

Fifty-eighth  
Legislative Assembly  
of North Dakota

Introduced by

(At the request of the Public Employees Retirement System)

1 A BILL for an Act to create and enact sections 54-52-02.11 and 54-52-02.12, a new subsection  
2 to section 54-52-17.4, a new section to chapter 54-52, a new subsection to section 54-52-26,  
3 and section 54-52.2-03.2 of the North Dakota Century Code, relating to participation, service  
4 credit purchases, and confidentiality under the public employees retirement system qualified  
5 domestic relations order applicability to the deferred compensation program, and compliance  
6 with the Internal Revenue Code; to amend and reenact section 28-22-19, subsections 3, 7, 10,  
7 and 14 of section 54-52-01, sections 54-52-02 and 54-52-02.5, subsection 3 of section  
8 54-52-05, sections 54-52-17 and 54-52-17.2, subsections 1 and 4 of section 54-52-17.4,  
9 section 54-52-27, subsection 1 of section 54-52.1-03.3, and section 54-52.2-06 of the North  
10 Dakota Century Code, relating to exemptions from legal process, definitions, membership,  
11 contributions, benefits, service credit, conversion of sick leave, and retiree health benefits under  
12 the public employees retirement system; and to repeal section 54-52-17.8 of the North Dakota  
13 Century Code, relating to benefit limitations under the public employees retirement system.

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

15 **SECTION 1. AMENDMENT.** Section 28-22-19 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **28-22-19. Exemptions from legal process - Public pensions, assistance, and**  
18 **awards.** The following amounts are exempt from liability for debts of the person to or on  
19 account of whom the amounts are paid, and are not subject to seizure upon execution or other  
20 process:

- 21 1. All pensions or annuities or retirement, disability, death, or other benefits paid or  
22 payable by, or amounts received as a return of contributions and interest from, a  
23 retirement system established pursuant to state law by the state except as  
24 provided by sections 15-39.1-12.2, 39-03.1-14.2, ~~and~~ 54-52-17.6, and

54-52.2-03.2, a state agency, a political subdivision of the state, or a firefighters relief association for retirement, annuity, pension, disability benefit, or death benefit purposes.

2. All awards made pursuant to chapter 54-23.4 as compensation for victims of crimes.

3. All payments of assistance as aid to dependent children pursuant to chapter 50-09.

**SECTION 2. AMENDMENT.** Subsections 3, 7, 10, and 14 of section 54-52-01 of the North Dakota Century Code are amended and reenacted as follows:

3. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials ~~who elect to remain members of the retirement system; provided, that judges of the supreme and district courts eligible under section 54-52-02.3 and appointed officials who elect to participate under section 54-52-02.5 are eligible employees and shall participate in the public employees retirement system~~ under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12. Eligible employee does not include nonclassified state employees who elect to become members of the retirement plan established under chapter 54-52.6 but does include employees of the judicial branch and employees of the board of higher education and state institutions under the jurisdiction of the board.

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

10. "Permanent employee" means a governmental unit employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least ~~five months~~ twenty weeks each year of employment.

14. "Retirement" means the acceptance of a retirement allowance under this chapter upon either termination of employment or termination of participation in the retirement plan and meeting the normal retirement date.

**SECTION 3. AMENDMENT.** Section 54-52-02 of the North Dakota Century Code is amended and reenacted as follows:

1           **54-52-02. Formulation of plan - Exclusion of employees covered by plans in**  
2 **existence.** All departments, boards, institutions, commissions, or agencies of the state of North  
3 Dakota, the Garrison diversion conservancy district, district health units, the supreme court, and  
4 the district courts, hereinafter referred to as agency, shall participate in a retirement system  
5 which will provide for the payment of benefits to state and political subdivision employees or to  
6 their beneficiaries thereby enabling the employees to care for themselves and their dependents  
7 and which by its provisions will improve state and political subdivision employment, reduce  
8 excessive personnel turnover, and offer career employment to high-grade men and women.  
9 However, a city health department providing health services in a city-county health district  
10 formed under chapter 23-35 is not required to participate in the public employees retirement  
11 system but may participate in the public employees retirement system under section  
12 54-52-02.1. Employees presently covered by a pension plan or retirement plan to which the  
13 state is contributing, except social security, are not eligible for duplicate coverage except as  
14 provided under sections 39-03.1-14.1 and 54-52-17.2.

