requires the Public Employee Insurance Plan to provide wellness programs and activities which include benefit plan incentives to discourage tobacco, alcohol and chemical abuse and an educational program to encourage proper diet and exercise.

- **Arkansas:** (2004) For teachers, first-year open enrollment in 2004 results were reported as "disappointing."
- **Florida:** (2005) The state contributed \$500 for an individual, \$1,000 for a family account and paired that with a \$1,250 (individual) \$2,500 (family) deductible plan.
- **Georgia** offers a health reimbursement account (HRA) plan and a high deductible health plan (HDHP) that are very similar in design to the PPO with higher employee costs through deductibles, co-pays, and co-insurance. Public employees hired after January 1, 2009 in Georgia are **only** given the option of enrolling in the HRA/HDI plans.
- **Indiana:** (2007) The state offered two HDHP/HSA choices. Plan 1 has a \$2,000 individual/\$5,000 family deductible; the state's annual contribution includes up to \$1,375 for single or \$2,750 annually for family to the I for active employees; the out-of-pocket annual maximum is \$8,000. Plan 2 has a \$3,400 family deductible.
- **Kansas:** (2006) added an HSA/HDHP choice with a \$1,500/\$3,000 deductible if network providers are used a \$2,000/\$4,000 deductible if non network providers are used. [KS HSA plan]
- **Nebraska:** (2007) offered a PPO Consumer Driven Health Plan. The CDHP has a \$1,000 per calendar year deductible for in-network expenses with a \$2,000 per calendar year maximum out of pocket. In addition, the ne CDHP implements a four-tier formulary prescription plan with higher co-pays and/or co-insurance.
- **Pennsylvania:** (2009) Offered a United HealthCare CDHP option as of 2006. In 2009 it features 100 percent coverage for preventive care services (PEBTF members have up to \$500 maximum for single members/\$1,00 family per year).
- **South Carolina:** (2004) The plan conducts state employee open enrollment at the end of each October.
- **South Dakota** offered a \$2000 deductible HSA-compatible plan for 2007; employees selecting this options rec \$300 per plan year in Flex Credits in a Medical Expense Spending Account. An offered \$1000 deductible plan not HSA compatible.
- **Utah:** (2006) HB 76 **requires** a High Deductible Health Plan and HSA option for Public Employees Benefit and Insurance Program (PEHP).
- **Virginia:** For benefit years 2007-10, the state paid 100 percent of the premium cost for a high-deductible health plan (individual or family), with other plans requiring modest employee contribution (HDHP is \$40/mo less expensive than the full HMO option for an individual, as of 7/09.)
- **Wyoming:** (2006) implemented a federally-qualified high deductible health plan. Employees may select a stat HSA vendor or their own. HSA contributions are 100% from employees.
- **Oregon's Experience With Value-Based Insurance Design:** In 2010 two Oregon public employee benefit bc adopted a value-based insurance design system that is showing results, writes Joan Kapowich, who administe Oregon's Public Employees' Benefit Board and Educators Benefit Board. This article presents lessons learned from offering value-based tier benefit plans for 128,000 state and university employees and dependents and 155,000 public education employees and dependents. The plans increased copayments for overused or preference-sensitive services of low relative value and they covered preventive and high-value services at low no cost. Kapowich says one lesson is that many purchasers will choose the path of least resistance and increas traditional cost sharing, rather than add copay disincentives to their value-based benefit programs, to avoid employee pushback. Source: Health Affairs November 2010.
- The idea of "value driven purchasing" through pooled negotiation, common contracts and purchases is often discussed but less commonly implemented. Four states have initiated or joined such efforts, and now have ha reports written and published through the Commonwealth Fund in 2006 and 2007.
  - In California, CalPERS offers lower health premiums in 2009 if members enroll in one of the "newer plan options – Blue Shield of California NetValue (HMO) and PERS Select (PPO). These "high performance network" plans provide the same level of benefits and quality of care as Blue Shield Access+ HMO and PERS Choice, respectively. The difference is that enrollees pay a lower premium in exchange for choosin from a smaller panel of physicians. A CA example" "To illustrate the value of a high performance network plan, let's use the example of a State member who currently has health coverage for herself and her fami (husband, 4-year old child, and a baby on the way) through Blue Shield. If this member transfers from the standard Blue Shield Access+ HMO family plan to Blue Shield NetValue, she would save more than \$1,80 premiums in 2009. She could use this savings to pay for additional health care services for her family, suc co-payments for 20 office visits for non-preventive care, 20 retail generic drug prescriptions, 20 retail bran

- prescriptions, 4 mail-order brand prescriptions, 4 mail-order nonformulary prescriptions, 12 urgent care visits and 4 emergency room visits (without being admitted) – and still keep an extra \$348 in her pocket.
- The Massachusetts Group Insurance Commission (GIC), a state entity that provides and administers health insurance and other benefits to the commonwealth's employees, retirees, and their dependents and survivors, is trying to improve provider performance through "tiering." GIC assigns its health plan member a particular tier, based on quality and efficiency, and requires these plans to offer their members different levels of cost sharing, depending on which tier their chosen hospital or provider is designated 8/07.
  - The Minnesota Smart Buy Alliance is a group of public and private health care purchasers, including the state agencies overseeing Medicaid and public employee health benefits, along with coalitions of business and labor unions. The alliance is developing common value-driven principles, and its members are sharing VBP strategies. 8/07
  - Washington State's Puget Sound Health Alliance, a broad group of public and private health care purchasers, providers, payers (health plans), and consumers, is working to develop public performance reports on health care providers and evidence-based clinical guidelines.
  - The Wisconsin Department of Employee Trust Funds (ETF), the state agency that administers health benefits for state and local government employees, is pursuing value through a variety of purchasing strategies. ETF is also becoming involved in public-private collaboratives such as a statewide health data repository. ETF is the largest employer purchaser in the state, covering more than 250,000 active state and local employees and 115,000 retirees and their dependents.\*\* The state also has a "high performance tier network structure - see description under Wisconsin, below.
- **Cities, towns and counties.** Permitted in **AL, CA, HI, IL, LA, ME, MD, MA, MO, NJ, ND, NM, NY, OK, SC, TN, UT, VA, WA, WV and WI.**
- \* California's CalPERS agency provides the largest combined health program, serving 1.6 million members; as of June 2009, 30% of their enrollees were state employees, 38% were school employees and 32% were local public agency employees. [CA report.]
- \* Massachusetts in 2008 expanded eligibility to all cities and towns.
- \* New Jersey includes 31% public school employees, 18% cities and towns and 15% universities and colleges.
- \* In North Carolina, the program has 58% public school employees and 11% universities and colleges.
- \* Washington enrollment includes 40% universities and colleges, 2% public schools and 3% cities and towns.
- **Universities and colleges.** Permitted in at least 16 states: **CA, HI, IL, LA, MA, NV, NJ, NC, ND, OK, OR TX, MO, UT and WA.** 13 other states classify state college employees as state employees and do not list them separately.
- **Public Schools.** Permitted to be included in about 19 states including **AR, DE, FL, GA, HI, KY, LA, MS, MO, NJ, NY, NC, OK, SC, TN, UT, VA, WA and WV.** Actual practices vary considerably since no state directly runs public schools.
- Other local districts or units, such as fire districts, recreation districts. Local statistics are not available .
- There are several additional states that **prohibit discrimination** against public employees based on sexual orientation/gender identity. These states do not necessarily cover health care costs for a same-sex partner. 11 states are: **Indiana, Louisiana, Michigan and Virginia.** Some states with domestic partner benefits also prohibit discrimination, for example, Alaska, Arizona, Colorado and Pennsylvania.
- **State Retiree benefit programs** now extend retirement benefits to domestic partners in about a dozen states with descriptions of policies and debates in other states. See Domestic Partner Retirement Benefits: NCSL Survey of legislative staff (03/06)
  - **Expedited Partner Therapy (EPT)** - State Information - Legal status and barriers by state to providing medications to persons infected with certain STDs to be administered to their sexual partners. 38 states permit EPT; 8 states are classified as "potentially allowable" and four states prohibit EPT. The information applies generally, not just to public employees. (compiled by CDC, updated June 2015)
  - **Map of Expedited Partner Therapy, June 2015**





