

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1023

Introduced by

Appropriations Committee

1 A BILL for an Act to provide an appropriation for defraying the expenses of the public employees
2 retirement system; to provide a continuing appropriation; to limit the use of health insurance
3 program reserves; to provide for a transfer; to amend and reenact subdivision j of subsection 2
4 of section 12-60-24, paragraph 4 of subdivision a of subsection 4 of section 15-10-17, sections
5 21-10-01, 39-03.1-01, 39-03.1-04, 39-03.1-06, 39-03.1-07, 39-03.1-08.1, and 39-03.1-08.2,
6 subsection 2 of section 39-03.1-09, sections 39-03.1-10.1, 39-03.1-10.2, 39-03.1-11,
7 39-03.1-11.2, 39-03.1-11.3, 39-03.1-14.1, 39-03.1-14.2, 39-03.1-25, 39-03.1-28, 39-03.1-29,
8 52-11-01, 54-35-02.3, 54-35-02.4, 54-52-01, 54-52-02.1, 54-52-02.6, 54-52-03, and 54-52-04,
9 subsection 3 of section 54-52-05, and sections 54-52-06, 54-52-06.2, 54-52-06.3, 54-52-06.4,
10 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,
11 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,
12 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,
13 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,
14 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,
15 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,
16 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,
17 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,
18 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,
19 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,
20 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,
21 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
22 Code, relating to the public employees retirement board, the public employees retirement
23 system, and the membership of the employee benefits programs committee; and to provide
24 legislative intent.

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

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

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

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

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

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

23 **SECTION 4. APPROPRIATION LINE ITEM TRANSFERS.** The public employees
24 retirement system office may transfer from their contingencies line item in section 1 of this Act
25 to all other line items. The agency shall notify the office of management and budget of each
26 transfer made pursuant to this section.

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

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

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

7 **SECTION 7. AMENDMENT.** Paragraph 4 of subdivision a of subsection 4 of section
8 15-10-17 of the North Dakota Century Code is amended and reenacted as follows:

9 (4) Employees of the university system who are members of the public
10 employees retirement system under chapter 54-52 or 54-52.6 and who
11 become entitled to participate in the alternate retirement program are
12 entitled to a special annuity purchase in the alternate retirement program in
13 accordance with this subdivision. An eligible employee who consents to
14 have that employee's contribution included is entitled to have that
15 employee's contribution and employer's contribution, with interest, in the
16 public employees retirement system fund, used by the ~~retirement board of~~
17 ~~the~~ public employees retirement system office to purchase for that
18 employee an annuity in the alternate retirement program in lieu of any other
19 rights under the public employees retirement fund. However, before the
20 employer's contribution may be used for an annuity purchase, the
21 employee's combined years of service with the public employees retirement
22 system and the alternate retirement program must equal or exceed the
23 years of service necessary to be eligible for retirement benefits under the
24 public employees retirement system. An employee who transferred from the
25 public employees retirement system before March 30, 1987, and who
26 received a refund of that employee's contribution is entitled to have the
27 employer's contribution, with interest, used to purchase an annuity even if
28 that employee did not purchase an annuity in the alternate employee
29 program with the employee's contribution. If an employee makes the
30 election allowed under this subdivision, that employee relinquishes all rights

1 the employee or any of the employee's beneficiaries may have had to
2 benefits provided under chapters 54-52 and 54-52.6.

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

5 **21-10-01. State investment board - Membership - Term - Compensation - Advisory**
6 **council.**

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

1 of the advisory council are entitled to receive the same compensation as provided the
2 members of the advisory board of the Bank of North Dakota and necessary mileage
3 and travel expenses as provided in sections 44-08-04 and 54-06-09.

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

6 **39-03.1-01. Definitions.**

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

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

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

24 **39-03.1-04. Administrative expenses.**

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

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

1 **39-03.1-06. Rules and regulations - Actuarial data.**

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

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

8 **39-03.1-07. Membership.**

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

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

17 **39-03.1-08.1. Purchase of legislative service credit.**

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

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

27 **39-03.1-08.2. Purchase of additional service credit.**

28 1. The fund may accept rollovers from other eligible plans under rules adopted by the
29 board for the purchase of additional service credit, but only to the extent the transfer is
30 a rollover contribution that meets the requirement of section 408 of the Internal
31 Revenue Code [26 U.S.C. 408].

- 1 2. The boardoffice may accept trustee-to-trustee transfers as permitted by Internal
2 Revenue Code section 403(b)(13) and section 457(e)(17) from an Internal Revenue
3 Code section 403(b) annuity or Internal Revenue Code section 457 deferred
4 compensation plan for the purchase of permissive service credit, as defined in Internal
5 Revenue Code section 415(n)(3)(A), or as repayment of a cashout from a
6 governmental plan under Internal Revenue Code section 415(k)(3).
- 7 3. A contributor may elect to purchase credit for years of service and prior service for
8 which the contributor is not presently receiving credit. A contributor is entitled to
9 purchase additional credit under this section for the following service or prior service,
10 except this service is not eligible for credit if the years claimed also qualify for
11 retirement benefits from another retirement system:
 - 12 a. Except as provided in subsection 3 of section 39-03.1-10.1, up to four years of
13 credit for active employment in the armed forces of the United States.
 - 14 b. Employment as a permanent employee by a public employer either within or
15 outside the state.
 - 16 c. Employment as a permanent employee by the federal government.
- 17 4. A contributor may elect to purchase credit for the following absences for which the
18 participating contributor is not receiving service credit:
 - 19 a. Employer-approved leave of absence; and
 - 20 b. Months away from work while participating as a seasonal employee.
- 21 5. The contributor may purchase credit under this section by paying to the boardoffice an
22 amount equal to the actuarial cost to the fund of providing the credit. The boardoffice
23 shall adopt rules governing the purchase of additional credit under this section.
- 24 6. The boardoffice may establish individual retirement accounts and individual retirement
25 annuities as permitted under section 408(q) of the Internal Revenue Code to allow
26 employees to make voluntary employee contributions. The boardoffice may adopt
27 appropriate rules as may be necessary to implement and administer the accounts and
28 annuities under this section.
- 29 7. In addition to service credit identified in this section, a contributor may purchase up to
30 five years of service credit.

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

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

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

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

1 **39-03.1-10.1. Refund and repurchase of contributions.**

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

5 1. a. If the contributor has less than ten years of service at termination of employment,
6 the refund is payable either on application of the contributor or is automatically
7 payable if within thirty days after termination the contributor has not provided a
8 written statement to the ~~board~~office waiving the refund and requesting the
9 contributor's account remain in the fund and the contributor has an account
10 balance of less than one thousand dollars.

11 b. If the contributor has at least ten years of service at the date of termination, the
12 contributor may apply for a refund of accumulated deductions instead of
13 retirement benefits. By receiving the refund of accumulated deductions under this
14 subdivision, the contributor forfeits all months of service to the date of refund and
15 cannot use those months for any future benefit calculations.

16 2. A contributor who was paid a refund under subdivision a of subsection 1 may, upon
17 re-employment, elect to repurchase the forfeited past service for the retirement
18 program and the retiree health benefits program in accordance with the rules adopted
19 by the ~~board~~office.

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

22 **39-03.1-10.2. Employer service purchases.**

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

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

27 2. The contributor must meet one of the following conditions at the time the purchase is
28 made:

29 a. The contributor's age plus service credit must be equal to or greater than
30 seventy; or

- 1 b. The contributor's age must be at least fifty and the contributor must have at least
- 2 ten years of service credit.
- 3 3. The ~~board~~office must determine the purchase price on an actuarially equivalent basis.
- 4 4. The purchase must be completed before the contributor's retirement.
- 5 5. The employer may purchase a maximum of five years of service credit on behalf of the
- 6 contributor.
- 7 6. The employer must pay the purchase price for the service credit purchased under this
- 8 section in a lump sum.

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

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

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

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

1 retirement date, the final average salary is the average salary for all months of
2 employment.

3 3. Retirement dates are as follows:

4 a. Early retirement date is the first day of the month next following the month in
5 which the contributor attains the age of fifty years and has completed at least ten
6 years of eligible employment.

7 b. Normal retirement date is:

8 (1) The first day of the month next following the month in which the contributor
9 attains the age of fifty-five years and has completed at least ten years of
10 eligible employment; or

11 (2) When the contributor has a combined total of years of service credit and
12 years of age equal to eighty and has not received a retirement benefit under
13 this chapter.

14 c. Postponed retirement date is the first day of the month next following the month
15 in which the contributor attains the age of sixty years.