15           **SECTION 4. AMENDMENT.** Section 54-52-02.5 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17           **54-52-02.5. Newly elected and appointed state officials.** After December 31, 1999,  
18 a person elected or appointed to an a state office for the first time must, from and after the date  
19 that person qualifies and takes office, be a participating member of the public employees  
20 retirement system unless that person makes an election at any time during the first six months  
21 after the date the person takes office to participate in the retirement plan established under  
22 chapter 54-52.6. As used in this section, the phrase "for the first time" means a person  
23 appointed, who, after December 31, 1999, does not hold office as an appointed official at the  
24 time of that person's appointment.

25           **SECTION 5.** Section 54-52-02.11 of the North Dakota Century Code is created and  
26 enacted as follows:

27           **54-52-02.11. Participation requirements for nonstate elected officials.** Elected  
28 officials of participating counties, at their individual option, may enroll in the defined benefit plan  
29 within the first six months of their term.

30           **SECTION 6.** Section 54-52-02.12 of the North Dakota Century Code is created and  
31 enacted as follows:

1           **54-52-02.12. Participation requirements for nonstate appointed officials.** Nonstate  
2 appointed officials of participating employers appointed on or after August 1, 1999, who meet  
3 the participation requirements of this chapter must be enrolled in the defined benefit plan  
4 effective within the first month of taking office.

5           **SECTION 7. AMENDMENT.** Subsection 3 of section 54-52-05 of the North Dakota  
6 Century Code is amended and reenacted as follows:

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

28           **SECTION 8. AMENDMENT.** Section 54-52-17 of the North Dakota Century Code is  
29 amended and reenacted as follows:

30           **54-52-17. Formulation of plan.** Participating members shall receive benefits  
31 according to this section and according to rules adopted by the board, not inconsistent with this

chapter. No person is entitled to receive a prior service benefit if the person was not continuously employed by a governmental unit in North Dakota for a period of not less than two years immediately prior to eligibility for retirement.

1. Participating members shall receive credit for full-time employment or its equivalent from the date they attain eligibility until their normal retirement date, postponed retirement date, or early retirement date, as defined in this section. Part-time employment will be recognized as full-time employment on a prorated basis as the board may prescribe.
2. Retirement benefits are calculated from the participating member's final average salary, which is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred twenty months of employment. Months not employed are excluded in arriving at the thirty-six months to be used for the purpose of computing an average. If the participating member has worked for less than thirty-six months at the normal retirement date, the final average salary is the average salary for the total months of employment.
3. Retirement dates are defined as follows:
  - a. Normal retirement date, except for a national guard security officer or firefighter, is:
    - (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
    - (2) When the member has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
  - b. Normal retirement date for a national guard security officer or firefighter is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty-five years and has completed at least three consecutive years of employment as a national guard security officer or firefighter immediately preceding retirement.
  - c. Postponed retirement date is the first day of the month next following the month in which the member, on or after July 1, 1977, actually severs or has severed the member's employment after reaching the normal retirement date.

1           d.   Early retirement date, except for a national guard security officer or firefighter,  
2           is the first day of the month next following the month in which the member  
3           attains the age of fifty-five years and has completed three years of eligible  
4           employment. For a national guard security officer or firefighter, early  
5           retirement date is the first day of the month next following the month in which  
6           the national guard security officer or firefighter attains the age of fifty years  
7           and has completed at least three years of eligible employment.

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

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

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

29          4.   The board shall calculate retirement benefits as follows:

30               a.   Normal retirement benefits for all retirees, except supreme and district court  
31               judges, reaching normal retirement date equal an annual amount, payable

monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which is determined as follows:

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

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

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

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

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

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

d. Early retirement benefits are calculated as for single life benefits accrued to the date of termination of employment, but must be actuarially reduced to account for benefit payments beginning prior to the normal retirement date, which is the earlier of age sixty-five or the age at which current service plus age equals eighty-five. A retiree, other than a supreme or district court judge, is eligible for early retirement benefits only after having completed three years of eligible employment. A supreme or district court judge retiree is eligible for early retirement benefits only after having completed five years of eligible employment.