- **Illinois** - Contractor employees must be paid prevailing wages and benefits and work under "conditions prevail in the location where the work is to be performed." This applies to contracting in the areas of public works, prior janitorial services, window washing and security guard services. 44 Ill. Adm. Code 1.2560.
- **Massachusetts** - Contractors are required to provide their employees wages and benefits comparable to those paid to state employees performing similar services. The wages and benefits must be included in the bid and reported to the contracting agency on a quarterly basis. M.G.L.A. Ch. 7 Sec. 54.
- **California, Rhode Island and Washington** require prevailing rates or wages for state contractors, but do not specify health coverage in statute. The District of Columbia, Maryland and San Francisco, CA require paying living wage.
- **2011 Pension Legislation** - Pension plans have a major impact on state budget planning and lawmakers continue to address pension fund shortfalls. Read the details in our most recent summary of 2011 proposed legislation. Also check out this NCSL report that summarizes selected state pension and retirement legislation enacted from January to April 30 this year.
- **Illinois:** State ends free state retiree health care- More than 80,000 retired government employees will have to start paying for health insurance under legislation Gov. Pat Quinn signed Thursday, ending a major benefit the Illinois had promised to employees. Future state retirees will also have to pay under the legislation, part of a plan to curb state spending on retirement benefits. That applies to roughly 200,000 people who already took government jobs with the understanding that they would not pay insurance premiums after retirement. St. Louis Post-Dispatch/AP, June 22, 2012.
- **Connecticut:** Connecticut Coverage Mandate Bill Could Affect Employers with ERISA Plans - The Connecticut Retirement Security Board has taken another step forward with its implementation plan by introducing legislation creating the Connecticut Retirement Security Program. The mandatory provision was deleted in committee in March after receiving national attention. March 2016.
- **Illinois ends free state retiree health care-** St. Louis Post-Dispatch/AP, June 22, 2012
- **Texas's Employees Retirement System** has published a 2014 report to the Texas Legislature entitled "The Impact of Offering Alternative Health Insurance Options to State Employees Enrolled in the Texas Employees Group Benefits Program," noting that "many state employees in low-wage, high-stress, high-turnover jobs do not sign up for dependent coverage because they can't afford it." September 2014.  
Sustainability of the State of Texas Group Insurance Program: Report to the 82nd Texas Legislature - Employees Retirement System of Texas, September 2012
- **North Carolina:** Senate pushes to eliminate health retirement benefits for teachers and state employees - July 2015

- **Wisconsin:** Group Insurance Board Approves Exploring Self-Insurance - no change for 2017 but plans for 2018  
*Agency bulletin 2016*
- **NASPE.** National Association of State Personnel Executives (NASPE), a non-profit organization, was established in 1977 to enhance communication and the exchange of information among personnel executives. NASPE is an affiliate organization of The Council of State Governments. Contact: Leslie Scott, director; (859) 244-8182; lscott@csg.org [links updated 2/2016]
- Transforming Government from the Inside Out: report by the Alliance to Transform Government Operations - 2011
- National Association of State Retirement Administrators (NASRA) - online resources.
- 2010 Study of State Employee Health Benefits - Segal & Co. report, Winter 2011.
- Challenges and Current Practices in State Employee Healthcare - White paper presented by NASPE, July 2011
- Value-Based Purchasing and Consumer Engagement Strategies in State Employee Health Plans: A Purchase Guide -published by Academy Health, April 22, 2010
- "What Public Employee Health Plans Can Do to Improve Health Care Quality: Examples from the States" is a report designed to help state and public employee health plans and other large purchasers make strategic decisions about developing or coordinating quality improvement initiatives. NCSL provided advice to this survey published by The Commonwealth Fund. 2/4/08.
- NCSL Legislative Summit 2009, Philadelphia Pa. Panel on "Innovations in Health Insurance: State Employee Programs" Presenters: Mary Habel, Director - Office of Health Benefits VA Dept. of Human Resource Management; Richard Johnson, Senior Vice President, Public Sector Health Practice Leader, Segal, Washington D.C.
- State Employee Health In the News: 2009 Proposals; Changes - New NCSL Report with links to state articles. Sept. 2009.
- "The Other Benefits Mess" - A new regulation forces government retirement plans to reveal the cost of their health benefit promises for the first time. (Kiplinger Benefits Magazine, 9/07)
- High Noon In The Accounting Department: States Confront GASB 45- NCSL State Health Notes, 9/17/07
- Health Care Purchasing Among State Employers by National Health Care Purchasing Institute. In this report, James Maxwell at JSI Research Inc. chronicles major challenges for state employers, such as premium, drug, retiree costs, and describe strategies for keeping down costs.
- 2009 Study of State Employee Health Benefits, SEGAL. - up-to-date comparison of state health insurance plans
  - 2009 and 2010 Rx Coverage Copayments
  - Regional Data on Cost Sharing
- Archive footnotes: 3- Workplace Economics "2006 State Employee Benefits Survey" published 4/24/06. This comprehensive annual survey of state features and premiums provides an excellent statistical baseline for 14 categories of benefits including health, dental and vision, life, travel and retirement. [WorkPlace Economics no longer lists items for sale; their web site is no longer operational as of 3/08].
- Actions and trends by state employee programs for January 2011 plan years, by Milliman.
- Wisconsin Just the Start in Public Union Fight - FY2012 budget would bar collective bargaining for health benefits, increase employee shares. -NY Times February 19, 2011
- Public Pension Plans: The Facts - NCSL, along with other state and local governmental organizations, has released a fact sheet on state and local government pensions. February, 2011

## NCSL Member Toolbox

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- Get Involved With NCSL
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April 21, 2017

HB1023

Attachment B

17.0508.02010

Title.

