

Introduced by

Representative Grueneich

1 A BILL for an Act to create and enact a new chapter to title 54 and a new subdivision to
2 subsection 2 of section 57-38-30.3 of the North Dakota Century Code, relating to the creation of
3 the volunteer first responder retirement plan and an income tax deduction for benefit payments;
4 to amend and reenact subsection 1 of section 21-10-06, subsection 7 of section 54-52-04,
5 section 54-52-14.2, subsection 2 of section 54-52-17.6, and section 54-52-26 of the North
6 Dakota Century Code, relating to the volunteer first responder retirement plan; to provide for a
7 report; to provide a penalty; to provide an appropriation; to provide a continuing appropriation;
8 to provide for a transfer; and to provide an effective date.

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

10 **SECTION 1. AMENDMENT.** Subsection 1 of section 21-10-06 of the North Dakota Century
11 Code is amended and reenacted as follows:

- 12 1. Subject to the provisions of section 21-10-02, the board shall invest the following
13 funds:
- 14 a. State bonding fund.
 - 15 b. Teachers' fund for retirement.
 - 16 c. State fire and tornado fund.
 - 17 d. Workforce safety and insurance fund.
 - 18 e. Public employees retirement system.
 - 19 f. Insurance regulatory trust fund.
 - 20 g. State risk management fund.
 - 21 h. Budget stabilization fund.
 - 22 i. Water projects stabilization fund.
 - 23 j. Health care trust fund.
 - 24 k. Cultural endowment fund.

- 1 l. Petroleum tank release compensation fund.
- 2 m. Legacy fund.
- 3 n. Opioid settlement fund.
- 4 o. Volunteer first responder retirement fund.
- 5 p. A fund under contract with the board pursuant to subsection 3.

6 **SECTION 2. AMENDMENT.** Subsection 7 of section 54-52-04 of the North Dakota Century
7 Code is amended and reenacted as follows:

8 7. The board shall administer ~~chapters~~:

9 a. Chapters 39-03.1, 54-52.1, and 54-52.2, and may administer other optional
10 employee benefit programs, including a flexible benefits plan, an optional
11 employee short-term disability plan, a long-term care plan, or other optional
12 employee benefit programs as the board deems appropriate;

13 b. The ~~board shall also administer~~ the retirement plan established in 1961 and
14 frozen to new entrants in 1980 for employees of job service North Dakota under
15 chapter 52-11; and

16 c. The volunteer first responder retirement plan under section 6 of this Act.

17 **SECTION 3. AMENDMENT.** Section 54-52-14.2 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **54-52-14.2. Interest and earnings attributable to administered funds.**

20 All interest and earnings on funds administered by the retirement board established under
21 chapters 39-03.1, 54-52, 54-52.1, 54-52.2, and 54-52.3, and section 6 of this Act must be
22 credited to the respective fund.

23 **SECTION 4. AMENDMENT.** Subsection 2 of section 54-52-17.6 of the North Dakota
24 Century Code is amended and reenacted as follows:

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

1 member. A qualified domestic relations order may not require the board to provide any
2 type or form of benefit, or any option, not otherwise provided under the public
3 employees retirement system or section 6 of this Act, or to provide increased benefits
4 as determined on the basis of actuarial value. However, a qualified domestic relations
5 order may require the payment of benefits at the early retirement date ~~notwithstanding~~
6 ~~that, even if~~ the participating member 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 participating member and
9 the name and mailing address of each alternate payee covered by the order;
- 10 b. The amount or percentage of the participating member's benefits to be paid by
11 the plan to 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 5. AMENDMENT.** Section 54-52-26 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **54-52-26. Confidentiality of records.**

17 All records relating to the retirement benefits of a member or a beneficiary under this
18 chapter, ~~chapter~~ and chapters 54-52.2, and chapter 54-52.6, and section 6 of this Act are
19 confidential and are not public records. For purposes of this section, "eligible volunteer agency"
20 means a fire department or emergency medical services agency, which entered an agreement
21 with the retirement board under section 6 of this Act. Information and records may be disclosed,
22 under rules adopted by the board, only to:

- 23 1. A person to whom the member has given written consent to have the information
24 disclosed.
- 25 2. A person legally representing the member, upon proper proof of representation, and
26 unless the member specifically withholds consent.
- 27 3. A person authorized by a court order.
- 28 4. A member's participating employer or eligible volunteer agency, limited to information
29 concerning the member's years of service credit and years of age. The board may
30 share other types of information as needed by the employer or eligible volunteer
31 agency to validate the employer's or eligible volunteer agency's compliance with

- 1 existing state or federal laws. Any information provided to the member's participating
2 employer or eligible volunteer agency under this subsection must remain confidential
3 except as provided under subsection 6.
- 4 5. The administrative staff of the retirement and investment office for purposes relating to
5 membership and benefits determination.
- 6 6. State or federal agencies for purposes of reporting on a service provider's provision of
7 services or when the employer or eligible volunteer agency must supply information to
8 an agency to validate the employer's compliance with existing state or federal laws.
- 9 7. Member interest groups approved by the board on a third-party blind list basis, limited
10 to information concerning the member's participation, name, and address.
- 11 8. The member's spouse or former spouse, that individual's legal representative, and the
12 judge presiding over the member's dissolution proceeding for purposes of aiding the
13 parties in drafting a qualified domestic relations order under section 54-52-17.6. The
14 information disclosed under this subsection must be limited to information necessary
15 for drafting the order.
- 16 9. Beneficiaries designated by a participating member or a former participating member
17 to receive benefits after the member's death, but only after the member's death.
18 Information relating to beneficiaries may be disclosed to other beneficiaries of the
19 same member.
- 20 10. The general public, but only after the board has been unable to locate the member for
21 a period in excess of one year, and limited to the member's name and the fact the
22 board has been unable to locate the member.
- 23 11. Any person if the board determines disclosure is necessary for treatment, operational,
24 or payment purposes, including the completion of necessary documents.
- 25 12. A government child support enforcement agency for purposes of establishing paternity
26 or establishing, modifying, or enforcing a child support obligation of the member.
- 27 13. A person if the information relates to an employer service purchase, but the
28 information must be limited to the member's name and employer, the retirement
29 program in which the member participates, the amount of service credit purchased by
30 the employer, and the total amount expended by the employer for that service credit
31 purchase, and that information may only be obtained from the member's employer.

1 **SECTION 6.** A new chapter to title 54 of the North Dakota Century Code is created and
2 enacted as follows:

3 **Definitions.**

4 As used in this chapter:

- 5 1. "Active member" means an eligible volunteer credited with service under this chapter
6 during the most recently reportable fiscal year.
- 7 2. "Benefit" means the pension, disability, or survivorship benefit provided under this
8 chapter.
- 9 3. "Board" means the public employees retirement system board.
- 10 4. "Dependent child" means a child who is unmarried, under eighteen years of age, and
11 the child of a deceased member.
- 12 5. "Designated official" means a representative of an eligible volunteer agency appointed
13 by the chief, manager, or board of the eligible volunteer agency to perform specified
14 actions.
- 15 6. "Disability" or "permanent total disability" means a duty-related injury resulting in
16 permanent total disability.
- 17 7. "Eligible volunteer" means a volunteer first responder who meets all eligibility
18 requirements under this chapter.
- 19 8. "Eligible volunteer agency" means a fire department or emergency medical services
20 agency eligible under this chapter.
- 21 9. "Emergency medical services agency" means an emergency medical services
22 operation licensed by the department of health and human services under chapter
23 23-27.
- 24 10. "Fire department" means a certified city fire department, certified rural fire department,
25 certified fire protection district, or nonprofit fire department, which has filed a certificate
26 of existence under section 18-04-02.
- 27 11. "Fiscal year" means the twelve-month period that begins on July first and ends on
28 June thirtieth of the following year.
- 29 12. "Fund" means the volunteer first responder retirement fund.
- 30 13. "Inactive member" means a member not credited with service under this chapter
31 during the most recently reportable fiscal year.