16 d. Disability retirement date is the first day of the month after a contributor becomes
17 permanently and totally disabled, according to medical evidence called for under
18 the rules of the ~~board~~office, and has completed at least one hundred eighty days
19 of employment.

20 4. The ~~board~~office shall calculate retirement benefits as follows:

21 a. Normal retirement benefits for all contributors reaching the normal retirement
22 date are payable monthly, and are:

23 (1) The first twenty-five years of credited service multiplied by three and sixty
24 hundredths percent of final average salary.

25 (2) All years in excess of twenty-five years of credited service multiplied by one
26 and three-fourths percent of final average salary.

27 (3) All contributors who retired before August 1, 2001, or their beneficiaries, are
28 entitled to receive benefits equal to three and sixty hundredths percent of
29 final average salary multiplied by the first twenty-five years of credited
30 service, plus one and three-fourths percent of final average salary multiplied

- 1 by credited service in excess of twenty-five years, with the increased
2 benefits payable beginning August 1, 2001.
- 3 b. Early retirement benefits are normal retirement benefits accrued to the date of
4 termination of employment, but actuarially reduced to account for benefit
5 payments beginning before the normal retirement date.
- 6 c. Postponed retirement benefits, for all contributors reaching the postponed
7 retirement date, are calculated in the same manner as normal retirement
8 benefits.
- 9 d. Disability retirement benefits are payable monthly and are:
- 10 (1) Seventy percent of the contributor's final average salary, reduced by any
11 workforce safety and insurance benefits paid. The minimum monthly
12 disability retirement benefit under this subsection is one hundred dollars.
- 13 (2) An individual or that person's beneficiary who, on July 31, 2001, is receiving
14 a disability retirement benefit is entitled to receive an increase in benefits
15 equal to six percent of the individual's present benefits, with the increase
16 payable beginning August 1, 2001.
- 17 5. On termination of employment after completing ten years of eligible employment but
18 before the normal retirement date, a contributor who does not elect to receive early
19 retirement benefits is eligible to receive deferred vested retirement benefits. The
20 deferred benefits are payable beginning on the contributor's normal retirement date in
21 one of the forms provided in this section. Contributors who have delayed or
22 inadvertently failed to apply for retirement benefits to commence on their normal
23 retirement date may choose to receive either a lump sum payment equal to the
24 amount of missed payments, or an actuarial increase to the form of benefit the
25 member has selected, which increase must reflect the missed payments. The final
26 average salary used for calculating deferred vested retirement benefits must be
27 increased annually, from the later of the date of termination of employment or July 1,
28 1991, until the date the contributor begins to receive retirement benefits from the fund,
29 at a rate as determined by the ~~board~~office not to exceed a rate that would be
30 approximately equal to annual salary increases provided state employees pursuant to
31 action by the legislative assembly.

- 1 6. If before retiring a contributor dies after completing ten years of eligible employment,
2 the boardoffice shall pay the contributor's accumulated deductions to the contributor's
3 designated beneficiary as provided in this subsection. If the contributor has designated
4 an alternate beneficiary with the surviving spouse's written consent, the boardoffice
5 shall pay the contributor's account balance to the named beneficiary. If the contributor
6 has named more than one primary beneficiary, the boardoffice shall pay the
7 contributor's account balance to the named primary beneficiaries in the percentages
8 designated by the contributor or, if the contributor has not designated a percentage for
9 the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has
10 predeceased the contributor, the boardoffice shall pay the predeceased beneficiary's
11 share to the remaining primary beneficiaries. If there are no remaining primary
12 beneficiaries, the boardoffice shall pay the contributor's account balance to the
13 contingent beneficiaries in the same manner. If there are no remaining designated
14 beneficiaries, the boardoffice shall pay the contributor's account balance to the
15 contributor's estate. If the contributor has not designated an alternate beneficiary
16 under this section or the surviving spouse is the beneficiary, the surviving spouse of
17 the contributor may select one of the following optional forms of payment:
- 18 a. A lump sum payment of the contributor's accumulated deductions as of the date
19 of death.
- 20 b. Payment of a monthly retirement benefit equal to fifty percent of the deceased
21 contributor's accrued normal retirement benefits until the spouse dies.
- 22 7. If a contributor not eligible for the benefits of subsection 6 terminates employment for
23 any reason before retirement, the contributor or the contributor's designated
24 beneficiary is entitled to the contributor's accumulated deductions at termination.
- 25 8. The surviving spouse of a member receiving retirement benefits must be the
26 member's primary beneficiary unless there is no surviving spouse or the surviving
27 spouse designates an alternate beneficiary in writing. If a contributor receiving
28 retirement benefits, or a contributor's surviving spouse receiving retirement benefits,
29 dies before the total amount of benefits paid to them equals the amount of the
30 contributor's accumulated deductions at retirement, the difference must be paid to the

1 named beneficiary of the recipient or, if there is no named beneficiary, to the
2 recipient's estate.

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

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

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

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

17 **39-03.1-11.2. Internal Revenue Code compliance.**

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

20 1. Section 415, including the defined benefit dollar limitation under section 415(b)(1)(A)
21 of the Internal Revenue Code.

22 a. The defined benefit dollar limitation under section 415(b)(1)(A) of the Internal
23 Revenue Code, as approved by the legislative assembly, must be adjusted under
24 section 415(d) of the Internal Revenue Code, effective January first of each year
25 following a regular legislative session. The adjustment of the defined benefit
26 dollar limitation under section 415(d) applies to participating members who have
27 had a separation from employment, but that member's benefit payments may not
28 reflect the adjusted limit prior to January first of the calendar year in which the
29 adjustment applies.

30 b. If a participating member's benefit is increased by plan amendment after the
31 commencement of benefit payments, the member's annual benefit may not

1 exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the
2 Internal Revenue Code, as adjusted under section 415(d) for the calendar year in
3 which the increased benefit is payable.

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

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

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

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

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

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

3 **39-03.1-11.3. Supplemental retiree benefit payment.**

4 If the boardoffice determines that the fund has obtained a total return on investments of
5 nine and six hundredths percent or higher for the fiscal year ending June 30, 2007, or June 30,
6 2008, the boardoffice shall authorize an additional payment equal to seventy-five percent of the
7 January retirement allowance following the fiscal yearend to each eligible retiree in pay status
8 as of that January, including joint and survivor and term certain beneficiaries, under this chapter.
9 The boardoffice may only make one payment under this section.

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

12 **39-03.1-14.1. Multiple plan membership - Eligibility for benefits - Amount of benefits.**

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

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

6 a. By using the final average salary as calculated in section 39-03.1-11. If the
7 participating member has worked for less than thirty-six months at retirement, the
8 final average salary is the average salary for the total months of employment.

9 b. Using the final average salary as calculated in section 39-03.1-11, with service
10 credit not to exceed one month in any month when combined with the service
11 credit earned in the alternate retirement system.

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

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

16 **39-03.1-14.2. Benefit payments to alternate payee under qualified domestic relations**
17 **order.**

18 1. The ~~board~~office shall pay retirement benefits in accordance with the applicable
19 requirements of any qualified domestic relations order. The ~~board~~office shall review a
20 domestic relations order submitted to it to determine if the domestic relations order is
21 qualified under this section and under rules established by the ~~board~~office for
22 determining the qualified status of domestic relations orders and administering
23 distributions under the qualified orders. Upon determination that a domestic relations
24 order is qualified, the ~~board~~office shall notify the contributor and the named alternate
25 payee of its receipt of the qualified domestic relations order.

26 2. A "qualified domestic relations order" for purposes of this section means any
27 judgment, decree, or order, including approval of a property settlement agreement,
28 which relates to the provision of child support, spousal support, or marital property
29 rights to a spouse, former spouse, child, or other dependent of a contributor, is made
30 pursuant to a North Dakota domestic relations law, and which creates or recognizes
31 the existence of an alternate payee's right to, or assigns to an alternate payee the right

1 to, receive all or a part of the benefits payable to the contributor. A qualified domestic
2 relations order may not require the ~~board~~office to provide any type or form of benefit,
3 or any option, not otherwise provided under the retirement system, or to provide
4 increased benefits as determined on the basis of actuarial value. However, a qualified
5 domestic relations order may require the payment of benefits at the early retirement
6 date notwithstanding that the contributor has not terminated eligible employment. A
7 qualified domestic relations order must specify:

- 8 a. The name and the last-known mailing address of the contributor and the name
9 and mailing address of each alternate payee covered by the order;
- 10 b. The amount or percentage of the contributor's benefits to be paid by the plan to
11 each alternate payee;
- 12 c. The number of payments or period to which the order applies; and
- 13 d. Each retirement plan to which the order applies.