Prepared by the Legislative Council staff for  
Representative Vigesaa  
April 20, 2017

## PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1023

That the Senate recede from its amendments as printed on pages 1579-1581 of the House Journal and pages 1293-1296 of the Senate Journal and that Engrossed House Bill No. 1023 be amended as follows:

Page 1, line 3, remove "amend and reenact subdivision j of subsection 2"

Page 1, replace lines 4 through 23 with "provide for self-insurance for the public employee health benefits coverage; to provide for a study; to create and enact sections 54-35-02.9 and 54-35-02.10 and a new subsection to section 54-52-04 of the North Dakota Century Code, relating to the public employee health care coverage committee and the authority of the retirement board; to amend and reenact sections 54-35-02.3, 54-35-02.4, and 54-52.1-08.2, relating to the employee benefits programs committee"

Remove pages 3 through 109

Page 110, remove lines 1 through 13

Page 110, after line 20, insert:

### **"SECTION 7. SELF-INSURANCE HEALTH PLANS - APPLICATION - STATEMENT OF LEGISLATIVE INTENT."**

1. The retirement board shall establish a self-insurance plan for hospital, medical, and prescription drug benefits coverage under section 54-52.1-04.2, except for benefits for retirees and for Medicare part D. The self-insurance plan becomes effective July 1, 2019, is effective for a term of two years, is subject to renewal and rebidding as provided under section 54-52.1-04.2, and except as otherwise provided by the sixty-sixth legislative assembly must include the same plan design and benefits as the coverage in effect on July 1, 2017.
2. A uniform group insurance program contract for hospital, medical, and prescription drug benefits coverage in effect for the period July 1, 2017, through June 30, 2019, terminates on June 30, 2019, after which the self-insurance plan under subsection 1 becomes effective.
3. Notwithstanding any law to the contrary, it is the intent of the sixty-fifth legislative assembly that the uniform group insurance program contract for hospital, medical, and prescription drug benefits coverage entered by the retirement board which becomes effective July 1, 2017, is not subject to renewal for an additional two-year term.

### **SECTION 8. PUBLIC EMPLOYEE HEALTH CARE COVERAGE COMMITTEE**

**STUDY.** During the 2017-18 interim, the public employee health care coverage committee shall study the powers and duties of the retirement board, including the board's fiduciary duties; the administrative structure of the public employees retirement system, including the feasibility and desirability of changing this structure; and the feasibility and desirability of changing the contract bidding process to every two years. The committee shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the legislative management,

and the legislative management shall report the findings and recommendations to the sixty-sixth legislative assembly.

**SECTION 9. AMENDMENT.** Section 54-35-02.3 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-02.3. Employee benefits programs committee - Appointment - Selection of chairman.**

~~The~~During each interim, the legislative management, during each biennium, shall appoint an employee benefits programs committee in the same manner as the legislative management appoints other interim committees. The legislative management shall appoint ~~to the committee~~ seven members of the house of representatives and six members of the senate ~~to the committee~~. The legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees.

**SECTION 10. AMENDMENT.** Section 54-35-02.4 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-02.4. Employee benefits programs committee - Powers and duties - Standing committees.**

1. ~~The~~During the interim between regular legislative sessions, the employee benefits programs committee shall consider:
  - a. Meet at the discretion of the chairman.
  - b. Receive reports from the public employees retirement system on the activities of the public employees retirement system, including the status of and any proposed changes to its retirement system plans and uniform group insurance plans.
  - c. Consider and report on those legislative measures and proposals sponsored by the executive branch, judicial branch, and legislative management over which it takes the committee exercises jurisdiction and which affect, actuarially or otherwise, the retirement programs of state employees or employees of any political subdivision, and health and retiree health plans of state employees or employees of any political subdivision and the uniform group insurance program. The committee shall make a thorough review of any measure or a proposal over which it takes under its the committee exercises jurisdiction, including an actuarial review. The committee shall take
  - d. Exercise jurisdiction over any measure or a legislative proposal that authorizes an automatic increase or other change in benefits beyond the ensuing biennium which would not require legislative approval. The committee ~~must~~shall include in the report of the committee a statement that the proposal would allow future changes without legislative involvement. The committee shall report its
  - e. Report the committee's findings and recommendations, along with any necessary legislation, to the legislative management and to the legislative assembly.

2. To carry out its responsibilities, the committee, or its designee, may:
  - a. Enter contracts, including retainer agreements, with an actuary or actuarial firm for expert assistance and consultation. Each retirement, insurance, or retiree insurance program shall pay, from its retirement, insurance, or retiree health benefits fund, as appropriate, and without the need for a prior appropriation, the cost of any actuarial report required by the committee or a standing committee as provided under subsection 6 which relates to that program.
  - b. Call on personnel from state agencies or political subdivisions to furnish such information and render such assistance as the committee may from time to time request.
  - c. Establish rules for ~~its~~ operation of the committee, including the submission and review of proposals and the establishing of standards for actuarial review.
3. ~~The~~During the interim between regular legislative sessions, the committee may solicit draft measures ~~and~~legislative proposals from interested persons ~~During the interim between legislative sessions~~the executive branch, judicial branch, and legislative management, and may also study measures and proposals referred to ~~it~~the committee by the legislative assembly or the legislative management.
4. ~~A copy of the committee's report concerning any legislative measure shall, if that measure~~If a legislative proposal over which the committee exercised jurisdiction under subsection 1 is introduced for consideration by a legislative assembly, ~~a copy of the related committee report must be appended to the copy of that measure~~ which is referred to a standing committee.
5. A legislative ~~measure~~proposal affecting a public employees retirement program, ~~public employees health insurance program, or public employee retiree health insurance program or uniform group insurance program~~ may not be ~~introduced~~submitted by the executive branch, judicial branch, or legislative management for introduction in either house unless ~~it~~the proposal is accompanied by a report from the committee. A majority of the members of the committee, acting through the chairman, has sole authority to determine whether ~~any~~a legislative ~~measure~~proposal affects a program.
6. ~~Any~~During a legislative session, if a standing committee takes action on a legislative measure sponsored by a legislator or recommends an amendment made during a legislative session to a legislative measure affecting ~~which would affect~~ a public employees retirement program, ~~public employees health insurance program, or public employee retiree health insurance or uniform group insurance program~~ may not be considered by a standing committee unless it is accompanied by a report from the employee benefits programs committee, ~~the standing committee shall consider the impact, actuarially or otherwise, of the amendment or measure and may request the affected program provide an analysis of the impact of the amendment. If an affected program provides an analysis under this subsection, the affected program may pay for the analysis in the same manner as provided under subdivision a of subsection 2.~~