1 e. Except for supreme and district court judges, disability retirement benefits are  
2 twenty-five percent of the member's final average salary. Disability retirement  
3 benefits for supreme and district court judges are seventy percent of final  
4 average salary reduced by the member's primary social security benefits and  
5 by any workers' compensation benefits paid. The minimum monthly disability  
6 retirement benefit under this section is one hundred dollars.

7 ~~f. A participating member who is a vested permanent employee is entitled to~~  
8 ~~purchase additional years of service credit to enable the member to qualify for~~  
9 ~~the normal retirement date defined by subdivision a of subsection 3. The~~  
10 ~~years of service purchased must be added to the years of service~~  
11 ~~employment under paragraph 1 of subdivision a for calculating the service~~  
12 ~~benefit.~~

13 5. Upon termination of employment after completing three years of eligible  
14 employment, except for supreme and district court judges, who must complete five  
15 years of eligible employment, but before normal retirement date, a member who  
16 does not elect to receive early retirement benefits is eligible to receive deferred  
17 vested retirement benefits payable commencing on the member's normal  
18 retirement date equal to one hundred percent of the member's accrued single life  
19 benefits.

20 6. If before retiring a member dies after completing three years of eligible  
21 employment, except for supreme and district court judges, who must have  
22 completed five years of eligible employment, the board shall pay the member's  
23 account balance to the member's designated beneficiary as provided in this  
24 subsection. If the member has designated an alternate beneficiary with the  
25 surviving spouse's written consent, the board shall pay the member's account  
26 balance to the named beneficiary. If the member has named more than one  
27 primary beneficiary, the board shall pay the member's account balance to the  
28 named primary beneficiaries in the percentages designated by the member or, if  
29 the member has not designated a percentage for the beneficiaries, in equal  
30 percentages. If one or more of the primary beneficiaries has predeceased the  
31 member, the board shall pay the predeceased beneficiary's share to the remaining



primary beneficiaries. If there are no remaining primary beneficiaries, the board shall pay the member's account balance to the contingent beneficiaries in the same manner. If there are no remaining designated beneficiaries, the board shall pay the member's account balance to the member's estate. If the member has not designated an alternate beneficiary or the surviving spouse is the beneficiary, the surviving spouse of the member may select a form of payment as follows:

a. If the member was a supreme or district court judge, the surviving spouse may select one of the following optional forms of payment:

- (1) A lump sum payment of the member's retirement account as of the date of death.
- (2) Payments as calculated for the deceased member as if the member was of normal retirement age at the date of death, payable until the spouse dies.

b. The surviving spouse of all other members may select one of the following options:

- (1) A lump sum payment of the member's retirement account as of the date of death.
- (2) Payments for sixty months as calculated for the deceased member as if the member was of normal retirement age at the date of death.
- (3) Payment of a monthly retirement benefit equal to fifty percent of the deceased member's accrued single life retirement benefits until the spouse dies.
- (4) If the member dies on or after the member's normal retirement date, the payment of a monthly retirement benefit equal to an amount that would have been paid to the surviving spouse if the member had retired on the day of the member's death and had selected a one hundred percent joint and survivor annuity, payable until the spouse dies. A surviving spouse who received a benefit under this subsection as of July 31, 1995, is entitled to the higher of that person's existing benefit or the equivalent of the accrued benefit available under the one hundred percent joint and survivor provision as if the deceased member were of

normal retirement age, with the increase payable beginning August 1, 1995.