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

16 **39-03.1-25. Fraud - Correction of errors.**

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

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

27 **39-03.1-28. Confidentiality of records.**

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

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

- 1 11. The general public, but only after the boardoffice has been unable to locate the
2 member for a period in excess of two years, and limited to the member's name and
3 the fact that the boardoffice has been unable to locate the member.
- 4 12. A government child support enforcement agency for purposes of establishing paternity
5 or establishing, modifying, or enforcing a child support obligation of the member.
- 6 13. A person if the information relates to an employer service purchase under section
7 39-03.1-10.2, but the information must be limited to the member's name and employer,
8 the retirement program in which the member participates, the amount of service credit
9 purchased by the employer, and the total amount expended by the employer for that
10 service credit purchase, and that information may only be obtained from the member's
11 employer.

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

14 **39-03.1-29. Savings clause - Plan modifications.**

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

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

24 **52-11-01. Retirement for certain state employees.**

- 25 1. The North Dakota national guard is authorized to establish an employee retirement
26 program by contract with an insurance company, state or national bank and trust
27 company, or an investment company, authorized under the law to do business in this
28 state, the state investment board, or the North Dakota public employees retirement
29 system office. Except for a retirement program established under chapter 54-52, the
30 North Dakota national guard shall prepare specifications of the terms of the retirement
31 program which must be submitted to not less than three companies or agencies with a

1 request for bids upon the retirement program contracts. After the submission of at
2 least three bids, the adjutant general shall compare the bids, and with the approval of
3 the governor, shall execute a contract for the retirement program with the company or
4 agency submitting the lowest and best bid. The public employees retirement system
5 ~~board is authorized to~~office may administer the retirement plan established in 1961
6 and frozen to new entrants in 1980 for employees of job service North Dakota. The
7 public employees retirement system ~~board~~office shall fund the administrative
8 expenses of administering that retirement plan from the funds in that plan.

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

24 3. The employing agency's share of the costs of such retirement program must be paid
25 from any funds made available to it for this purpose by the United States government,
26 and in the case of employees of such agencies for whom the state does not receive
27 federal payments for salary costs, such employer's share may be made from any
28 appropriations made available for the purpose of paying such salaries. Payments may
29 be made for prior service of employees in accordance with the terms of the retirement
30 program contract and in accordance with the availability of funds. The contract must
31 specify the terms and conditions under which employee contributions may be

1 withdrawn from the program and for the crediting of the employer's contributions to
2 future payments due from the employing agency. Provision may be made in the
3 contract for optional payment of benefits to survivors of covered employees. Each
4 agency participating in the retirement program shall be authorized to do all things
5 necessary for the proper administration of the program, but no benefits payable under
6 the terms of the retirement program contract shall ever become an obligation of the
7 state.

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

10 **54-35-02.3. Employee benefits programs committee - Appointment - Selection of**
11 **chairman.**

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

21 **SECTION 28. AMENDMENT.** Section 54-35-02.4 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **54-35-02.4. Employee benefits programs committee - Powers and duties.**

24 1. The employee benefits programs committee shall meet at least quarterly at the
25 discretion of the chairman.

26 a. The employee benefits programs committee shall consider and report on those
27 legislative measures and proposals over which it takes jurisdiction and which
28 affect, actuarially or otherwise, the retirement programs of state employees or
29 employees of any political subdivision, and health and retiree health plans of
30 state employees or employees of any political subdivision. The committee shall

1 make a thorough review of any measure or proposal which it takes under its
2 jurisdiction, including an actuarial review.

3 b. The committee shall take jurisdiction over any measure or proposal that
4 authorizes an automatic increase or other change in benefits beyond the ensuing
5 biennium which would not require legislative approval. The committee must
6 include in the report of the committee a statement that the proposal would allow
7 future changes without legislative involvement.

8 c. Quarterly, the public employees retirement system office shall report to the
9 committee on the activities of the office, including the status of and any proposed
10 changes to retirement plans and uniform group insurance plans administered by
11 the office. Before each regular legislative session, the office shall present to the
12 committee the executive budget proposals, including any anticipated changes,
13 relating to retirement plans and uniform group insurance plans administered by
14 the office. The committee shall consider and report on these activities and
15 executive budget proposals.

16 d. The committee shall report its findings and recommendations, along with any
17 necessary legislation, to the legislative management and to the legislative
18 assembly.

19 2. To carry out its responsibilities, the committee, or its designee, may:

20 a. Enter contracts, including retainer agreements, with an actuary or actuarial firm
21 for expert assistance and consultation. Each retirement, insurance, or retiree
22 insurance program shall pay, from its retirement, insurance, or retiree health
23 benefits fund, as appropriate, and without the need for a prior appropriation, the
24 cost of any actuarial report required by the committee which relates to that
25 program.

26 b. Call on personnel from state agencies or political subdivisions to furnish such
27 information and render such assistance as the committee may from time to time
28 request.

29 c. Establish rules for its operation, including the submission and review of proposals
30 and the establishing of standards for actuarial review.

- 1 3. The committee may solicit draft measures and proposals from interested persons
2 during the interim between legislative sessions, and may also study measures and
3 proposals referred to it by the legislative assembly or the legislative management.
- 4 4. A copy of the committee's report concerning any legislative measure shall, if that
5 measure is introduced for consideration by a legislative assembly, be appended to the
6 copy of that measure which is referred to a standing committee.
- 7 5. A legislative measure affecting a public employees retirement program, public
8 employees health insurance program, or public employee retiree health insurance
9 program may not be introduced in either house unless it is accompanied by a report
10 from the committee. A majority of the members of the committee, acting through the
11 chairman, has sole authority to determine whether any legislative measure affects a
12 program.
- 13 6. Any amendment made during a legislative session to a legislative measure affecting a
14 public employees retirement program, public employees health insurance program, or
15 public employee retiree health insurance program may not be considered by a
16 standing committee unless it is accompanied by a report from the employee benefits
17 programs committee.
- 18 7. Any legislation enacted in contravention of this section is invalid and of no force and
19 effect, and any benefits provided under such legislation must be reduced to the level
20 current prior to enactment.

21 **SECTION 29. AMENDMENT.** Section 54-52-01 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **54-52-01. (Effective through July 31, 2017) Definition of terms.**

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

- 25 1. "Account balance" means the total contributions made by the employee, vested
26 employer contributions under section 54-52-11.1, the vested portion of the vesting
27 fund as of June 30, 1977, and interest credited thereon at the rate established by the
28 boardoffice.
- 29 2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any
30 person designated by a participating member to receive benefits.

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

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

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

3 ~~22-23.~~ "Wages" and "salaries" means the member's earnings in eligible employment under
4 this chapter reported as salary on the member's federal income tax withholding
5 statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125,
6 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as
7 payments for unused sick leave, personal leave, vacation leave paid in a lump sum,
8 overtime, housing allowances, transportation expenses, early retirement incentive pay,
9 severance pay, medical insurance, workforce safety and insurance benefits, disability
10 insurance premiums or benefits, or salary received by a member in lieu of previously
11 employer-provided fringe benefits under an agreement between the member and
12 participating employer. Bonuses may be considered as salary under this section if
13 reported and annualized pursuant to rules adopted by the ~~board~~office.

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

- 16 1. "Account balance" means the total contributions made by the employee, vested
17 employer contributions under section 54-52-11.1, the vested portion of the vesting
18 fund as of June 30, 1977, and interest credited thereon at the rate established by the
19 ~~board~~office.
- 20 2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any
21 person designated by a participating member to receive benefits.
- 22 3. "Correctional officer" means a participating member who is employed as a correctional
23 officer by a political subdivision.
- 24 4. "Director" means the executive director of the public employees retirement system
25 office.
- 26 5. "Eligible employee" means all permanent employees who meet all of the eligibility
27 requirements set by this chapter and who are eighteen years or more of age, and
28 includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and
29 54-52-02.12, and nonteaching employees of the superintendent of public instruction,
30 including the superintendent of public instruction, who elect to transfer from the
31 teachers' fund for retirement to the public employees retirement system under section

1 54-52-02.13, and employees of the state board for career and technical education who
2 elect to transfer from the teachers' fund for retirement to the public employees
3 retirement system under section 54-52-02.14. Eligible employee does not include
4 nonclassified state employees who elect to become members of the retirement plan
5 established under chapter 54-52.6 but does include employees of the judicial branch
6 and employees of the board of higher education and state institutions under the
7 jurisdiction of the board.

