CHAPTER 54-52
PUBLIC EMPLOYEES RETIREMENT SYSTEM

54-52-01. Definition of terms.

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

1. "Account balance" means the total contributions made by the employee, vested employer contributions under section 54-52-11.1, the vested portion of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the board.
2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
3. "Correctional officer" means a participating member who is employed as a correctional officer by a governmental unit and, notwithstanding subsection 16, for an individual employed on or after August 1, 2025, is employed at least thirty-two hours per week and at least twenty weeks each year of employment. A correctional officer who is a participating member of the public safety retirement plan created by this chapter who begins employment on or after August 1, 2025, is ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system. The term includes an individual employed by a correctional facility as defined in section 12-44.1-01, who is enrolled in, but has not yet completed, a correctional officer course approved or certified by the North Dakota department of corrections and rehabilitation.
4. "Deferred member" means a participating member who is not actively participating in the main plan under this chapter and who has an account intact in the main plan under this chapter.
5. "Dispatcher" means a participating member who is employed as a state radio dispatcher by the state or is employed as a public safety answering point dispatcher by a political subdivision and, notwithstanding subsection 16, for an individual employed on or after August 1, 2025, is employed at least thirty-two hours per week and at least twenty weeks each year of employment. A dispatcher who is a participating member of the public safety retirement plan created by this chapter who begins employment on or after August 1, 2025, is ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.
6. "Eligible employee", except as otherwise provided under section 54-52-02.15, means a permanent employee who meets all of the eligibility requirements set by this chapter and who is eighteen years or more of age. The term includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. The term does not include nonclassified state employees who elected under section 54-52.6-02 to become members of the retirement plan established under chapter 54-52.6. The term does include employees of the judicial branch and employees of the board of higher education and state institutions under the jurisdiction of the board of higher education.
7. "Emergency medical services personnel" means a participating member employed by a political subdivision as an emergency medical services personnel, as defined under section 23-27-02 and, notwithstanding subsection 16, for an individual employed on or after August 1, 2025, is employed at least thirty-two hours per week and at least twenty weeks each year of employment. An emergency medical services personnel who is a participating member of the public safety retirement plan created by this chapter who begins employment on or after August 1, 2025, is ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.

8. "Employee" means any individual employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.
9. "Employer" means a governmental unit.
10. "Firefighter" means a participating member who is employed as a firefighter by the state or a political subdivision and, notwithstanding subsection 16, for an individual employed after July 31, 2017, is employed at least thirty-two hours per week and at least twenty weeks each year of employment. A firefighter who is a participating member of the public safety retirement plan created by this chapter who begins employment after July 31, 2017, is ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system. The term does not include a firefighter employee of the North Dakota national guard.
11. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution which the retirement board may select to hold and invest the employers' and members' contributions.
12. "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 of the state.
13. "National guard security officer or firefighter" means a participating member who is:
    a. A security police employee of the North Dakota national guard;
    b. A security officer employee of the North Dakota national guard; or
    c. A firefighter employee of the North Dakota national guard.
14. "Participating member" means an eligible employee who through payment into the plan has established a claim against the plan.
15. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the state, except by the highway patrol for members of the retirement plan created under chapter 39-03.1, or is employed by a political subdivision and, notwithstanding subsection 14, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. A peace officer who is a participating member of the public safety retirement plan created by this chapter who begins employment after August 1, 2005, is ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.
16. "Permanent employee" means an employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least twenty weeks each year of employment.
17. "Prior service" means service or employment before July 1, 1966.
18. "Prior service credit" means such credit toward a retirement benefit as the retirement board may determine under the provisions of this chapter.
19. "Public employees retirement system" means the retirement plan and program established by this chapter.
20. "Retirement" means the acceptance of a retirement allowance under this chapter upon either termination of employment or termination of participation in the retirement plan.
21. "Retirement board" or "board" means the governing authority created under section 54-52-03.
22. "Seasonal employee" means a participating member who does not work twelve months a year.
23. "Service" means employment on or after July 1, 1966.
24. "Service benefit" means the credit toward retirement benefits as determined by the retirement board under the provisions of this chapter.