7. Any legislation enacted in contravention of this section is invalid and of no force and effect, and any benefits provided under such legislation must be reduced to the level current prior to enactment As used in this section, the term "uniform group insurance plan" does not include a uniform group insurance plan for hospital, medical, or prescription drug benefits coverage for eligible employees who are not retirees which is provided under section 54-52.1-02. The scope of the subject matter over which this committee has jurisdiction does not include legislative proposals or measures over which the public employee health care coverage committee has jurisdiction under section 54-35-02.10.

**SECTION 11.** Section 54-35-02.9 of the North Dakota Century Code is created and enacted as follows:

**54-35-02.9. Public employee health care coverage committee - Appointment.**

1. During each interim, the public employee health care coverage committee must be appointed as follows:
  - a. Three members of the senate appointed by the majority leader of the senate;
  - b. Two members of the senate appointed by the minority leader of the senate;
  - c. Four members of the house of representatives appointed by the majority leader of the house of representatives;
  - d. Two members of the house of representatives appointed by the minority leader of the house of representatives; and
  - e. No more than four nonvoting members appointed by the governor.
2. The legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees. However, a committee member appointed by the governor is not entitled to per diem and is entitled to mileage and expenses as provided by law for state officers and employees which is to be paid by the governor or by the employing agency if that member is an employee of the state.
3. The committee shall meet at least quarterly during the interim between regular legislative sessions.

**SECTION 12.** Section 54-35-02.10 of the North Dakota Century Code is created and enacted as follows:

**54-35-02.10. Public employee health care coverage committee - Powers and duties - Standing committees - Legislative management.**

1. During the interim between regular legislative sessions, the public employee health care coverage committee shall:

- a. Receive quarterly reports from the public employees retirement system on the activities of the retirement board and the public employees retirement system relating to the health care coverage, including the status of and any implemented or proposed changes to the health care coverage. The quarterly report must include status reports on contracts and contract negotiations relating to the health care coverage.
  - b. Monitor the health care coverage, which may include receipt of utilization data, wellness initiative reports, and customer satisfaction surveys.
  - c. Investigate the feasibility and desirability of making changes to the health care coverage and related contracts for future bienniums and prepare and recommend legislation to pursue any recommended changes.
  - d. Receive reports regarding the impact of federal law on the health care coverage and the impact federal law may have on any proposed changes to the health care coverage.
  - e. Before each regular legislative session, receive from the public employees retirement system the executive budget proposals relating to the health care coverage for the upcoming biennium.
  - f. Consider and report on legislative proposals sponsored by the executive branch, judicial branch, and legislative management over which the committee exercises jurisdiction under subsection 2.
  - g. Conduct studies as directed by the legislative assembly or the legislative management.
  - h. Report to the legislative management the committee's findings and recommendations, along with any legislation necessary to implement the committee's recommendations. During the interim, the committee may make multiple reports to the legislative management.
2. During the interim between regular legislative sessions, the committee may solicit draft legislative proposals from the executive branch, judicial branch, and legislative management. A legislative measure affecting the health care coverage may not be submitted by the executive branch, judicial branch, or legislative management for introduction in either house unless the measure is accompanied by a report from the committee. A majority of the members of the committee, acting through the chairman, has sole authority to determine whether a legislative proposal affects the health care coverage.
  - a. If the committee determines a legislative proposal affects the health care coverage, either actuarially or otherwise, the committee shall exercise jurisdiction and conduct a thorough review of the proposal and shall prepare a report with the committee's recommendation regarding the legislative proposal. The review may include an actuarial report or other report of a third party.
  - b. If a legislative proposal over which the committee exercises jurisdiction under this subsection is introduced for consideration by the legislative assembly, a copy of the related committee report must be

appended to the copy of that measure which is referred to a standing committee.

3. To carry out the committee's responsibilities, the committee may:
  - a. Through the legislative management, enter a contract with an actuary or actuarial firm or other expert for expert assistance and consultation. The committee shall notify the public employees retirement system of a contract entered under this subsection and, without need for a prior appropriation, the public employees retirement system shall pay the cost of the third-party assistance provided under the contract.
  - b. Direct the public employees retirement system to provide the committee with an actuarial report or other analysis. Without the need for a prior appropriation, the public employees retirement system shall pay the cost of the report or analysis.
  - c. Call on personnel from state agencies or political subdivisions to furnish the information and render the assistance the committee may from time to time request.
  - d. Establish rules for operation of the committee, including the submission and review of legislative proposals and the establishing of standards for actuarial review.
4. During a legislative session, if a standing committee takes action on a legislative measure sponsored by a legislator or recommends an amendment to a legislative measure which would affect the health care coverage, the standing committee shall consider the impact, actuarily or otherwise, of the amendment or measure and may request the public employees retirement system provide an actuarial report or other analysis of the impact of the measure or amendments. If the public employees retirement system provides an analysis or other report under this subsection, the public employees retirement system may pay for the analysis or other report in the same manner as provided under subdivision b of subsection 3.
5. Upon receipt of findings and recommendations of the committee, the legislative management may make recommendations to the retirement board and the public employees retirement system.
6. As used in this section, the term "health care coverage" means a uniform group insurance plan for hospital, medical, or prescription drug benefits coverage for an eligible employee which is provided under section 54-52.1-02. The term does not include coverage for retirees.

**SECTION 13.** A new subsection to section 54-52-04 of the North Dakota Century Code is created and enacted as follows:

The board shall establish policies and implement procedures to make and collect payments in the most cost-effective manner, including the use of electronic transfer of funds.