8 ~~5-6.~~ "Employee" means any person employed by a governmental unit, whose
9 compensation is paid out of the governmental unit's funds, or funds controlled or
10 administered by a governmental unit, or paid by the federal government through any of
11 its executive or administrative officials; licensed employees of a school district means
12 those employees eligible to participate in the teachers' fund for retirement who, except
13 under subsection 2 of section 54-52-17.2, are not eligible employees under this
14 chapter.

15 ~~6-7.~~ "Employer" means a governmental unit.

16 ~~7-8.~~ "Funding agent" or "agents" means an investment firm, trust bank, or other financial
17 institution ~~which the retirement board~~the office may select to hold and invest the
18 employers' and members' contributions.

19 ~~8-9.~~ "Governmental unit" means the state of North Dakota, except the highway patrol for
20 members of the retirement plan created under chapter 39-03.1, or a participating
21 political subdivision thereof.

22 ~~9-10.~~ "National guard security officer or firefighter" means a participating member who is:
23 a. A security police employee of the North Dakota national guard; or
24 b. A firefighter employee of the North Dakota national guard.

25 ~~11.~~ "Office" means the public employees retirement system office.

26 ~~10-12.~~ "Participating member" means all eligible employees who through payment into the
27 plan have established a claim against the plan.

28 ~~11-13.~~ "Peace officer" means a participating member who is a peace officer as defined in
29 section 12-63-01 and is employed as a peace officer by the bureau of criminal
30 investigation or by a political subdivision and, notwithstanding subsection 12, for
31 persons employed after August 1, 2005, is employed thirty-two hours or more per

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- 1 week and at least twenty weeks each year of employment. Participating members of
2 the law enforcement retirement plan created by this chapter who begin employment
3 after August 1, 2005, are ineligible to participate concurrently in any other retirement
4 plan administered by the public employees retirement system.
- 5 ~~12.14.~~ "Permanent employee" means a governmental unit employee whose services are not
6 limited in duration and who is filling an approved and regularly funded position in an
7 eligible governmental unit, and is employed twenty hours or more per week and at
8 least twenty weeks each year of employment.
- 9 ~~13.15.~~ "Prior service" means service or employment prior to July 1, 1966.
- 10 ~~14.16.~~ "Prior service credit" means such credit toward a retirement benefit as the ~~retirement-~~
11 ~~board~~office may determine under the provisions of this chapter.
- 12 ~~15.17.~~ "Public employees retirement system" means the retirement plan and program
13 established by this chapter.
- 14 ~~16.18.~~ "Retirement" means the acceptance of a retirement allowance under this chapter upon
15 either termination of employment or termination of participation in the retirement plan
16 and meeting the normal retirement date.
- 17 ~~17.19.~~ "Retirement board" or "board" means the ~~seven persons designated by this chapter as~~
18 ~~the governing authority for the retirement system created~~retirement system advisory
19 board established under section 54-52-03.
- 20 ~~18.20~~ "Seasonal employee" means a participating member who does not work twelve
21 months a year.
- 22 ~~19.21.~~ "Service" means employment on or after July 1, 1966.
- 23 ~~20.22.~~ "Service benefit" means the credit toward retirement benefits as determined by the
24 ~~retirement board~~office under the provisions of this chapter.
- 25 ~~21.23.~~ "Temporary employee" means a governmental unit employee who is not eligible to
26 participate as a permanent employee, who is at least eighteen years old and not
27 actively contributing to another employer-sponsored pension fund, and, if employed by
28 a school district, occupies a noncertified teacher's position.
- 29 ~~22.24.~~ "Wages" and "salaries" means the member's earnings in eligible employment under
30 this chapter reported as salary on the member's federal income tax withholding
31 statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125,

1 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as
2 payments for unused sick leave, personal leave, vacation leave paid in a lump sum,
3 overtime, housing allowances, transportation expenses, early retirement incentive pay,
4 severance pay, medical insurance, workforce safety and insurance benefits, disability
5 insurance premiums or benefits, or salary received by a member in lieu of previously
6 employer-provided fringe benefits under an agreement between the member and
7 participating employer. Bonuses may be considered as salary under this section if
8 reported and annualized pursuant to rules adopted by the ~~board~~office.

9 **SECTION 30. AMENDMENT.** Section 54-52-02.1 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **54-52-02.1. Political subdivisions authorized to join public employees retirement**
12 **system.**

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

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

10 **SECTION 31. AMENDMENT.** Section 54-52-02.6 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **54-52-02.6. Repurchase of past service upon re-employment.**

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

18 **SECTION 32. AMENDMENT.** Section 54-52-03 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **~~54-52-03. Governing authority~~Public employees retirement system office - Retirement**
21 **system advisory board.**

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

25 2. A seven-member retirement system advisory board shall advise the director, the
26 governor, and the legislative management in the administration of the public
27 employees retirement system. No more than one elected member of the board may be
28 in the employ of a single department, institution, or agency of the state or in the
29 employ of a political subdivision. An employee of the public employees retirement
30 system office or the state retirement and investment office may not serve on the
31 board.

Sixty-fifth
Legislative Assembly

- 1 4. a. Two members of the legislative assembly must be appointed by the chairman of
2 the legislative management to serve on the board.
- 3 a. (1) If the same political party has the greatest number of members in both the
4 house and senate, one member must be from that majority party and one
5 member from the political party with the next greatest number of members
6 in the house and senate.
- 7 b. (2) If the same political party does not have the greatest number of members in
8 both the house and senate, one member must be from the majority party in
9 the house and one member must be from the majority party in the senate.
- 10 2. b. One member of the board must be appointed by the governor to serve a term of
11 five years. The appointee must be a North Dakota citizen who is not a state or
12 political subdivision employee and who by experience is familiar with money
13 management. ~~The citizen member is chairman of the board.~~
- 14 3. ~~One member of the board must be appointed by the attorney general from the~~
15 ~~attorney general's legal staff and shall serve a term of five years.~~
- 16 4. ~~The state health officer appointed under section 23-01-05 or the state health officer's~~
17 ~~designee is a member of the board.~~
- 18 5. c. Three board members must be elected by and from among the active
19 participating members, members of the retirement plan established under
20 chapter 54-52.6, members of the retirement plan established under chapter
21 39-03.1, and members of the job service North Dakota retirement plan.
22 Employees who have terminated their employment for whatever reason are not
23 eligible to serve as elected members of the board under this subsection. Board
24 members must be elected to a five-year term pursuant to an election called by
25 the board. Notice of board elections must be given to all active participating
26 members. The time spent in performing duties as a board member may not be
27 charged against any employee's accumulated annual or any other type of leave.
- 28 6. d. One board member must be elected by and from among those individuals who
29 are receiving retirement benefits under this chapter. The board shall call the
30 election and must give prior notice of the election to the individuals eligible to

1 participate in the election pursuant to this subsection. The board member shall
2 serve a term of five years.

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

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

12 **SECTION 33. AMENDMENT.** Section 54-52-04 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **54-52-04. Board authorityAuthority - Continuing appropriation.**

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

20 2. The ~~board~~governor shall appoint an executive director to serve at ~~its~~the governor's
21 discretion. ~~The executive director shall perform such duties as assigned by the board.~~

22 3. The ~~board~~office shall ~~authorize the creation of whatever~~employ staff it ~~deems~~as
23 necessary for sound and economical administration of the system. ~~The executive~~
24 ~~director shall hire the staff, subject to the approval of the board.~~

25 4. The ~~board~~office shall arrange for actuarial and medical advisers for the system. The
26 ~~board~~office shall ~~cause~~contract with a qualified, competent actuary to be retained on a
27 consulting basis. The actuary shall make an annual valuation of the liabilities and
28 reserves of the system and a determination of the contributions required by the system
29 to discharge its liabilities and pay the administrative costs under this chapter, and to
30 recommend to the ~~board~~office rates of employer and employee contributions required,
31 based upon the entry age normal cost method, to maintain the system on an actuarial