7. If a member not coming under the provisions of subsection 6 terminates employment because of death, permanent and total disability, or any voluntary or involuntary reason prior to retirement, the member or the member's designated beneficiary is entitled to the member's account balance at termination. The board shall automatically refund a member's account balance if the member has completed less than three years of eligible employment and was not a supreme or district court judge. If the member was a supreme or district court judge, the board shall automatically refund a member's account balance if the member completed less than five years of eligible employment. A member may waive the refund if the member submits a written statement to the board, within thirty days after termination, requesting that the member's account balance remain in the fund.
8. The surviving spouse of a member receiving retirement benefits must be the member's primary beneficiary unless there is no surviving spouse or the surviving spouse designates an alternate beneficiary in writing. If a member receiving retirement benefits or the member's surviving spouse receiving retirement benefits dies before the total amount of benefits paid to either or both equals the amount of the member's account balance at retirement, the difference must be paid to the named beneficiary of the recipient or, if there is no named beneficiary, to the recipient's estate.
9. The board shall adopt rules providing for the receipt of retirement benefits in the following optional forms:
  - a. Single life.
  - b. An actuarially equivalent joint and survivor option, with fifty percent or one hundred percent options.
  - c. An actuarially equivalent level social security option, which is available only to members who retire prior to attaining the age at which they may begin to receive unreduced social security benefits.
  - d. Life with five-year or ten-year certain options.

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

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

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

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

**SECTION 9. AMENDMENT.** Section 54-52-17.2 of the North Dakota Century Code is amended and reenacted as follows:

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

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

(1) The teachers' fund for retirement.

(2) The highway patrolmen's retirement system.

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

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

b. ~~If an employee terminates eligible employment under the system, if that employee has not received a refund of the employee's account balance, and if the employee begins eligible employment in a plan described in paragraph 1, 2, or 3 of subdivision a, that employee may elect to remain an inactive member of the system without refund of the employee's account balance. The election must be made within ninety days after beginning the eligible employment. The board shall terminate the inactive status of an employee under this subdivision if the employee gains eligible employment under this chapter or if the employee terminates eligible employment under a plan described in paragraph 1, 2, or 3 of subdivision a.~~

e. ~~An~~ Pursuant to rules adopted by the board, an employee who has service credit in the system and in any number of the plans described in paragraphs 1; and 2, and 3 of subdivision a is entitled to benefits under this chapter ~~calculated by using the certified salaries of the retirement plan of last membership.~~ The employee may elect to have benefits calculated using the benefit formula in section 54-52-17 under either of the following methods:

(1) The average of the highest salary received by the member for any thirty-six months employed during the last one hundred twenty months of employment in the public employees retirement system. If the participating member has worked for less than thirty-six months at retirement, the final average salary is the average salary for the total months of employment.

(2) The average of the highest salary received by the member for any thirty-six consecutive months during the last one hundred twenty months of employment with any of the three eligible employers under this subdivision, with service credit not to exceed one month in any

1                   month when combined with the service credit earned in the alternate  
2                   retirement system.

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

- 5           2. a. ~~If an employee, who is a participating member, is also employed in any~~  
6                   ~~position where membership in the teachers' fund for retirement is required,~~  
7                   ~~then for purposes of current employment the employee is a member of the~~  
8                   ~~retirement system in which the employee has the most years of service~~  
9                   ~~employment. If the employee has an equal amount of service in both the~~  
10                  ~~public employees retirement system and the teachers' fund for retirement, the~~  
11                  ~~employee is a member of the public employees retirement system. The board~~  
12                  ~~of trustees of the teachers' fund for retirement and the state retirement board~~  
13                  ~~shall jointly certify to the appropriate employers of the employee the fact of the~~  
14                  ~~beginning and termination of eligibility for dual membership in the respective~~  
15                  ~~retirement systems and the retirement system to which the employee is~~  
16                  ~~required to be a member under this subsection. The employers upon receipt~~  
17                  ~~of this certification shall pay over to that retirement system the member~~  
18                  ~~assessments and employer contributions at the rates currently existing for that~~  
19                  ~~retirement system. If the employee is required to be a member of the~~  
20                  ~~teachers' fund for retirement, the board, at the employee's election, shall~~  
21                  ~~designate the employee an inactive member of the public employees~~  
22                  ~~retirement system until the employee ceases the employment which requires~~  
23                  ~~membership in both the public employees retirement system and the~~  
24                  ~~teachers' fund for retirement who is eligible to participate in the public~~  
25                  ~~employees retirement system is also employed in any position when~~  
26                  ~~membership in an alternate retirement system is required, then, for purposes~~  
27                  ~~of current participation, the employee is a member of each applicable~~  
28                  ~~retirement system. The employer shall pay over to each retirement system~~  
29                  ~~the member assessment and employer contributions at the rates currently~~  
30                  ~~existing for that retirement system.~~

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

~~3. Under rules adopted by the board, an individual whose service credit was canceled when that individual received a refund of assessments at termination of employment under this chapter may, while that individual participates in a plan described in paragraph 1, 2, or 3 of subdivision a of subsection 1, repurchase that service credit that was canceled.~~

**SECTION 10.** A new subsection to section 54-52-17.4 of the North Dakota Century Code is created and enacted as follows:

In addition to service credit identified in this section, a member may purchase up to five years of service credit unrelated to any prior service.