- 1 14. "Member" means an eligible volunteer first responder who has service credited under
2 this chapter.
- 3 15. "Nonprofit fire department" means a fire department or fire district that qualifies as a
4 nonprofit entity under section 501(c)(3) of the federal Internal Revenue Code
5 [26 U.S.C. 501(c)(3)] and has filed a certificate of existence under section 18-04-02.
- 6 16. "Pension benefit" means a full or partial payment for service earned as an eligible
7 volunteer and does not include payment for disability.
- 8 17. "Plan" means the volunteer first responder retirement plan.
- 9 18. "Reimbursed" means the return by an eligible volunteer agency of an equivalent
10 amount of money expended by a member for the benefit of the eligible volunteer
11 agency.
- 12 19. "Retiree" or "retired member" means a member receiving full or partial pension
13 benefits or disability benefits from the fund.
- 14 20. "Surviving spouse" means the spouse married to a member when the member dies.
- 15 21. "Survivorship benefit" means the monthly benefit paid to the surviving spouse or
16 dependent child of a deceased member.
- 17 22. "Training" means instruction pertaining to firefighting or emergency medical services,
18 which is supervised by the chief, manager, or a designated official.
- 19 23. "Volunteer firefighter" means an individual who volunteers as a firefighter, is in good
20 standing with a fire department, and receives annual allowable payments of less than
21 ten thousand dollars from the fire department. The term does not include a "firefighter"
22 as defined in section 54-52-01.
- 23 24. "Volunteer first responder" means a volunteer firefighter or volunteer emergency
24 responder.
- 25 25. "Volunteer emergency responder" means an individual who volunteers as an
26 emergency responder, is certified by the department of health and human services,
27 and who receives annual allowable payments of less than ten thousand dollars from
28 an emergency medical services agency.

29 **Plan creation and administration - Enforcement.**

- 30 1. The plan, consisting of a length of service award, is hereby created.

- 1 2. The board and the executive director of the public employees retirement system shall
2 carry out the administrative functions of the plan.
- 3 3. An eligible volunteer agency may enter an agreement with the board on behalf of the
4 eligible volunteer agency's members for purposes of obtaining coverage under the
5 plan.
- 6 4. An eligible volunteer agency that has entered an agreement with the board shall notify
7 the board of any merger or dissolution of the agency before the effective date of the
8 merger or dissolution, if practicable, or within fifteen days after the effective date. Upon
9 receipt of the notice, the board may require the eligible volunteer agency to enter a
10 new agreement or to amend the agreement as a condition of continued participation in
11 the plan. The board shall ensure a member's accrued benefits before the merger or
12 dissolution are preserved.
- 13 5. If the board determines a participating eligible volunteer agency has failed to comply
14 with this chapter or rules adopted by the board, the board may take appropriate
15 enforcement action, including suspension or termination of the agreement. Before
16 taking enforcement action, the board shall provide written notice to the participating
17 agency specifying the nature of the noncompliance and allow a reasonable opportunity
18 to correct the deficiency.
- 19 6. The board shall adopt rules necessary to implement this chapter and to manage the
20 plan subject to the limitations of this chapter.

21 **Volunteer first responder retirement fund - Payment of expenses and benefits -**
22 **Continuing appropriation.**

- 23 1. There is created in the state treasury a volunteer first responder retirement fund. The
24 fund consists of all moneys transferred to the fund and all interest and earnings upon
25 moneys in the fund. Moneys in the fund are appropriated to the board on a continuing
26 basis for the purpose of administering this chapter, including for the payment of
27 service benefits, consultant fees, and expenses incurred by or for the operation of the
28 plan.
- 29 2. The board may take by gift, grant, devise, or bequest, any money for the benefit of the
30 volunteer first responder retirement fund, and when received, the property becomes a
31 part of the fund.