- 1 reserve basis; once every five years make a general investigation of the actuarial
2 experience under the system including mortality, retirement, employment turnover, and
3 other items required by the boardoffice, and recommend actuarial tables for use in
4 valuations and in calculating actuarial equivalent values based on such investigation;
5 and perform other duties as may be assigned by the boardoffice.
- 6 5. The state shall provide the boardoffice with the ~~retirement systems~~ office or offices to
7 be used for the ~~meetings of the board and for the~~ general purposes of the
8 ~~administrative personnel~~office.
- 9 6. The funds necessary for paying prior service and service benefits, consultant fees,
10 and making withdrawal payments and refunds are hereby appropriated from the
11 retirement fund for those purposes. The amount necessary to pay the consulting fees
12 and insurance benefits related to the uniform group insurance program is hereby
13 appropriated from the insurance premiums received by the boardoffice.
- 14 7. The boardoffice shall administer chapters 39-03.1, 54-52.1, and 54-52.2, and may
15 administer other optional employee benefit programs, including a flexible benefits plan,
16 an optional employee short-term disability plan, a long-term care plan, or other
17 optional employee benefit programs as the boardoffice deems appropriate. The
18 boardoffice shall also administer the retirement plan established in 1961 and frozen to
19 new entrants in 1980 for employees of job service North Dakota under chapter 52-11.
- 20 8. ~~The board shall annually~~Annually, the office shall report the investment performance of
21 the fund and distribute a copy to each participant.
- 22 9. The boardoffice may distribute the employer contribution and applicable interest for
23 any employee of any development foundation associated with a public institution of
24 higher education in this state who may previously have been included in the public
25 employees retirement system while employed by such foundation. Such employee is
26 entitled to have that employee's contribution and the contribution of the development
27 foundation, with interest.
- 28 10. The boardoffice may audit any books, papers, accounts, bills, vouchers, and other
29 documents or property of any and all departments, boards, commissions, political
30 subdivisions, financial institutions, contractors, health care organizations, and

1 consultants relating to their participation in services provided to programs
2 administered by the ~~board~~office.

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

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

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

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

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

29 **SECTION 34. AMENDMENT.** Subsection 3 of section 54-52-05 of the North Dakota
30 Century Code is amended and reenacted as follows:

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

24 **SECTION 35. AMENDMENT.** Section 54-52-06 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **54-52-06. Employer's contribution to retirement plan.**

27 Each governmental unit shall contribute an amount equal to four and twelve-hundredths
28 percent of the monthly salary or wage of a participating member. Governmental unit
29 contributions increase by one percent of the monthly salary or wage of a participating member
30 beginning with the monthly reporting period of January 2012, and with an additional increase of
31 one percent, beginning with the reporting period of January 2013, and with an additional

1 increase of one percent, beginning with the monthly reporting period of January 2014. For those
2 members who elect to exercise their rights under section 54-52-17.14, the employing
3 governmental unit, or in the case of a member not presently under covered employment the
4 most recent employing governmental unit, shall pay the associated employer contribution. If the
5 employee's contribution is paid by the governmental unit under subsection 3 of section
6 54-52-05, the employer unit shall contribute, in addition, an amount equal to the required
7 employee's contribution. Each governmental unit shall pay the contribution monthly, or in the
8 case of an election made pursuant to section 54-52-17.14 a lump sum, into the retirement fund
9 from its funds appropriated for payroll and salary or any other funds available for these
10 purposes. Any governmental unit failing to pay the contributions monthly, or in the case of an
11 election made pursuant to section 54-52-17.14 a lump sum, is subject to a civil penalty of fifty
12 dollars and, as interest, one percent of the amount due for each month of delay or fraction
13 thereof after the payment became due. In lieu of assessing a civil penalty or one percent per
14 month, or both, interest at the actuarial rate of return may be assessed for each month the
15 contributions are delinquent. If contributions are paid within ninety days of the date they became
16 due, penalty and interest to be paid on delinquent contributions may be waived. An employer is
17 required to submit contributions for any past eligible employee who was employed after July 1,
18 1977, for which contributions were not made if the employee would have been eligible to
19 become vested had the employee participated and if the employee elects to join the public
20 employees retirement system. Employer contributions may not be assessed for eligible service
21 that an employee has waived pursuant to subsection 1 of section 54-52-05. The ~~board~~director
22 shall report to each session of the legislative assembly the contributions necessary, as
23 determined by the actuarial study, to maintain the fund's actuarial soundness.

24 **SECTION 36. AMENDMENT.** Section 54-52-06.2 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **54-52-06.2. Contribution by national guard security officers or firefighters - Employer**
27 **contribution.**

28 Each national guard security officer or firefighter who is a member of the public employees
29 retirement system is assessed and shall pay monthly four percent of the employee's monthly
30 salary. Member contributions increase by one-half of one percent of the member's monthly
31 salary beginning with the monthly reporting period of January 2014. Effective August 1, 2015,

1 each national guard security officer or firefighter who is a participating member of the plan under
2 this section becomes a participating member of the plan under section 54-52-06.4 and the
3 ~~board~~office shall thereafter manage any account balance associated with those participating
4 members under section 54-52-06.4. After July 31, 2015, a new eligible employee may not
5 become a participating member of the plan under this section. The assessment must be
6 deducted and retained out of the employee's salary in equal monthly installments. The national
7 guard security officer's or firefighter's employer shall contribute an amount determined by the
8 ~~board~~office to be actuarially required to support the level of benefits specified in section
9 54-52-17. The employer's contribution must be paid from funds appropriated for salary or from
10 any other funds available for such purposes. If the security officer's or firefighter's assessment is
11 paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in
12 addition, an amount equal to the required national guard security officer's or firefighter's
13 assessment.

14 **SECTION 37. AMENDMENT.** Section 54-52-06.3 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **54-52-06.3. Contribution by peace officers and correctional officers employed by**
17 **political subdivisions - Employer contribution.**

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

1 section 54-52-05, the employer shall contribute, in addition, an amount equal to the required
2 peace officer's or correctional officer's assessment.

3 **SECTION 38. AMENDMENT.** Section 54-52-06.4 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **54-52-06.4. Contribution by peace officers employed by the bureau of criminal**
6 **investigation or security officers employed by the national guard - Employer**
7 **contribution.**

8 Each peace officer employed by the bureau of criminal investigation who is a member of the
9 public employees retirement system is assessed and shall pay monthly four percent of the
10 employee's monthly salary. Peace officer contributions increase by one percent of the member's
11 monthly salary beginning with the monthly reporting period of January 2012, and with an
12 additional increase of one percent, beginning with the reporting period of January 2013.
13 Effective August 1, 2015, each national guard security officer who is a member of the public
14 employee's retirement system is assessed and monthly shall pay six percent of the employee's
15 monthly salary. National guard security officer contributions decrease by one-half of one percent
16 of the member's monthly salary beginning with the monthly reporting period of January 2016.
17 The assessment must be deducted and retained out of the employee's salary in equal monthly
18 installments. The peace officer's or security officer's employer shall contribute an amount
19 determined by the boardoffice to be actuarially required to support the level of benefits specified
20 in section 54-52-17. The employer's contribution must be paid from funds appropriated for
21 salary or from any other funds available for such purposes. If the peace officer's or security
22 officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the
23 employer shall contribute, in addition, an amount equal to the required peace officer's or
24 security officer's assessment.

25 **SECTION 39. AMENDMENT.** Section 54-52-10 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **54-52-10. Allocation of funds.**

28 The boardoffice shall maintain such funds and accounts as may be necessary to administer
29 the provisions of this chapter. Any and all expenses incurred by or for the operation of the
30 retirement plan must be paid from the funds contributed pursuant to sections 54-52-06 and
31 54-52-06.1.

1 **SECTION 40. AMENDMENT.** Section 54-52-10.1 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **54-52-10.1. Payment of benefits and other costs.**

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

6 **SECTION 41. AMENDMENT.** Section 54-52-11.1 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **54-52-11.1. Vesting of employer contributions.**

9 Except for supreme and district court judges, who are not eligible for benefits under this
10 section, a member's account balance includes vested employer contributions equal to the
11 member's contributions to the deferred compensation plan for public employees under chapter
12 54-52.2, or member contributions to other participating employer supplemental Internal
13 Revenue Code section 457 or 403(b) retirement programs as approved by the ~~board~~office, with
14 the minimum member contribution being twenty-five dollars. However, the vested employer
15 contribution may not exceed:

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

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

27 **SECTION 42. AMENDMENT.** Section 54-52-14 of the North Dakota Century Code is
28 amended and reenacted as follows:

1 **54-52-14. Acceptance of money and property by the board.**

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

5 **SECTION 43. AMENDMENT.** Section 54-52-14.2 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **54-52-14.2. Interest and earnings attributable to administered funds.**

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

11 **SECTION 44. AMENDMENT.** Section 54-52-16 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **54-52-16. Insurance contracts - Trust agreements.**

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

20 **SECTION 45. AMENDMENT.** Section 54-52-17 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **54-52-17. Formulation of plan.**

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

28 1. Participating members shall receive credit for full-time employment or its equivalent
29 from the date they attain eligibility until their normal retirement date, postponed
30 retirement date, or early retirement date, as defined in this section. Part-time

1 employment will be recognized as full-time employment on a prorated basis as the
2 boardoffice may prescribe.

