

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, 54-35-02.4, 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 ~~boards~~system office for individuals first employed by the public employees retirement ~~boards~~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, 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 ~~board~~office.

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 ~~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 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 ~~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 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 ~~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 ~~board~~office.

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 ~~board~~office 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 ~~board~~office for retirement benefits according to this section and rules adopted by the ~~board~~office 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 board office 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 board office 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 board office shall pay the contributor's account balance to the named beneficiary. If the contributor has named more than one primary beneficiary, the board office 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 board office shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If there are no remaining primary beneficiaries, the

~~board~~office shall pay the contributor's account balance to the contingent beneficiaries in the same manner. If there are no remaining designated beneficiaries, the ~~board~~office 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 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 ~~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 ~~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 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 ~~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 withholds 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 ~~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 54-35-02.4 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 ~~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~~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~~retirement 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~~retirement 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~~retirement 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 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 ~~board~~office.

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 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 authority~~Authority - 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 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 personneloffice.~~
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 ~~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 ~~board~~office 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 ~~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 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 ~~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.

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 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 ~~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 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 ~~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 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 ~~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 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 ~~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 ~~board~~office 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 ~~board~~office 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 ~~board~~office, 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 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 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 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 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 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 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 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 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 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 withholds 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 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 ~~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 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

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.

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 ~~board~~office. 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 ~~board~~office. 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 ~~board~~office 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 ~~board~~office. 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 ~~board~~office. Each retiree or surviving spouse shall pay directly to the ~~board~~office the premiums in effect for the coverage then being provided. The ~~board~~office 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 ~~board~~office 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 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 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 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. 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:

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 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 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 boardoffice may arrange for the services of an actuarial consultant to assist the boardoffice 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 boardoffice 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 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.

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 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.

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 ~~board~~office.

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 ~~board~~office 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 ~~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 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 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 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~~ 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.

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

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 ~~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.

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

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 boardoffice 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'soffice'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 boardoffice 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 boardoffice.

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 boardpublic 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 boardoffice 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 boardoffice, vendors retained by the boardoffice 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 boardoffice, 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 boardpublic 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 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 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 ~~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.

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 ~~board~~office shall provide an opportunity for eligible employees who are new members of the public employees retirement system under chapter 54-52 to transfer to the defined contribution plan under this chapter pursuant to the rules and policies adopted by the ~~board~~office. An election made by a member of the public employees retirement system under chapter 54-52 to transfer to the defined contribution retirement plan under this chapter is irrevocable. For an individual who elects to transfer membership from the public employees retirement system under chapter 54-52 to the defined contribution retirement plan under this chapter, the ~~board~~office shall transfer a lump sum amount from the public employees retirement system fund to the participating member's account in the defined contribution retirement plan under this chapter. However, if the individual terminates employment prior to receiving the lump sum transfer under this section, the election made is ineffective and the individual remains a member of the public employees retirement system under chapter 54-52 and retains all the rights and privileges under that chapter. This section does not affect an individual's right to health benefits or retiree health benefits under chapter 54-52.1.
2. If the ~~board~~office receives notification from the internal revenue service that this section or any portion of this section will cause the public employees retirement system or the retirement plan established under this chapter to be disqualified for tax purposes under the Internal Revenue Code, then the portion that will cause the disqualification does not apply.
3. A participating member who becomes a temporary employee may still participate in the defined contribution retirement plan upon filing an election with the ~~board~~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.
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

~~board~~office 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 ~~board~~office, in its sole discretion, determines that the employee was not adequately notified of the employee's option to participate in the defined contribution retirement plan, the ~~board~~office may provide the employee a reasonable time within which to make that election, which may extend beyond the original six-month decision window. A deferred member who makes and files a written election to remain a member of the public employees retirement system retains all rights and is subject to all conditions as a member of that retirement system. A deferred member who does not make a written election or who does not file the election during the period specified in this section continues to be a member of the public employees retirement system. A deferred member who makes and files a written election to terminate membership in the public employees retirement system ceases to be a member of the public employees retirement system effective on the last day of the payroll period that includes the date of the election; becomes a participating member in the defined contribution retirement plan under this chapter effective the first day of the payroll immediately following the date of the election; and waives all of that person's rights to a pension, an annuity, a retirement allowance, insurance benefit, or any other benefit under the public employees retirement system effective the last day of the payroll that includes the date of the election. This section does not affect any right to health benefits or retiree health benefits to which the deferred member may otherwise be entitled.

3. An eligible employee who elects to participate in the retirement plan established under this chapter must remain a participant even if that employee returns to the classified service or becomes employed by a political subdivision that participates in the public employees retirement system. The contribution amount must be as provided in this chapter, regardless of the position in which the employee is employed. Notwithstanding the irrevocability provisions of this chapter, if a member who elects to participate in the retirement plan established under this chapter becomes a supreme or district court judge, becomes a member of the highway patrol, becomes employed in a position subject to teachers' fund for retirement membership, or becomes an employee of the board of higher education or state institution under the jurisdiction of the board who is eligible to participate in an alternative retirement program established under subsection 6 of section 15-10-17, the member's status as a member of the defined contribution retirement plan is suspended, and the member becomes a new member of the retirement plan for which that member's new position is eligible. The member's account balance remains in the defined contribution retirement plan, but no new contributions may be made to that account. The member's service credit and salary history that were forfeited as a result of the member's transfer to the defined contribution retirement plan remain forfeited, and service credit accumulation in the new retirement plan begins from the first day of employment in the new position. If the member later returns to employment that is eligible for the defined contribution plan, the member's suspension must be terminated, the member again becomes a member of the defined contribution retirement plan, and the member's account resumes accepting contributions. At the member's option, and pursuant to rules adopted by

the ~~board~~office, the member may transfer any available balance as determined by the provisions of the alternate retirement plan into the member's account under this chapter.

4. After consultation with its actuary, the ~~board~~office shall determine the method by which a participating member or deferred member may make a written election under this section. If the participating member or deferred member is married at the time of the election, the election is not effective unless the election is signed by the individual's spouse. However, the ~~board~~office may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.
5. If the ~~board~~office 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 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 ~~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 ~~board~~office 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 ~~board~~office shall provide an opportunity for each participating member to elect in writing to terminate membership in the defined contribution retirement plan under this chapter and to elect to become a participating member in the public employees retirement system under chapter 54-52.

3. The ~~board~~office 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 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 ~~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 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

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."

Re-number 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

	Adjusts Funding for Base Payroll Changes ¹	Adds Funding for Health Insurance Increases ²	Removes FTE Position ³	Adjusts Funding for Operating Expenses ⁴	Total House Changes
Salaries and wages	\$55,378	\$102,885	(\$150,000)		\$8,263
Operating expenses				(132,844)	(132,844)
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	\$0
FTE	0.00	0.00	(1.00)	0.00	(1.00)

¹ Funding is added for cost-to-continue 2015-17 biennium salaries and benefit increases and for other base payroll changes.

² Funding is added for increases in employee health insurance premiums from \$1,130 to \$1,249 per month.

³ One FTE position and related funding is removed.

⁴ 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.