1 **Credit for service - Records.**

- 2 1. The annual period of service that may be credited under this chapter is the fiscal year.
3 A fractional part of a year does not count toward the service required for participation
4 under the plan. To be eligible to receive credit for any particular year, an eligible
5 volunteer shall serve throughout the entire fiscal year with a single eligible volunteer
6 agency.
- 7 2. Years of service are cumulative and are not required to be consecutive. Separate
8 periods of service properly credited with different eligible volunteer agencies must be
9 credited toward a member's eligibility for benefits.
- 10 3. An eligible volunteer may not receive credit for service for a fiscal year unless:
- 11 a. During the fiscal year, the eligible volunteer completes a minimum of thirty hours
12 of training related to first response duties under a program formulated,
13 supervised, and certified to the board by the chief, manager, or other designated
14 official of the eligible volunteer agency; and
- 15 b. The eligible volunteer's participation in the training program is documented in the
16 records maintained by the chief, manager, or designated official.

17 **Prior service credit - Application.**

- 18 1. An eligible volunteer may apply to the board for credit for years of service with an
19 eligible volunteer agency completed before July 1, 2028. To be eligible for credit under
20 this section, the applicant must be an eligible volunteer with an eligible volunteer
21 agency at the time of application.
- 22 2. The board shall determine the requirements of the application. The board may require
23 supplemental information from the eligible volunteer or eligible volunteer agency to
24 verify past service. Subject to application and verification requirements, the board shall
25 credit an eligible volunteer with up to fifteen years of service.

26 **Eligible volunteer agency - Application.**

- 27 1. To enter an agreement with the board to participate in the plan, an eligible volunteer
28 agency shall submit an application to the board. The application must include:
- 29 a. The volunteer agency's name and mailing address;
- 30 b. The name and contact information of the chief, manager, or other designated
31 official, if any;

- 1 c. The portion of the state serviced by the volunteer agency; and
- 2 d. Documentation confirming the volunteer agency was properly certified by the
- 3 state fire marshal or the department of health and human services.
- 4 2. Unless the board determines an eligible volunteer agency has lost eligibility, the
- 5 eligible volunteer agency may not be required to complete another application.

6 **Allowable payments to eligible volunteers.**

- 7 1. An allowable payment from an eligible volunteer agency to an eligible volunteer
- 8 includes:
- 9 a. Payment of money reimbursed for documented expenses; and
- 10 b. An allowance, including a stipend or per diem, which may not exceed ten
- 11 thousand dollars in a calendar year.
- 12 2. An eligible volunteer agency shall maintain records of all allowable payments made to
- 13 eligible volunteers.

14 **Records information management - Filing required reports - Limitations.**

- 15 1. The chief, manager, or designated official of each eligible volunteer agency shall:
- 16 a. Maintain records for each active and inactive member of the eligible volunteer
- 17 agency; and
- 18 b. File with the board, on or before September thirtieth of each year, an annual
- 19 certificate.
- 20 2. The board shall prescribe the form of the annual certificate, which must include the:
- 21 a. Name of the eligible volunteer agency;
- 22 b. Officers of the eligible volunteer agency;
- 23 c. Name and date of birth of each active member of the eligible volunteer agency
- 24 who was a member for the entire preceding fiscal year and who successfully
- 25 completed thirty hours of training during the preceding fiscal year;
- 26 d. Name of each inactive member for the preceding fiscal year;
- 27 e. Statement confirming the eligible volunteer agency complied with all program
- 28 requirements during the preceding fiscal year; and
- 29 f. Signature of the chief, manager, or designated official verifying the information in
- 30 the form.

- 1 3. The board shall adopt rules related to the filing requirements for the annual certificate
2 and may allow late or amended submissions.

3 **Eligibility for pension benefits - Return to service.**

- 4 1. A member qualifies for a full pension benefit upon completing twenty years of service
5 certified by the board and attaining fifty-five years of age. A member is not required to
6 be an active member of an eligible volunteer agency when the member attains
7 fifty-five years of age to qualify for the benefit.
- 8 2. A member who has not completed at least twenty years of service qualifies for a partial
9 pension benefit if the member completes at least five years of service and has attained
10 sixty years of age. A member is not required to be an active member of an eligible
11 volunteer agency when the member attains sixty years of age to qualify for the benefit.
- 12 3. If a retired member has received a full or partial pension benefit under this chapter and
13 returns to service with an eligible volunteer agency, the board shall classify the
14 member as inactive and the member may not earn any additional credit for service. A
15 retired member returning to service may receive a full or partial pension benefit while
16 the member is an inactive member of an eligible volunteer agency.