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

- 18 3. Retirement dates are defined as follows:

- 19 a. Normal retirement date, except for a national guard security officer or firefighter
20 or a peace officer or correctional officer employed by the bureau of criminal
21 investigation or by a political subdivision, is:

22 (1) The first day of the month next following the month in which the member
23 attains the age of sixty-five years; or

24 (2) When the member has a combined total of years of service credit and years
25 of age equal to eighty-five and has not received a retirement benefit under
26 this chapter.

- 27 b. Normal retirement date for members first enrolled after December 31, 2015,
28 except for a national guard security officer or firefighter, a peace officer or
29 correctional officer employed by the bureau of criminal investigation or by a
30 political subdivision, or a supreme court or district court judge, is:

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

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

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

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

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

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

4 4. The ~~board~~office shall calculate retirement benefits as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 a. Single life.

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

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

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

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

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

30 **SECTION 46. AMENDMENT.** Section 54-52-17.2 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **54-52-17.2. Multiple plan membership - Eligibility for benefits - Amount of benefits.**

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

6 (1) The teachers' fund for retirement.

7 (2) The highway patrolmen's retirement system.

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

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

12 b. Pursuant to rules adopted by the ~~board~~office, an employee who has service
13 credit in the system and in any of the plans described in paragraphs 1 and 2 of
14 subdivision a is entitled to benefits under this chapter. The benefits of a
15 temporary employee employed after July 31, 2015, must be calculated using the
16 benefit formula in section 54-52-17. A permanent employee or a temporary
17 employee employed before August 1, 2015, may elect to have benefits calculated
18 using the benefit formula in section 54-52-17 under either of the following
19 methods:

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

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

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

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

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

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

14 **SECTION 47. AMENDMENT.** Section 54-52-17.3 of the North Dakota Century Code is
15 amended and reenacted as follows:

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

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

24 **SECTION 48. AMENDMENT.** Section 54-52-17.4 of the North Dakota Century Code is
25 amended and reenacted as follows:

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

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

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

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

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

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

22 **SECTION 49. AMENDMENT.** Section 54-52-17.6 of the North Dakota Century Code is
23 amended and reenacted as follows:

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

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

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

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

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

23 **SECTION 50. AMENDMENT.** Section 54-52-17.11 of the North Dakota Century Code is
24 amended and reenacted as follows:

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

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

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

5 **SECTION 51. AMENDMENT.** Section 54-52-17.13 of the North Dakota Century Code is
6 amended and reenacted as follows:

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

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

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

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

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

25 **SECTION 53. AMENDMENT.** Section 54-52-26 of the North Dakota Century Code is
26 amended and reenacted as follows:

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

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

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

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

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

12 **54-52-28. Internal Revenue Code compliance.**

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

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

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

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

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

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

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

27 **SECTION 55. AMENDMENT.** Section 54-52-29 of the North Dakota Century Code is
28 amended and reenacted as follows:

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

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

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

17 **SECTION 56. AMENDMENT.** Section 54-52.1-01 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **54-52.1-01. Definitions.**

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

- 21 1. ~~"Board" means the public employees retirement board.~~
- 22 2. "Carrier" means:
 - 23 a. For the hospital benefits coverage, an insurance company authorized to do
24 business in the state, or a nonprofit hospital service association, or a prepaid
25 group practice hospital care plan authorized to do business in the state, or the
26 state if a self-insurance plan is used for providing hospital benefits coverage.
 - 27 b. For the medical benefits coverage, an insurance company authorized to do
28 business in the state, or a nonprofit medical service association, or a prepaid
29 group practice medical care plan authorized to do business in the state, or the
30 state if a self-insurance plan is used for providing medical benefits coverage.

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

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

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

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

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

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

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

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

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

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

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

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

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

13 **SECTION 57. AMENDMENT.** Section 54-52.1-02 of the North Dakota Century Code is
14 amended and reenacted as follows:

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

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

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

- 1 2. In addition to the coverage provided in subsection 1, another coverage option may be
- 2 provided for retired employees not eligible for medicare, except for employees who
- 3 first retire after the effective date of this section and are not eligible for medicare on
- 4 their retirement, provided the option does not increase the implicit subsidy as
- 5 determined by the governmental accounting standards board's other postemployment
- 6 benefit reporting procedure. In offering this additional option, the ~~board~~office may have
- 7 an open enrollment but thereafter enrollment for this option must be as specified in
- 8 section 54-52.1-03.
- 9 3. Retired medicare-eligible employee group medical and hospital benefits coverage.
- 10 4. Active eligible employee life insurance benefits coverage.
- 11 5. Retired employee life insurance benefits coverage.
- 12 6. Terminated employee continuation group medical and hospital benefits coverage.
- 13 7. Terminated employee conversion group medical and hospital benefits coverage.
- 14 8. Dental benefits coverage.
- 15 9. Vision benefits coverage.
- 16 10. Long-term care benefits coverage.
- 17 11. Employee assistance benefits coverage.
- 18 12. Prescription drug coverage.

19 **SECTION 58. AMENDMENT.** Section 54-52.1-03 of the North Dakota Century Code is
20 amended and reenacted as follows:

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

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

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

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

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

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

15 **SECTION 59. AMENDMENT.** Section 54-52.1-03.1 of the North Dakota Century Code is
16 amended and reenacted as follows:

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

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

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

12 **SECTION 60. AMENDMENT.** Section 54-52.1-03.2 of the North Dakota Century Code is
13 amended and reenacted as follows:

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

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

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

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

18 **SECTION 61. AMENDMENT.** Section 54-52.1-03.3 of the North Dakota Century Code is
19 amended and reenacted as follows:

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

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

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

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

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

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

26 **SECTION 62. AMENDMENT.** Section 54-52.1-03.4 of the North Dakota Century Code is
27 amended and reenacted as follows:

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

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

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

22 **SECTION 63. AMENDMENT.** Section 54-52.1-04 of the North Dakota Century Code is
23 amended and reenacted as follows:

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

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

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

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

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

17 **SECTION 64. AMENDMENT.** Section 54-52.1-04.1 of the North Dakota Century Code is
18 amended and reenacted as follows:

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

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

27 **SECTION 65. AMENDMENT.** Section 54-52.1-04.2 of the North Dakota Century Code is
28 amended and reenacted as follows:

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

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

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

18 **SECTION 66. AMENDMENT.** Section 54-52.1-04.3 of the North Dakota Century Code is
19 amended and reenacted as follows:

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

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

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

5 **SECTION 67. AMENDMENT.** Section 54-52.1-04.4 of the North Dakota Century Code is
6 amended and reenacted as follows:

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

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

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

15 **SECTION 68. AMENDMENT.** Section 54-52.1-04.6 of the North Dakota Century Code is
16 amended and reenacted as follows:

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

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

25 **SECTION 69. AMENDMENT.** Section 54-52.1-04.7 of the North Dakota Century Code is
26 amended and reenacted as follows:

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

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

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

3 **SECTION 70. AMENDMENT.** Section 54-52.1-04.8 of the North Dakota Century Code is
4 amended and reenacted as follows:

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

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

11 **SECTION 71. AMENDMENT.** Section 54-52.1-04.9 of the North Dakota Century Code is
12 amended and reenacted as follows:

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

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

26 **SECTION 72. AMENDMENT.** Section 54-52.1-04.10 of the North Dakota Century Code is
27 amended and reenacted as follows:

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

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

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

3 **SECTION 73. AMENDMENT.** Section 54-52.1-04.11 of the North Dakota Century Code is
4 amended and reenacted as follows:

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

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

11 **SECTION 74. AMENDMENT.** Section 54-52.1-04.12 of the North Dakota Century Code is
12 amended and reenacted as follows:

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

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

18 **SECTION 75. AMENDMENT.** Section 54-52.1-04.13 of the North Dakota Century Code is
19 amended and reenacted as follows:

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

22 1. As used in this section:

23 a. "Distant site" means a site at which a health care provider or health care facility is
24 located while providing medical services by means of telehealth.

25 b. "Health care facility" means any office or institution at which health services are
26 provided. The term includes hospitals; clinics; ambulatory surgery centers;
27 outpatient care facilities; nursing homes; nursing, basic, long-term, or assisted
28 living facilities; laboratories; and offices of any health care provider.