**SECTION 14. AMENDMENT.** Section 54-52.1-08.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-08.2. Uniform group insurance program - Compliance with federal requirements - Group purchasing arrangements.**

If the board determines that ~~any~~ section or the phraseology of ~~any~~ section of this chapter does not comply with applicable federal statutes or rules, the board shall adopt appropriate terminology with respect to that section to comply with the federal statutes or rules, subject to the approval of the legislative management's employee benefits programs committee. If the board seeks the approval of the employee benefits programs committee under this section, the board shall notify the public employee health care coverage committee. The board may assume responsibility for group purchasing arrangements as provided by federal law. ~~Any~~A plan ~~modifications~~modification made by the board under this section ~~are~~is effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules."

Renumber accordingly

April 21, 2017

HB1023

Attachment c

**Vigesaa, Donald W.**

**From:** Johnson, Michael C.  
**Sent:** Tuesday, April 18, 2017 7:48 AM  
**To:** Vigesaa, Donald W.  
**Subject:** Information Request - State Employee Health Insurance Premiums

Rep. Vigesaa,

This email is regarding your request to receive information relating to the cost of health insurance premiums for state employees for the past 4 bienniums. The schedule below provides information on the amounts appropriated for the cost of health insurance premiums for state employees for the 2009-11 biennium through the 2017-19 executive recommendation. The amounts shown prior to the 2017-19 biennium do not include funding for health insurance premiums for higher education since funding for higher education was provided as a "block grant" and funding for health insurance premiums was not separately identified.

Biennium	General Fund	Special Funds	Total
2009-11	\$78,143,808	\$99,418,656	\$177,562,464 <sup>1</sup>
2011-13	\$104,425,224	\$87,205,344	\$191,630,568 <sup>1</sup>
2013-15	\$114,900,288	\$100,172,136	\$215,072,424 <sup>1</sup>
2015-17	\$151,254,239	\$108,938,895	\$260,193,134 <sup>1</sup>
2017-19 Executive Recommendation	\$219,245,730	\$258,031,818	\$477,277,548 <sup>2</sup>

<sup>1</sup>The 2009-11 through 2015-17 bienniums do not include the cost of health insurance premiums for Higher Education. For these bienniums, Higher Education received "block grant" funding for various expenses.

<sup>2</sup>The 2017-19 executive recommendation includes the cost of health insurance premiums for Higher Education.

Please let us know if you have any questions.

Thank you.

Michael C. Johnson  
North Dakota Legislative Council  
600 E BLVD AVE  
BISMARCK, ND 58505  
(701) 328-2916  
[michaelcjohnson@nd.gov](mailto:michaelcjohnson@nd.gov)

April 21, 2017

HB1023

Attachment D

## PERS Health Plan

### Summary:

The cost increase to maintain the existing plan of benefits is 17.4%. The executive budget proposes:

1. To fund an increase in employer premiums of \$119.25 per month per contract which is a 10.55% increase for two years which would be about 5.3% per year
2. To change the plan design by increasing member out of pocket expenses which reduces plan costs by \$49.61 per contract per month and reduces the over all increase by 4.4%
3. To use PERS Health Insurance Reserves to pay the remaining cost of the premium which is \$27.31 per contract per month which is equal to approximately 2.45% of premium costs

### Estimated Existing PERS Health Reserves:

The estimated balance of the existing PERS health reserves is \$35 million. This takes into consideration the following assumptions:

1. Nothing is being retained in-house to cover any ACA fee settlement with Sanford Health Plan, in the event the actual ACA fees are greater than what was projected.
2. The \$35 million estimated balance includes the \$3 million risk deposit currently held at BCBS. We are expecting that the full \$3 million will be returned to PERS in July 2017 when the contract with BCBS is closed out, however, it should be noted that this amount is still at risk until June 30, 2017.
3. The \$35 million estimated balance does not include \$2.5 million of life insurance reserves.

### Executive Budget Plan Design:

Plan design changes	Approximate Potential % savings or (loss)	Effect on Grandfathered status
1. Change Deductible from \$400 to \$500	.6%	None
2. Increase the single co-insurance maximum for the PPO plan from \$750 to \$1,000 and for the basic plan from \$1,250 to \$1,500. Increase the family co-insurance max from \$1,500 for the PPO plan to \$2,000 and for the Basic plan from \$2,500 to \$3,000	1.8%	None

3. Increase office call co-payment for the single PPO plan from \$25 to \$30 and for the basic plan from \$30 to \$35. Increase the Emergency room co-payment from \$50 to \$60.	.9%	None
4. Increase the co-payment for generic Rx from \$5 to \$10 Increase the co-payment for Brand Rx from \$20 to \$25 Increase the co-payment for Non-formulary Rx from \$25 to \$30	1.1%	None
<b>TOTAL</b>	<b>4.4%</b>	

### **Executive Budget Buydown of State Premiums:**

The Executive Budget proposes to buydown state premiums by 2.45% by using PERS health insurance reserves. This amounts to \$27.31 per month for each state contract.

$\$27.31 \times 15,938 \text{ (budgeted state FTE)} \times 24 \text{ months} = \$10,446,403$  (estimated state buydown of premiums from PERS health reserves)

### **Effect on other Plan Members (non state):**

To maintain equity with other PERS plan members, if the state uses PERS reserves to buydown premiums, then the same amount should be used to offset other member's premiums. This results in the following estimated buydown for other PERS plan members.

**\$4.4 million Political Subdivision Buydown**

**\$3.1 million Retiree Buydown**

### **Projected Reserves if Executive Budget Recommendation accepted for state employees and other plan members:**

Estimated Health Reserve Balance	\$35.0 million
Less Premium Buydown for 17-19 biennium	(18.0) million
Remaining Balance	\$17.0 million

April 21, 2017

HB1023

Attachment E

## Vigesaa, Donald W.

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**From:** Clark, Jennifer S.  
**Sent:** Thursday, April 20, 2017 6:38 PM  
**To:** Vigesaa, Donald W.  
**Subject:** HB 1023 - Amendment Summary (17.0508.02010)

Representative Vigesaa-

Per your request, the following is a summary of the amendments to HB 1023 (17.0508.02010):