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

54-52-02. Formulation of plan - Exclusion of employees covered by plans in existence.

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

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

1. A political subdivision may, on behalf of its permanent employees, on behalf of its peace officers, firefighters, dispatchers, emergency medical services personnel, and correctional officers separately from its other employees, and permanent noncertified employees only in the case of school districts, enter agreements with the retirement board for the purpose of extending the benefits of the public employees retirement system, as provided in this chapter or chapter 54-52.6, to those employees. The agreement may, in accordance with this chapter and chapter 54-52.6, contain provisions relating to benefits, contributions, effective date, modification, administration, and other appropriate provisions as the retirement board and the political subdivision agree upon, but the agreement must provide:
   a. The political subdivision will contribute on behalf of each eligible employee an amount equal to that provided in section 54-52-06 or 54-52-06.3 for peace officers, firefighters, dispatchers, emergency medical services personnel, and correctional officers participating separately from other political subdivision employees.
   b. A portion of the moneys paid by the political subdivision may be used to pay administrative expenses of the retirement board.
2. Notwithstanding any other provision of law, a political subdivision having an existing police, dispatcher, emergency medical services personnel, or firefighter pension plan may merge that plan into the public employees retirement system under rules adopted by and in a manner determined by the board.

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

54-52-02.2. Employee referendum - Authorization and supervision.

On their own motion or upon petition by twenty percent of the permanent political subdivision employees or the permanent noncertified employees of any school district, the political subdivision shall authorize and supervise a referendum of the permanent employees employed by that political subdivision on the question whether the employees elect to participate in the retirement system. If the majority of the employees vote in favor of participation in the retirement system, the political subdivision, notwithstanding anything to the contrary in chapter 40-46, may in its discretion enter into the agreement provided for in section 54-52-02.1. Notwithstanding provisions to the contrary in chapters 18-05, 18-11, and 40-45, the police department of any city, the fire department of any city, or both, may hold referendums among their employees on the question of whether their department should join the remaining city employees in participation in the retirement system established by this chapter. If a majority of the city police or city firefighters, or both, vote in favor of such participation, the governing body of the city must include the police and firefighters within any agreement entered into pursuant to section 54-52-02.1 and must arrange for discontinuance of any existing police or firefighters' pension fund as provided by law.

54-52-02.3. Newly elected supreme and district court judges.

After July 1, 1973, any person elected or appointed to the office of judge of the supreme court or judge of the district court for the first time must, from and after the date that person qualifies and takes office, be a participating member of the public employees retirement system. Any person so elected or appointed is not eligible for membership in or for receipt of benefits from the retirement program provided by chapter 27-17. As used in this section, the phrase "for the first time" means a person elected or appointed, who, after July 1, 1973, does not hold office as a judge of the supreme court or the district court at the time of the person's election or appointment.

54-52-02.4. Participation by certain employees - Requirements.

Repealed by S.L. 1987, ch. 651, § 1.

54-52-02.5. Newly elected and appointed state officials.

1. After December 31, 1999, but before January 1, 2025, an individual elected or appointed to a state office for the first time must, from and after the date that individual qualifies and takes office, be a participating member of the public employees retirement system unless that person makes an election at any time during the first six months after the date the person takes office to participate in the defined contribution retirement plan established under chapter 54-52.6.
2. After December 31, 2024, an individual elected or appointed to a state office for the first time, from and after the date that individual qualifies and takes office, must be a participating member of the defined contribution retirement plan established under chapter 54-52.6, unless at the time of election or appointment the individual is a participating or deferred member under this chapter, in which case the official remains a participating member under this chapter.

3. As used in this section, the phrase "for the first time" means an individual appointed, who, after December 31, 1999, does not hold office as an appointed official at the time of that individual's appointment.