17 **Application for benefits.**

- 18 1. A member may apply for benefits before terminating service.
- 19 2. To apply for benefits, a member, surviving spouse, or dependent child shall apply on
20 an application form prescribed by the board.
- 21 3. The application must contain:
- 22 a. The name, address, and date of birth of the member, surviving spouse, or
23 dependent child;
- 24 b. The date of birth of the member;
- 25 c. The date of the member's death, if applicable; and
- 26 d. The fiscal years during which service as an active member is claimed and the
27 names of the eligible volunteer agencies with which the service was rendered.
- 28 4. The board shall require proof of age, death, and service in a manner determined by
29 the board.

1 **Amount of pension benefits.**

- 2 1. Except as provided in subsection 3, the full pension benefit paid to an eligible member
3 is two hundred dollars per month.
- 4 2. A partial pension benefit paid to an eligible member is calculated by multiplying the full
5 pension benefit in subsection 1 by a fraction, the numerator of which is the eligible
6 member's years of service and the denominator of which is twenty.
- 7 3. The full pension benefit of a member who remains an active member after completing
8 twenty years of service must be increased by ten dollars per month for each additional
9 year of active service, up to thirty years of service.

10 **Survivorship benefits to surviving spouse or dependent children.**

- 11 1. Subject to subsections 2 and 3, the board shall pay, or continue to pay, survivorship
12 benefits equal to the full or partial pension benefits otherwise payable to the deceased
13 member, in the following order, to the:
- 14 a. Surviving spouse, unless the spouse is convicted of knowingly, purposely, or
15 intentionally causing the member's death or disability; or
- 16 b. Dependent children, upon the surviving spouse's death or if the surviving spouse
17 is not entitled to benefits under subdivision a.
- 18 2. The board shall pay survivorship benefits upon the death of a:
- 19 a. Member who had at least five years of service and who was not receiving
20 pension benefits; or
- 21 b. Retired member who was receiving pension benefits but who had not received
22 benefits for up to forty months.
- 23 3. Survivorship benefits paid under this section terminate when benefits have been paid
24 for a total of forty months, including any pension benefits paid to the retiree before
25 death. At the request of the recipient, a lump sum payment may be made in lieu of up
26 to forty months of survivorship benefits.

27 **Termination of pension - No surviving spouse or child.**

- 28 If a deceased member leaves neither a surviving spouse nor a dependent child, the pension
29 must terminate at the end of the month in which the death occurs.

1 **Time benefits commence - Disputes.**

- 2 1. Except as provided in subsection 2, the pension benefit payable under this chapter
3 commences on the first day of the month following the:
4 a. Eligible member's last day of service if the application is filed before the end of
5 service; or
6 b. Board's receipt of the application.
7 2. If there is a dispute regarding credited years of service, the benefit may not commence
8 until the dispute is resolved by a decision of the public employees retirement system.
9 Upon issuance of the decision, the benefit is retroactive to the month following the
10 month the application was received by the board.
11 3. Monthly survivorship benefits payable under this chapter commence the first day of
12 the month following the date of death of the member.

13 **Disability benefits - Eligibility determination - Amount.**

- 14 1. A member may be eligible to receive a monthly disability benefit under this chapter.
15 2. To qualify for a disability benefit, the board must determine a member has:
16 a. Submitted an application for disability benefits within one year after a duty-related
17 injury, in the manner prescribed by the board;
18 b. A duty-related injury that results in permanent total disability; and
19 c. Completed at least five years of service.
20 3. A monthly disability benefit paid to an eligible member is equal to ten dollars multiplied
21 by total years of service, but may not exceed two hundred dollars per month.
22 4. While receiving a disability benefit, a member may not return to active or inactive
23 service with any eligible volunteer agency.
24 5. To determine whether a member has sustained a duty-related injury that results in
25 permanent total disability, the board or any authorized representative of the board may
26 order medical examinations, conduct contested case hearings, administer oaths and
27 affirmations, take depositions, certify to official acts and records, and issue subpoenas
28 to compel the attendance of witnesses and the production of books, papers,
29 correspondence, memoranda, and other records considered necessary.