- (SECTION 7) - Directs PERS to establish a self-insurance plan for health benefits coverage which will be effective July 1, 2019, through June 30, 2021. This new plan would need to include (but would not be limited to) the same coverage as will be provided under the PERS plan on July 1, 2017. Sanford is able to renew its contract with PERS for 2017-19, but the Sanford fully insured contract is not eligible for renewal for 2019-21.
- (SECTIONS 9 and 10) – Revises the duties of the Employee Benefits Programs Committee by limiting the committee's activities to the interim between regular legislative sessions; by limiting the scope of the committee's activities to PERS retirement and uniform group insurance plans other than the PERS health care coverage for active employees; and by limiting the committee's jurisdiction to reviewing proposed legislation to reviewing prefiled legislation of the Executive and Judicial branches and of the Legislative Management (interim committee bills). During a legislative session the standing committees fill the need of having actuarial reports and studies of bills and amendments.
- (SECTIONS 11 and 12) – Creates a new statutory committee (Public Employee Health Care Coverage Committee) that will be similar to the Employee Benefits Programs Committee, except this committee's jurisdiction will be limited to PERS health care coverage for active employees. Like the Employee Benefits Programs Committee, this committee will limit its review of proposed legislation to prefiled bills and to the interim. Again, standing committees will be responsible for conducting reviews during legislative sessions. This committee will be charged with actively following the activities of PERS and the Retirement Board and periodically will make recommendations to the Legislative Management. The Legislative Management may forward these recommendations to PERS and the Retirement Board.
- (SECTION 8) – Directs this new Public Employee Health Care Coverage Committee to perform a study during the 2017-18 interim. This language is modeled on the Senate's amendments to HB 1023.
- (SECTIONS 13) – Pulls in language from the House's and Senate's amendments to HB 1023, directing PERS to be more cost effective with collecting and making payments, by using electronic transfer of funds.
- (SECTION 14) – Corrects a cross reference to reflect creation of the new Public Employee Health Care Coverage Committee.

Please let me know if you have any questions or concerns regarding the amendments-

Jenn

Jennifer Clark  
Counsel  
ND Legislative Council  
(701) 328-2916  
[jclark@nd.gov](mailto:jclark@nd.gov)

April 24, 2017

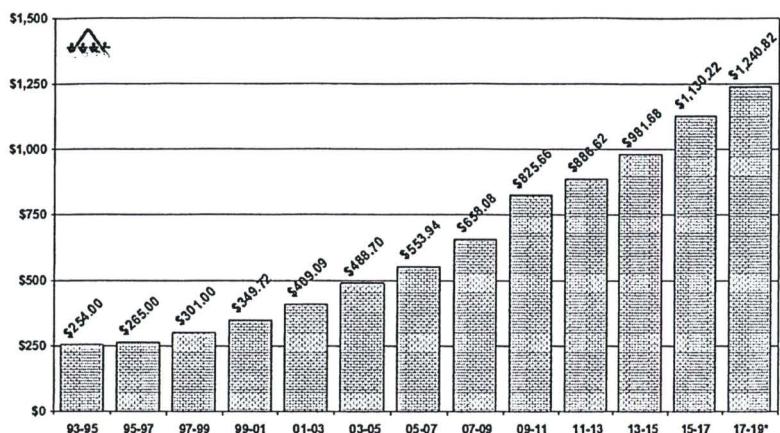
H131023

Attachment A

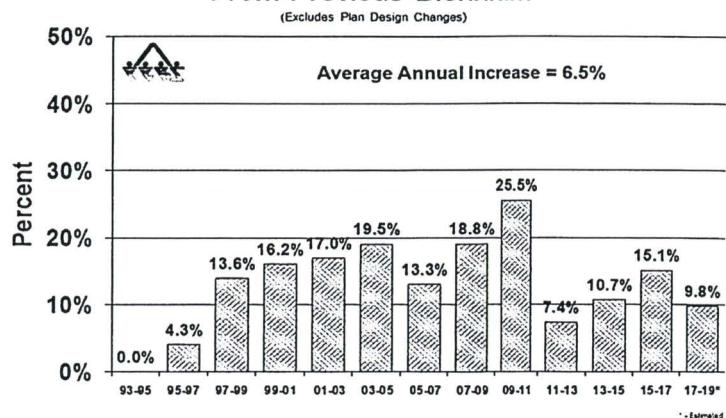
# PERS Health Plan Information

	Change from 15-17		Difference	
	Premium	dollar	percent	dollar
2015-17 State Premium	\$ 1,130.22			
Sanford 2017-19 Premium	\$ 1,326.38	\$196.16	17.4%	\$ 196.16
17-19 with plan design changes	\$ 1,268.14	\$137.92	12.2%	\$ (58.24)
17-19 with plan design changes & reserves used	\$ 1,240.82	\$110.60	9.8%	\$ (27.32)
				-2.4%

## Active State Billed Health Insurance Premium



## State Health Premium Percentage Increase From Previous Biennium



## NDPERS State Health Plan - Millions

	Biennium			Biennium			Biennium			Biennium			Biennium		
	2009-2011		Total	2011-2013		Total	2013-2015		Total	2015-2017**		Total	2017-2019***		Total
Hlth Rate/Mo			\$825.66			\$886.62			\$981.68			\$1,130.22			\$1,240.82
Paid Contracts			15,044			15,204			15,352			15,400			15,400
	General Fund*	Other Funds	Total	General Fund*	Other Funds	Total									
Premium Paid	\$137.1	\$161.0	\$298.1	\$148.8	\$174.7	\$323.5	\$166.4	\$195.3	\$361.7	\$192.1	\$225.6	\$417.7	\$211.0	\$247.6	\$458.6
Reserves	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$7.4	\$7.4	\$0.0	\$0.0	\$0.0	\$0.0	\$10.5	\$10.5
Total	\$137.1	\$161.0	\$298.1	\$148.8	\$174.7	\$323.5	\$166.4	\$202.7	\$369.1	\$192.1	\$225.6	\$417.7	\$211.0	\$258.1	\$469.1

\* - Assumes 46% of total paid funds

\*\* - Estimated paid contracts based on actual through March 2017

\*\*\* - Paid contracts estimated to be same as 15-17; Premium assumes plan design changes and buydown reserves

## 2017-2019 NDPERS Health Plan Plan Design Changes - State

Plan design changes	Cost Shift % point savings 2017-2019	\$'s monthly per contract cost shift	Annual cost shift for 15,886 State FTEs (millions)	Blennium cost shift for 15,886 State FTEs (millions)
1. Change Individual Deductible from \$400 to \$500.	.70%	\$7.92	\$1.5	\$3.0
2. Increase the single co-insurance maximum for the PPO plan from \$750 to \$1,000 and for the Basic plan from \$1,250 to \$1,500. Increase the family co-insurance maximum for the PPO plan from \$1,500 to \$2,000 and for the Basic plan from \$2,500 to \$3,000.	2.11%	\$23.86	\$4.5	\$9.0
Increase office call co-payments for the PPO from \$25 to \$30 and for the Basic plan from \$10 to \$15. Increase the Emergency room co-payment from \$50 to \$60.	1.05%	\$11.87	\$2.3	\$4.6
4. Increase the co-payment for generic Rx from \$5 to \$10 (May not need to go as high as \$10). Increase the co-payment for Brand Rx from \$20 to \$25. Increase the co-payment for Non-formulary Rx from \$25 to \$30.	1.29%	\$14.59	\$2.8	\$5.6
<b>TOTAL</b>	<b>5.15%</b>	<b>\$58.24</b>	<b>\$11.1</b>	<b>\$22.2</b>

## 2015-17 Estimated Plan Performance

Total Carrier Premium	\$623,174,390
Less: Adm/Fees	(45,676,425)
Less: Claims	(654,032,321)
Gain/(Loss)	(76,534,356)

April 25, 2017

HB1023

Attachment A

17.0508.02013

Title.