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

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

54-52-02.7. Purchase of service by former employees of mental health and retardation centers.

Repealed by S.L. 1987, ch. 651, § 1.

54-52-02.8. Purchase of service.

Repealed by S.L. 1987, ch. 651, § 1.

54-52-02.9. Participation by temporary employees.

1. Before January 1, 2025, within one hundred eighty days of beginning employment, a temporary employee may elect to participate in the public employees retirement system under this chapter and receive credit for service after enrollment. Monthly, the temporary employee shall pay to the fund an amount equal to fourteen and twelve hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by one percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January 2025.
2. If the temporary employee first enrolled:
   a. Before January 1, 2020, in addition the temporary employee shall pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2.
   b. After December 31, 2019, the temporary employee shall pay to the fund an additional amount equal to one and fourteen hundredths percent times the temporary employee's present monthly salary.
3. A temporary employee who is a participating member under this chapter due to employment before January 1, 2025, who becomes a permanent employee after December 31, 2024, qualifies to participate in the defined benefit retirement plan under this chapter and receive credit for service after enrollment.
4. After December 31, 2024, and within one hundred eighty days of beginning employment, a temporary employee may elect to participate in the defined contribution retirement plan under chapter 54-52.6.
5. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee in the public employees retirement system until termination of employment or reclassification of the temporary employee as a permanent employee. A temporary employee may not purchase any additional credit, including additional credit under section 54-52-17.4 or past service under section 54-52-02.6.

54-52-02.10. Members of the legislative assembly.

Deleted by R.M. December 5, 1989.

54-52-02.11. Participation requirements for nonstate elected officials.

1. Before January 1, 2025, eligible elected officials of participating counties, at their individual option, may enroll in the defined benefit plan within the first six months of their term.
2. After December 31, 2024, eligible elected officials of participating counties, at their individual option, may enroll in the defined contribution retirement plan under chapter 54-52.6 within the first six months of their term.

54-52-02.12. Participation requirements for nonstate appointed officials.

1. Nonstate appointed officials of participating employers appointed on or after August 1, 1999, but before January 1, 2025, who meet the participation requirements of this chapter must be enrolled in the defined benefit plan effective within the first month of taking office.
2. After December 31, 2024, nonstate appointed officials of participating employers who meet the participation requirements must be enrolled in the defined contribution retirement plan under chapter 54-52.6 effective within the first month of taking office.

54-52-02.13. Participation by nonteaching employees of the office of the superintendent of public instruction.

Notwithstanding any other provision of law, between July 1, 2003, and five p.m. on August 29, 2003, a nonteaching employee of the superintendent of public instruction, including the superintendent of public instruction, who is otherwise eligible to participate in the public employees retirement system may file an election with the staff of the retirement and investment office to transfer from the teachers' fund for retirement to the public employees retirement system. The teachers' fund for retirement shall certify the employees who are eligible to transfer. An election to transfer is irrevocable for as long as the employee remains employed with the superintendent of public instruction. The teachers' fund for retirement shall certify a transferring employee's salary, service credit, contribution history, account balance, and any other necessary information to the public employees retirement system. The amount to be transferred is the greater of the actuarial present value of the employee's accrued benefit as of July 1, 2003, plus interest at the rate of seven and one-half percent from July 1, 2003, until the date the amount is transferred to the public employees retirement system or the employee's account balance as of the date of transfer. The public employees retirement system shall credit the transferring employee with the service credit specified by the teachers' fund for retirement and shall convert the annual salary history from the teachers' fund for retirement to a monthly salary for the period. An employee becomes a member of the public employees retirement system as of the date the funds are transferred. To be eligible to transfer, an employee must be employed by the office of the superintendent of public instruction at the date of the transfer. The superintendent of public instruction shall begin making retirement contributions, and the public employees retirement system shall begin receiving those retirement contributions, on behalf of employees who have elected to transfer to the public employees retirement system to that system the first of the month following the date of transfer.