- 1 6. The board may retain medical personnel to advise the board in determining the nature
2 and extent of a disabling condition and require a member who receives a disability
3 benefit to undergo periodic medical examinations at the board's expense.
- 4 7. The board may terminate a member's disability benefit if the:
5 a. Board determines the member is no longer disabled; or
6 b. Member refuses to submit to a medical examination.
- 7 8. The disability benefit commences the first day of the month following the board's
8 determination of eligibility and may not exceed forty months.
- 9 9. A duty-related injury includes an injury incurred in the performance of any activity
10 authorized by the chief, manager, or designated official of the eligible volunteer agency
11 relating to travel to, participation in, and return from calls for fire protection, emergency
12 medical services response, meetings, training, medical assistance, search and rescue
13 assistance, assistance to protect individual or public health and safety, and public
14 service activities.

15 **Investment of moneys in fund.**

16 The state investment board shall supervise investment of moneys in the volunteer first
17 responder retirement fund in accordance with chapter 21-10. Moneys in the fund must be
18 placed for investment only with a money management firm after a trust agreement or contract
19 has been executed. Investment costs may be paid directly from the fund in accordance with
20 section 21-10-06.2.

21 **Actuarial study required - Annual report.**

- 22 1. The legislative assembly and board shall conduct an actuarial study to determine the
23 projected cost before amending the service amount.
- 24 2. The board shall annually report to the employee benefits programs committee
25 regarding actions necessary to maintain the fund's actuarial soundness.

26 **Savings clause - Plan modifications.**

27 If the board determines any section of this chapter does not comply with applicable federal
28 statutes or rules, the board shall adopt appropriate terminology relating to that section to comply
29 with those federal statutes or rules, subject to the approval of the employee benefits programs
30 committee. Any plan modifications made by the board under this section are effective until the

1 effective date of any measure enacted by the legislative assembly providing the necessary
2 amendments to this chapter to ensure compliance with the federal statutes or rules.

3 **Corrections - Audits - Penalty.**

4 1. If fraud or error results in a member, surviving spouse, or dependent child receiving
5 more or less of a benefit than the member, surviving spouse, or dependent child is
6 entitled, the board shall correct the credit for service and, if necessary, equitably adjust
7 the payments.

8 2. The board may require an eligible volunteer agency to furnish additional information
9 concerning members in connection with an audit or an application for benefits or
10 service credit.

11 3. Upon discovery of falsified or omitted information, the eligible volunteer agency shall
12 submit all requested documentation to the board.

13 4. An individual required to make a statement or affidavit under this chapter who willfully
14 falsifies the statement or affidavit or an individual who willfully submits false
15 information in an application under this chapter is guilty of a class B misdemeanor.

16 **SECTION 7.** A new subdivision to subsection 2 of section 57-38-30.3 of the North Dakota
17 Century Code is created and enacted as follows:

18 Reduced by the amount of any pension benefit payments, disability benefit
19 payments, or survivorship benefit payments received by a taxpayer related to the
20 volunteer first responder retirement plan under section 6 of this Act, but only to
21 the extent the amount was included in federal taxable income.

22 **SECTION 8. APPROPRIATION - TRANSFER - PUBLIC EMPLOYEES RETIREMENT**

23 **SYSTEM.** There is appropriated out of any moneys in the general fund in the state treasury, not
24 otherwise appropriated, the sum of _____, or so much of the sum as may be necessary,
25 which the office of management and budget shall transfer to the volunteer first responder
26 retirement fund for the purpose of paying the benefits related to the volunteer first responder
27 retirement plan under section 6 of this Act, for the biennium beginning July 1, 2027, and ending
28 June 30, 2029.

29 **SECTION 9. EFFECTIVE DATE.** Sections 1 through 6 of this Act become effective July 1,
30 2028. Section 7 of this Act is effective for for taxable years beginning after December 31, 2027.

NOTE: This bill draft contains blanks that must be filled in before introduction.