Prepared by the Legislative Council staff for  
Representative Vigesaa

April 24, 2017

## PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1023

That the Senate recede from its amendments as printed on pages 1579-1581 of the House Journal and pages 1293-1296 of the Senate Journal and that Engrossed House Bill No. 1023 be amended as follows:

Page 1, line 3, remove "amend and reenact subdivision j of subsection 2"

Page 1, remove lines 4 through 23

Page 1, line 24, replace "legislative intent" with "provide for solicitations of bids for the public employee health benefits coverage; to provide for a study; to create and enact sections 54-35-02.9 and 54-35-02.10 and a new subsection to section 54-52-04 of the North Dakota Century Code, relating to the public employee health care coverage committee and the authority of the retirement board; to amend and reenact sections 54-35-02.4 and 54-52.1-08.2, relating to the employee benefits programs committee; and to provide an expiration date"

Page 2, remove lines 27 through 31

Remove pages 3 through 109

Page 110, remove lines 1 through 13

Page 110, after line 20, insert:

### **"SECTION 6. PUBLIC EMPLOYEE HEALTH INSURANCE PLANS - SOLICITATION OF BIDS AND CONTRACTING.**

1. During the 2017-18 interim, in consultation with the public employee health care coverage committee and based on the recommendations of the legislative management, the retirement board shall design requests for proposals and shall solicit bids under section 54-52.1-04 for hospital, medical, and prescription drug benefits coverage for the active employee plan for the 2019-21 biennium. The board's primary bid must be for a self-insurance plan under section 54-52.1-04.2, and in accordance with section 54-52.1-04.2, the solicitation for bids must include a request for proposals for a fully insured plan or hybrid fully insured plan, or both.
2. Notwithstanding contrary provisions of law, in response to bids received under subsection 1, the board shall select the carrier or carriers and shall contract for the plan or plans that best serve the interests of the state and its eligible employees. In considering the interests of the state and its employees, the board's considerations must include consideration of flexibility of plan design, employee out-of-pocket costs, and premium. Except as otherwise provided by the sixty-sixth legislative assembly, the contract entered by the board under this subsection is effective for a term of two years and is subject to renewal and rebidding as provided under chapter 54-52.1.
3. A uniform group insurance program contract for hospital, medical, and prescription drug benefits coverage for active employees in effect for the

period July 1, 2017, through June 30, 2019, terminates on June 30, 2019, after which the plan entered under subsection 2 becomes effective.

Notwithstanding any law to the contrary, the uniform group insurance program contract for hospital, medical, and prescription drug benefits coverage for active employees entered by the retirement board which becomes effective July 1, 2017, is not subject to renewal for an additional two-year term for the 2019-21 biennium.

## **SECTION 7. PUBLIC EMPLOYEE HEALTH CARE COVERAGE COMMITTEE STUDY - REPORTS.**

1. During the 2017-18 interim, the public employee health care coverage committee shall study, review, and make recommendations regarding the terms of the retirement board's requests for proposals for hospital, medical, and prescription drug benefits coverage for active employees for the 2019-21 biennium as required under section 6 of this Act. In making recommendations, the committee shall consider the interests of the state and its eligible employees, including flexibility of plan design, employee out-of-pocket costs, and premium.
2. Before July 1, 2018, and then again before the end of the interim, the committee shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the legislative management, and the legislative management shall report the findings and recommendations to the retirement board, the public employees retirement system, and the sixty-sixth legislative assembly.

**SECTION 8. AMENDMENT.** Section 54-35-02.4 of the North Dakota Century Code is amended and reenacted as follows:

### **54-35-02.4. Employee benefits programs committee - Powers and duties.**

1. The employee benefits programs committee shall consider and report on those legislative measures and proposals over which it takes the committee exercises jurisdiction and which affect, actuarially or otherwise, the retirement programs of state employees or employees of any political subdivision, and health and retiree health plans of state employees or employees of any political subdivision and the uniform group insurance program. The committee shall make a thorough review of any measure or proposal over which it takes under its the committee exercises jurisdiction, including an actuarial review. The committee shall take jurisdiction over any measure or proposal that authorizes an automatic increase or other change in benefits beyond the ensuing biennium which would not require legislative approval. The committee must shall include in the report of the committee a statement that the proposal would allow future changes without legislative involvement. The committee shall report its findings and recommendations, along with any necessary legislation, to the legislative management and to the legislative assembly.
2. To carry out its responsibilities, the committee, or its designee, may:
  - a. Enter contracts, including retainer agreements, with an actuary or actuarial firm for expert assistance and consultation. Each retirement, insurance, or retiree insurance program shall pay, from its retirement,

- insurance, or retiree health benefits fund, as appropriate, and without the need for a prior appropriation, the cost of any actuarial report required by the committee which relates to that program.
- b. Call on personnel from state agencies or political subdivisions to furnish such information and render such assistance as the committee may from time to time request.
  - c. Establish rules for its operation of the committee, including the submission and review of proposals and the establishing of standards for actuarial review.
3. The committee may solicit draft measures and proposals from interested persons during the interim between legislative sessions, and may also study measures and proposals referred to itthe committee by the legislative assembly or the legislative management.
  4. A copy of the committee's report concerning any legislative measure shall, if that measureif a legislative proposal over which the committee exercised jurisdiction is introduced for consideration by a legislative assembly, a copy of the related committee report must be appended to the copy of that measure which is referred to a standing committee.
  5. A legislative measure affecting a public employees retirement program, public employees health insurance program, or public employee retiree health insurance program or uniform group insurance program may not be introduced in either house unless itthe measure is accompanied by a report from the committee. A majority of the members of the committee, acting through the chairman, has sole authority to determine whether any legislative measure affects a program.
  6. AnyAn amendment made during a legislative session to a legislative measure affectingwhich would affect a public employees retirement program, public employees health insurance program, or public employee retiree health insurance or uniform group insurance program may not be considered by a standing committee unless it is accompanied by a report from the employee benefits programs committee.
  7. Any legislation enacted in contravention of this section is invalid and of no force and effect, and any benefits provided under such legislation must be reduced to the level current prior to enactment.
  8. As used in this section, the term "uniform group insurance plan" does not include a uniform group insurance plan for hospital, medical, or prescription drug benefits coverage. The scope of the subject matter over which this committee has jurisdiction does not include legislative proposals or measures over which the public employee health care coverage committee has jurisdiction under section 54-35-02.10.