29 c. "Health care provider" includes an individual licensed under chapter 43-05,
30 43-06, 43-12.1 as a registered nurse or as an advanced practice registered

1 nurse, 43-13, 43-15, 43-17, 43-26.1, 43-28, 43-32, 43-37, 43-40, 43-41, 43-42,
2 43-44, 43-45, 43-47, 43-58, or 43-60.

3 d. "Originating site" means a site at which a patient is located at the time health
4 services are provided to the patient by means of telehealth.

5 e. "Policy" means health benefits coverage under a contract for insurance pursuant
6 to section 54-52.1-04 or under a self-insurance plan pursuant to section
7 54-52.1-04.2.

8 f. "Store-and-forward technology" means electronic information, imaging, and
9 communication that is transferred, recorded, or otherwise stored in order to be
10 reviewed at a distant site at a later date by a health care provider or health care
11 facility without the patient present in real time. The term includes telehome
12 monitoring and interactive audio, video, and data communication.

13 g. "Telehealth":

14 (1) Means the use of interactive audio, video, or other telecommunications
15 technology that is used by a health care provider or health care facility at a
16 distant site to deliver health services at an originating site; and that is
17 delivered over a secure connection that complies with the requirements of
18 state and federal laws.

19 (2) Includes the use of electronic media for consultation relating to the health
20 care diagnosis or treatment of a patient in real time or through the use of
21 store-and-forward technology.

22 (3) Does not include the use of audio-only telephone, electronic mail, or
23 facsimile transmissions.

24 2. For all policies that become effective after June 30, 2015, and which do not extend
25 past June 30, 2017, the ~~board~~office shall provide health benefits coverage under a
26 policy that provides coverage for health services delivered by means of telehealth
27 which is the same as the coverage for health services delivered by in-person means.

28 3. Payment or reimbursement of expenses for covered health services delivered by
29 means of telehealth under this section may be established through negotiations
30 conducted by the ~~board~~office or the ~~board's~~office's contractor with the health services
31 providers in the same manner as the ~~board~~office establishes payment or

1 reimbursement of expenses for covered health services that are delivered by
2 in-person means.

3 4. Coverage under this section may be subject to deductible, coinsurance, and
4 copayment provisions.

5 5. This section does not require:

6 a. A policy to provide coverage for health services that are not medically necessary,
7 subject to the terms and conditions of the policy;

8 b. A policy to provide coverage for health services delivered by means of telehealth
9 if the policy would not provide coverage for the health services if delivered by
10 in-person means;

11 c. A policy to reimburse a health care provider or health care facility for expenses
12 for health services delivered by means of telehealth if the policy would not
13 reimburse that health care provider or health care facility if the health services
14 had been delivered by in-person means; or

15 d. A health care provider to be physically present with a patient at the originating
16 site unless the health care provider who is delivering health services by means of
17 telehealth determines the presence of a health care provider is necessary.

18 **SECTION 76. AMENDMENT.** Section 54-52.1-04.14 of the North Dakota Century Code is
19 amended and reenacted as follows:

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

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

25 **SECTION 77. AMENDMENT.** Section 54-52.1-05 of the North Dakota Century Code is
26 amended and reenacted as follows:

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

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

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

1 **SECTION 78. AMENDMENT.** Section 54-52.1-05.1 of the North Dakota Century Code is
2 amended and reenacted as follows:

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

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

13 **SECTION 79. AMENDMENT.** Section 54-52.1-06 of the North Dakota Century Code is
14 amended and reenacted as follows:

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

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

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

4 **SECTION 80. AMENDMENT.** Section 54-52.1-06.1 of the North Dakota Century Code is
5 amended and reenacted as follows:

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

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

10 **SECTION 81. AMENDMENT.** Section 54-52.1-08 of the North Dakota Century Code is
11 amended and reenacted as follows:

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

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

17 **SECTION 82. AMENDMENT.** Section 54-52.1-08.1 of the North Dakota Century Code is
18 amended and reenacted as follows:

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

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

26 **SECTION 83. AMENDMENT.** Section 54-52.1-08.2 of the North Dakota Century Code is
27 amended and reenacted as follows:

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

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

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

7 **SECTION 84. AMENDMENT.** Section 54-52.1-09 of the North Dakota Century Code is
8 amended and reenacted as follows:

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

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

16 **SECTION 85. AMENDMENT.** Section 54-52.1-11 of the North Dakota Century Code is
17 amended and reenacted as follows:

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

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

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

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

3 **SECTION 86. AMENDMENT.** Section 54-52.1-12 of the North Dakota Century Code is
4 amended and reenacted as follows:

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

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

15 **SECTION 87. AMENDMENT.** Section 54-52.1-13 of the North Dakota Century Code is
16 amended and reenacted as follows:

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

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

21 **SECTION 88. AMENDMENT.** Section 54-52.1-14 of the North Dakota Century Code is
22 amended and reenacted as follows:

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

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

28 **SECTION 89. AMENDMENT.** Section 54-52.1-15 of the North Dakota Century Code is
29 amended and reenacted as follows:

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

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

8 **SECTION 90. AMENDMENT.** Section 54-52.1-16 of the North Dakota Century Code is
9 amended and reenacted as follows:

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

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

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

7 **SECTION 91. AMENDMENT.** Section 54-52.1-17 of the North Dakota Century Code is
8 amended and reenacted as follows:

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

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

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

3 **SECTION 92. AMENDMENT.** Section 54-52.1-18 of the North Dakota Century Code is
4 amended and reenacted as follows:

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

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

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

3 **SECTION 93. AMENDMENT.** Section 54-52.2-01 of the North Dakota Century Code is
4 amended and reenacted as follows:

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

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

19 **SECTION 94. AMENDMENT.** Section 54-52.2-02 of the North Dakota Century Code is
20 amended and reenacted as follows:

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

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

27 **SECTION 95. AMENDMENT.** Section 54-52.2-03 of the North Dakota Century Code is
28 amended and reenacted as follows:

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

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

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

15 **SECTION 96. AMENDMENT.** Section 54-52.2-03.2 of the North Dakota Century Code is
16 amended and reenacted as follows:

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

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

- 1 5. The ~~board~~office may suspend participation of any provider that does not meet the
2 requirements of this chapter or the rules adopted by the ~~board~~office.
- 3 6. The ~~board has the authority to~~public employees retirement system office executive
4 director may establish a deferred compensation advisory committee, which ~~shall~~must
5 include active providers who have signed a provider administrative agreement with the
6 state of North Dakota deferred compensation plan.

7 **SECTION 97. AMENDMENT.** Section 54-52.2-03.3 of the North Dakota Century Code is
8 amended and reenacted as follows:

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

- 11 1. The ~~board~~public employees retirement system office or a vendor contracted for by the
12 ~~board~~office shall apportion a participating member's account in the deferred
13 compensation plan under this chapter in accordance with the applicable requirements
14 of any qualified domestic relations order. The ~~board~~office shall review a domestic
15 relations order submitted to the ~~board~~office to determine if the domestic relations order
16 is qualified under this section and pursuant to the plan document established by the
17 ~~board~~office for determining the qualified status of domestic relations orders and
18 administering distributions under the qualified orders.
- 19 2. A "qualified domestic relations order" for purposes of this section means any
20 judgment, decree, or order, including approval of a property settlement agreement,
21 which relates to the provision of child support, spousal support, or marital property
22 rights to a spouse, former spouse, child, or other dependent of a participating member,
23 is made pursuant to a North Dakota domestic relations law, and which creates or
24 recognizes the existence of an alternate payee's right to, or assigns to an alternate
25 payee the right to, receive all or a part of the benefits payable to the participating
26 member. A qualified domestic relations order may not require the ~~board~~office to
27 provide any type or form of benefit, or any option, not otherwise provided under this
28 chapter, or to provide increased benefits. A qualified domestic relations order must
29 specify:
- 30 a. The name and the last-known mailing address of the participating member and
31 the name and mailing address of each alternate payee covered by the order;

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

8 **SECTION 98. AMENDMENT.** Section 54-52.3-01 of the North Dakota Century Code is
9 amended and reenacted as follows:

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

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

16 **SECTION 99. AMENDMENT.** Section 54-52.3-02 of the North Dakota Century Code is
17 amended and reenacted as follows:

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

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

23 **SECTION 100. AMENDMENT.** Section 54-52.3-03 of the North Dakota Century Code is
24 amended and reenacted as follows:

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

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

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

19 **SECTION 101. AMENDMENT.** Section 54-52.3-05 of the North Dakota Century Code is
20 amended and reenacted as follows:

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

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

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

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

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

5 **SECTION 102. AMENDMENT.** Section 54-52.3-06 of the North Dakota Century Code is
6 amended and reenacted as follows:

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

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

15 **SECTION 103. AMENDMENT.** Section 54-52.6-01 of the North Dakota Century Code is
16 amended and reenacted as follows:

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

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

- 19 1. ~~"Board"~~ means the ~~public employees retirement system board~~.
- 20 2. "Deferred member" means a person who elected to receive deferred vested retirement
21 benefits under chapter 54-52.
- 22 ~~3-2.~~ "Eligible employee" means a permanent state employee who elects to participate in
23 the retirement plan under this chapter.
- 24 ~~4-3.~~ "Employee" means any person employed by the state, whose compensation is paid
25 out of state funds, or funds controlled or administered by the state or paid by the
26 federal government through any of its executive or administrative officials.
- 27 ~~5-4.~~ "Employer" means the state of North Dakota.
- 28 5. "Office" means the public employees retirement system office.
- 29 6. "Participating member" means an eligible employee who elects to participate in the
30 defined contribution retirement plan established under this chapter.