**SECTION 11. AMENDMENT.** Subsections 1 and 4 of section 54-52-17.4 of the North Dakota Century Code are amended and reenacted as follows:

1. A member may elect to purchase credit for years of service and prior service for which the member is not presently receiving credit. A member is entitled to purchase additional credit under this section for the following service or prior service, except this service is not eligible for credit if the years claimed also qualify for retirement benefits from another retirement system:
  - a. Active employment in the armed forces of the United States, except as provided in subsection 5, for up to four years of credit.
  - b. Employment as a permanent employee by a governmental unit ~~that does not participate in the public employees retirement system under this chapter~~ either within or outside the state of North Dakota.

- 1 c. Employment as a permanent employee by a political subdivision participating  
2 in the public employees retirement system which did not pay the cost of past  
3 service benefits under section 54-52-02.1.
- 4 d. Service the participating member did not elect to repurchase upon  
5 reemployment under section 54-52-02.6.
- 6 e. Service of an eligible employee, who exercised the privilege to withdraw from  
7 the predecessor plan to the public employees retirement system under  
8 subsection 10 of section 54-52-17 as created by section 13 of chapter 499 of  
9 the 1977 Session Laws.

10 f. ~~Employment as a permanent employee of a governmental unit not located in~~  
11 ~~North Dakota.~~

12 ~~g.~~ Employment as a permanent employee by the federal government.

- 13 4. The member or the member's employer may purchase credit under this section by  
14 paying to the board an amount equal to the actuarial cost to the fund of providing  
15 the credit. If the member purchases credit pursuant to subdivision d of  
16 subsection 1, the member must pay to the board an amount equal to the greater of  
17 the actuarial cost to the fund of providing the credit, or the amount the member  
18 received upon taking a refund of the member's account balance, plus interest at  
19 the actuarial rate of return from the time the member was issued the refund. If the  
20 member is not repurchasing all of the credit originally refunded, the member must  
21 pay a pro rata amount of the refunded amount determined by dividing the refunded  
22 amount by the number of months of credit refunded, multiplying that amount times  
23 the number of months of credit the member seeks to repurchase, and adding  
24 interest at the actuarial rate of return. The member shall also pay to the retiree  
25 health benefits fund established under section 54-52.1-03.2 an amount equal to the  
26 actuarial cost to that fund for the additional credit. This contribution must be  
27 recorded as a member contribution pursuant to section 54-52.1-03.2. The board  
28 shall adopt rules governing the purchase of additional credit under this section.

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

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

4       **SECTION 13.** A new subsection to section 54-52-26 of the North Dakota Century Code  
5 is created and enacted as follows:

6               Beneficiaries designated by a participating member or a former participating  
7 member to receive benefits after the member's death, but only after the member's  
8 death.

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

11       **54-52-27. Conversion of sick leave.** At termination of eligible employment a member  
12 is entitled to credit in the retirement system for each month of unused sick leave, as certified by  
13 the member's employer, if the member or the member's employer pays an amount equal to the  
14 member's final average salary, times the number of months of sick leave converted, times the  
15 percent of employer and employee contributions to the retirement program of the member, plus  
16 one percent for the retiree health benefits program. Hours of sick leave equal to a fraction of a  
17 month are deemed to be a full month for purposes of conversion to service credit. A member  
18 may convert all of the member's certified sick leave or a part of the member's certified sick  
19 leave. All conversion payments must be made within sixty days of termination of employment  
20 and before the member receives a retirement annuity unless the member has submitted an  
21 approved payment plan to the board.