**SECTION 9.** Section 54-35-02.9 of the North Dakota Century Code is created and enacted as follows:

**54-35-02.9. Public employee health care coverage committee - Appointment.**

1. During each interim, the public employee health care coverage committee must be appointed as follows:
  - a. Four members of the senate appointed by the majority leader of the senate;
  - b. Two members of the senate appointed by the minority leader of the senate;
  - c. Four members of the house of representatives appointed by the majority leader of the house of representatives;
  - d. Two members of the house of representatives appointed by the minority leader of the house of representatives; and
  - e. No more than four nonvoting members appointed by the governor.
2. The legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees. However, a committee member appointed by the governor is not entitled to per diem and is entitled to mileage and expenses as provided by law for state officers and employees which is to be paid by the governor or by the employing agency if that member is an employee of the state.
3. The committee shall meet at least quarterly during the interim between regular legislative sessions.

**SECTION 10.** Section 54-35-02.10 of the North Dakota Century Code is created and enacted as follows:

**54-35-02.10. Public employee health care coverage committee - Powers and duties - Standing committees - Legislative management.**

1. During the interim between regular legislative sessions, the public employee health care coverage committee shall:
  - a. Receive from the public employees retirement system quarterly reports on the activities of the retirement board and the public employees retirement system relating to the health care coverage, including the status of and any implemented or proposed changes to the health care coverage. The quarterly report must include status reports on contracts and contract negotiations relating to the health care coverage.
  - b. Monitor the health care coverage, which may include receipt of public or aggregate utilization data, wellness initiative reports, and customer satisfaction surveys.
  - c. Investigate the feasibility and desirability of making changes to the health care coverage and related contracts for future bienniums and prepare and recommend legislation to pursue any recommended changes.

- d. Study the health care coverage contract bidding and renewal process.
  - e. Receive reports regarding the impact of federal law on the health care coverage and the impact federal law may have on any proposed changes to the health care coverage.
  - f. Before each regular legislative session, receive from the public employees retirement system the executive budget proposals relating to the health care coverage for the upcoming biennium.
  - g. Consider and report on legislative proposals sponsored by the executive branch, judicial branch, and legislative management as provided under subsection 2.
  - h. Conduct studies as directed by the legislative assembly or the legislative management.
  - i. Report to the legislative management the committee's findings and recommendations, along with any legislation necessary to implement the committee's recommendations. During the interim, the committee may make multiple reports to the legislative management.
- 2. During the interim between regular legislative sessions, the committee may solicit draft legislative proposals from the executive branch, judicial branch, and legislative management. A legislative measure affecting the health care coverage may not be submitted by the executive branch, judicial branch, or legislative management for introduction in either house unless the measure is accompanied by a report from the committee. A majority of the members of the committee, acting through the chairman, has sole authority to determine whether a legislative proposal affects the health care coverage.
  - a. If the committee determines a legislative proposal affects the health care coverage, either actuarily or otherwise, the committee shall conduct a thorough review of the proposal and shall prepare a report with the committee's recommendation regarding the legislative proposal. The review may include an actuarial report or other report of a third party.
  - b. If a legislative proposal for which the committee conducts a review under this subsection is introduced for consideration by the legislative assembly, a copy of the related committee report must be appended to the copy of that measure which is referred to a standing committee.
- 3. To carry out the committee's responsibilities, the committee may:
  - a. Through the legislative management, enter a contract with an actuary or actuarial firm or other expert for expert assistance and consultation. The committee shall notify the public employees retirement system of a contract entered under this subsection and, without need for a prior appropriation, the public employees retirement system shall pay the cost of the third-party assistance provided under the contract.
  - b. Direct the public employees retirement system to provide the committee with an actuarial report or other analysis. Without the need for a prior appropriation, the public employees retirement system shall pay the cost of the report or analysis.

- c. Call on personnel from state agencies or political subdivisions to furnish the information and render the assistance the committee may from time to time request.
  - d. Establish rules for operation of the committee, including the submission and review of legislative proposals and the establishing of standards for actuarial review.
4. During a legislative session, if a standing committee takes action on a legislative measure sponsored by a legislator or recommends an amendment to a legislative measure which would affect the health care coverage, the standing committee shall consider the impact, actuarially or otherwise, of the amendment or measure and may request the public employees retirement system provide an actuarial report or other analysis of the impact of the measure or amendments. If the public employees retirement system provides an analysis or other report under this subsection, the public employees retirement system may pay for the analysis or other report in the same manner as provided under subdivision b of subsection 3.
5. Upon receipt of findings and recommendations of the committee, the legislative management may make recommendations to the retirement board and the public employees retirement system.
6. This section does not require the retirement board or the public employees retirement system to disclose to the committee confidential or exempt information or records. However, upon request of the committee, the retirement board or public employees retirement system shall provide the committee with aggregate information as appropriate.
7. As used in this section, the term "health care coverage" means a uniform group insurance plan for hospital, medical, or prescription drug benefits coverage for an eligible employee which is provided under section 54-52.1-02.

**SECTION 11.** A new subsection to section 54-52-04 of the North Dakota Century Code is created and enacted as follows:

The board shall establish policies and implement procedures to make and collect payments in the most cost-effective manner, including the use of electronic transfer of funds.

**SECTION 12. AMENDMENT.** Section 54-52.1-08.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-08.2. Uniform group insurance program - Compliance with federal requirements - Group purchasing arrangements.**

If the board determines that any section or the phraseology of any section of this chapter does not comply with applicable federal statutes or rules, the board shall adopt appropriate terminology with respect to that section to comply with the federal statutes or rules, subject to the approval of the legislative management's employee benefits programs committee. If the board seeks the approval of the employee benefits programs committee under this section, the board shall notify the public employee health care coverage committee. The board may assume responsibility for group

purchasing arrangements as provided by federal law. AnyA plan modifications made by the board under this section areis effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

**SECTION 13. EXPIRATION DATE.** Section 8, 9, 10, and 12 of this Act are effective through July 31, 2019, and after that date are ineffective."

Renumber accordingly