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

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

- 17 1. ~~"Board" means the public employees retirement system board.~~
- 18 2. "Deferred member" means a person who elected to receive deferred vested retirement
19 benefits under chapter 54-52.
- 20 ~~3-2.~~ "Eligible employee" means a permanent state employee, except an employee of the
21 judicial branch or an employee of the board of higher education and state institutions
22 under the jurisdiction of the board, who is eighteen years or more of age and who is in
23 a position not classified by North Dakota human resource management services. If a
24 participating member loses permanent employee status and becomes a temporary
25 employee, the member may still participate in the defined contribution retirement plan.
- 26 ~~4-3.~~ "Employee" means any person employed by the state, whose compensation is paid
27 out of state funds, or funds controlled or administered by the state or paid by the
28 federal government through any of its executive or administrative officials.
- 29 ~~5-4.~~ "Employer" means the state of North Dakota.
- 30 5. "Office" means the public employees retirement system office.

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

17 **SECTION 104. AMENDMENT.** Section 54-52.6-02 of the North Dakota Century Code is
18 amended and reenacted as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 30 4. After consultation with its actuary, the ~~board~~office shall determine the method by which
31 a participating member or deferred member may make a written election under this

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

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

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

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

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

7 **SECTION 105. AMENDMENT.** Section 54-52.6-03 of the North Dakota Century Code is
8 amended and reenacted as follows:

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

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

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

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

1 **SECTION 106. AMENDMENT.** Section 54-52.6-03.1 of the North Dakota Century Code is
2 amended and reenacted as follows:

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

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

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

28 **SECTION 107. AMENDMENT.** Section 54-52.6-04 of the North Dakota Century Code is
29 amended and reenacted as follows:

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

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

9 **SECTION 108. AMENDMENT.** Section 54-52.6-05 of the North Dakota Century Code is
10 amended and reenacted as follows:

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

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

15 **SECTION 109. AMENDMENT.** Section 54-52.6-06 of the North Dakota Century Code is
16 amended and reenacted as follows:

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

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

28 **SECTION 110. AMENDMENT.** Section 54-52.6-08 of the North Dakota Century Code is
29 amended and reenacted as follows:

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

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

6 **SECTION 111. AMENDMENT.** Section 54-52.6-09 of the North Dakota Century Code is
7 amended and reenacted as follows:

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

- 9 1. Each participating member shall contribute monthly four percent of the monthly salary
10 or wage paid to the participant, and this assessment must be deducted from the
11 participant's salary in equal monthly installments commencing with the first month of
12 participation in the defined contribution retirement plan established under this chapter.
13 Participating member contributions increase by one percent of the monthly salary or
14 wage paid to the participant beginning with the monthly reporting period of
15 January 2012, and with an additional increase of one percent, beginning with the
16 reporting period of January 2013, and with an additional increase of one percent,
17 beginning with the monthly reporting period of January 2014.
- 18 2. The employer shall contribute an amount equal to four and twelve-hundredths percent
19 of the monthly salary or wage of a participating member. Employer contributions
20 increase by one percent of the monthly salary or wage of a participating member
21 beginning with the monthly reporting period of January 2012, and with an additional
22 increase of one percent, beginning with the monthly reporting period of January 2013,
23 and with an additional increase of one percent, beginning with the monthly reporting
24 period of January 2014. If the employee's contribution is paid by the employer under
25 subsection 3, the employer shall contribute, in addition, an amount equal to the
26 required employee's contribution. The employer shall pay monthly such contribution
27 into the participating member's account from its funds appropriated for payroll and
28 salary or any other funds available for such purposes. If the employer fails to pay the
29 contributions monthly, it is subject to a civil penalty of fifty dollars and, as interest, one
30 percent of the amount due for each month of delay or fraction thereof after the
31 payment became due.

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

20 **SECTION 112. AMENDMENT.** Section 54-52.6-09.1 of the North Dakota Century Code is
21 amended and reenacted as follows:

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

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

25 **SECTION 113. AMENDMENT.** Section 54-52.6-11 of the North Dakota Century Code is
26 amended and reenacted as follows:

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

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

1 nomination is not effective unless the nomination is signed by the participant's spouse.
2 However, the boardoffice may waive this requirement if the spouse's signature cannot be
3 obtained because of extenuating circumstances.

4 **SECTION 114. AMENDMENT.** Section 54-52.6-12 of the North Dakota Century Code is
5 amended and reenacted as follows:

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

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

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

5 **SECTION 115. AMENDMENT.** Section 54-52.6-13 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **54-52.6-13. Distributions.**

- 8 1. A participating member is eligible to receive distribution of that person's accumulated
9 balance in the plan upon becoming a former participating member.
- 10 2. Upon the death of a participating member or former participating member, the
11 ~~board~~office shall pay the accumulated account balance of that deceased participant to
12 the deceased participant's refund beneficiary, if any, as provided in this subsection. If
13 the deceased participant designated an alternate refund beneficiary with the surviving
14 spouse's written consent, the ~~board~~office shall distribute the accumulated balance to
15 the named beneficiary. If the deceased participant named more than one primary
16 beneficiary with the surviving spouse's written consent, the ~~board~~office shall pay the
17 accumulated account balance to the named primary beneficiaries in the percentages
18 designated by the deceased participant or, if the deceased participant had not
19 designated a percentage for the beneficiaries, in equal percentages. If one or more of
20 the primary beneficiaries has predeceased the deceased participant, the ~~board~~office
21 shall pay the predeceased beneficiary's share to the remaining primary beneficiaries.
22 If any beneficiary survives the deceased participant, yet dies before distribution of the
23 beneficiary's share, the beneficiary must be treated as if the beneficiary predeceased
24 the deceased participant. If there is no remaining primary beneficiary, the ~~board~~office
25 shall pay the accumulated account balance of that deceased participant to the
26 contingent beneficiaries in the same manner. If there is no remaining designated
27 beneficiary, the ~~board~~office shall pay the accumulated account balance of that
28 deceased participant to the deceased participant's estate. If the deceased participant
29 had not designated an alternate refund beneficiary or the surviving spouse is the
30 refund beneficiary, the surviving spouse of the deceased participant may select a form
31 of payment as provided in subdivision d of subsection 3.

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

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

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

22 **SECTION 116. AMENDMENT.** Section 54-52.6-14 of the North Dakota Century Code is
23 amended and reenacted as follows:

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

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

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

4 **SECTION 117. AMENDMENT.** Section 54-52.6-15 of the North Dakota Century Code is
5 amended and reenacted as follows:

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

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

16 **SECTION 118. AMENDMENT.** Section 54-52.6-18 of the North Dakota Century Code is
17 amended and reenacted as follows:

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

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

25 **SECTION 119. AMENDMENT.** Section 54-52.6-19 of the North Dakota Century Code is
26 amended and reenacted as follows:

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

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

1 **SECTION 120. AMENDMENT.** Section 54-52.6-20 of the North Dakota Century Code is
2 amended and reenacted as follows:

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

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

6 **SECTION 121. AMENDMENT.** Section 54-52.6-21 of the North Dakota Century Code is
7 amended and reenacted as follows:

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

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

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

1 of the calendar year in which the member attains age seventy and one-half or
2 terminates employment.

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

5 4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly,
6 a distributee may elect to have an eligible rollover distribution, as defined in section
7 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible
8 retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code,
9 specified by the distributee.

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

14 **SECTION 122. LEGISLATIVE INTENT - ELECTRONIC DISTRIBUTION OF MATERIALS.**

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