22       **SECTION 15. AMENDMENT.** Subsection 1 of section 54-52.1-03.3 of the North  
23 Dakota Century Code is amended and reenacted as follows:

- 24       1. The following persons are entitled to receive credit for hospital and medical  
25       benefits coverage under subsection 2:
- 26       a. A member or surviving spouse of the highway patrolmen's retirement system  
27       ~~receiving retirement benefits, or the surviving spouse of a member of the~~  
28       ~~highway patrolmen's retirement system who was eligible to receive or was~~  
29       ~~receiving retirement benefits, under section 39-03.1-11~~ is eligible for the credit  
30       beginning on the date retirement benefits are effective unless the premium is  
31       billed to the employer.



- 1           b. A member or surviving spouse of the public employees retirement system  
2           ~~receiving retirement benefits, or the surviving spouse of a member of the~~  
3           ~~public employees retirement system who was eligible to receive or was~~  
4           ~~receiving retirement benefits, under section 54-52-17~~ is eligible for the credit  
5           beginning on the date retirement benefits are effective unless the premium is  
6           billed to the employer.
- 7           c. A member or surviving spouse of the retirement program established by job  
8           service North Dakota under section 52-11-01 receiving retirement benefits,~~or~~  
9           ~~the surviving spouse of a member of that retirement program who was eligible~~  
10          ~~to receive or was receiving retirement benefits, under the plan provisions of~~  
11          ~~that retirement program~~ is eligible for the credit beginning on the date  
12          retirement benefits are effective unless the premium is billed to the employer.
- 13          d. A retired judge or surviving spouse receiving retirement benefits under the  
14          retirement program established under chapter 27-17,~~or the surviving spouse~~  
15          ~~of a retired judge who was eligible to receive or was receiving retirement~~  
16          ~~benefits, under section 27-17-04~~ is eligible for the credit beginning on the date  
17          retirement benefits are effective unless the premium is billed to the employer.
- 18          e. A former participating member of the defined contribution retirement plan is  
19          eligible as determined by the board pursuant to its rules.

20           **SECTION 16.** Section 54-52.2-03.2 of the North Dakota Century Code is created and  
21   enacted as follows:

22           **54-52.2-03.2. Benefit payments to alternate payee under qualified domestic**  
23   **relations order.**

- 24           1. The board or a vendor contracted for by the board shall apportion a participating  
25           member's account in the deferred compensation plan under this chapter in  
26           accordance with the applicable requirements of any qualified domestic relations  
27           order. The board shall review a domestic relations order submitted to the board to  
28           determine if the domestic relations order is qualified under this section and  
29           pursuant to the plan document established by the board for determining the  
30           qualified status of domestic relations orders and administering distributions under  
31           the qualified orders.

2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of a participating member, is made pursuant to a North Dakota domestic relations law, and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of the benefits payable to the participating member. A qualified domestic relations order may not require the board to provide any type or form of benefit, or any option, not otherwise provided under the public employees retirement system, or to provide increased benefits. A qualified domestic relations order must specify:
- a. The name and the last-known mailing address of the participating member and the name and mailing address of each alternate payee covered by the order;
  - b. The amount or percentage of the participating member's benefits to be paid by the plan to each alternate payee;
  - c. The number of payments or period to which the order applies; and
  - d. Each retirement plan to which the order applies.

**SECTION 17. AMENDMENT.** Section 54-52.2-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.2-06. Deferred compensation program - Benefits - Taxation - Exemption from judicial process - Assignment.** The deferred compensation program established by this chapter shall exist and serve in addition to retirement, pension, or benefit systems established by the state, county, city, town, or other political subdivision, and no deferral of income under the deferred compensation program shall effect a reduction of any retirement, pension, or other benefit provided by law. However, any sum deferred under the deferred compensation program is not subject to taxation until distribution is actually made to the employee. Any unpaid benefits under the deferred compensation program established by this chapter are not subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, except as provided by section 54-52.2-03.2. Neither the employee, the employee's beneficiary, nor any designee of the employee or the employee's beneficiary

- 1 has the right to commute, sell, assign, transfer, or otherwise convey the right to receive
- 2 payments under this chapter.
- 3 **SECTION 18. REPEAL.** Section 54-52-17.8 of the North Dakota Century Code is
- 4 repealed.