54-52-02.14. Participation by employees of the state board for career and technical education.

Notwithstanding any other provision of law, between July 1, 2007, and five p.m. on August 31, 2007, an employee of the state board for career and technical education who is otherwise eligible to participate in the public employees retirement system may file an election with the staff of the retirement and investment office to transfer from the teachers' fund for retirement to the public employees retirement system. The teachers' fund for retirement shall certify the employees who are eligible to transfer. An election to transfer is irrevocable for as long as the employee remains employed with the state board for career and technical education. The teachers' fund for retirement shall certify a transferring employee's salary, service credit, contribution history, account balance, and any other necessary information to the public employees retirement system. The amount to be transferred is the greater of the actuarial

present value of the employee's accrued benefit as of July 1, 2007, plus interest at the rate of seven and one-half percent from July 1, 2007, until the date the amount is transferred to the public employees retirement system or the employee's account balance on the date of transfer. The public employees retirement system shall credit the transferring employee with the service credit specified by the teachers' fund for retirement and shall convert the annual salary history from the teachers' fund for retirement to a monthly salary for the period. An employee becomes a member of the public employees retirement system as of the date the funds are transferred. To be eligible to transfer, an employee must be employed by the state board for career and technical education on the date of the transfer. The state board for career and technical education shall begin making retirement contributions, and the public employees retirement system shall begin receiving those retirement contributions, on behalf of employees who have elected to transfer to the public employees retirement system to that system the first of the month following the date of transfer.

54-52-02.15. Public employees retirement system main plan - Closure to new hires - Multiple plan membership.

1. Under this section "eligible employee" means a permanent employee who:
   a. Meets all the eligibility requirements set by this chapter;
   b. Is at least eighteen years of age;
   c. Becomes a participating member after December 31, 2024; and
   d. Is not eligible to participate in the public safety plan, judges' plan, highway patrol plan, teachers' fund for retirement plan, or alternative retirement program established under section 15-10-17 for university system employees.
2. Effective January 1, 2025, the public employees retirement system defined benefit main plan maintained for employees is closed to new eligible employees. However, an employee who becomes a participating or deferred member under this chapter before January 1, 2025, remains in the defined benefit retirement plan under this chapter, regardless of being rehired after December 31, 2024.
3. Except as otherwise provided under this section, effective January 1, 2025, an eligible employee who begins employment with a participating employer shall participate in the defined contribution retirement plan under chapter 54-52.6 as provided under section 54-52.6-02.1.
4. This section does not impact an employee to the extent the employee is a participating member in one or more of the following enumerated retirement plans: public safety plan, judges' plan, highway patrol plan, teachers' fund for retirement plan, or alternative retirement program established under section 15-10-17 for university system employees.
   a. A participating or deferred member in the defined contribution retirement plan under chapter 54-52.6 who becomes eligible to participate in a plan enumerated under this subsection is eligible to participate in the retirement plan enumerated under this subsection.
   b. A participating member of a retirement plan enumerated under this subsection who becomes an eligible employee is not eligible to participate in the defined benefit retirement plan under this chapter but instead participates in the defined contribution retirement plan under chapter 54-52.6. However, this subdivision does not apply to an individual who before January 1, 2025, is a participating or a deferred member under this chapter, as that individual continues to participate in the defined benefit retirement plan under this chapter.
5. The board shall adopt rules to implement this section.
6. This section may not be construed to require a political subdivision to participate in the defined contribution retirement plan under chapter 54-52.6, even if the political subdivision has participated or continues to participate in the defined benefit retirement plan under this chapter. Political subdivision participation in the public employees retirement system, including the defined contribution retirement plan under chapter 54-52.6, is optional.

7. Notwithstanding sections 54-52-02.1 and 54-52-04, the board may not assess any fees or costs against a political subdivision for withdrawing from the defined contribution retirement plan under chapter 54-52.6.

54-52-03. Governing authority.

1. A state agency is hereby created to constitute the governing authority of the system to consist of a board of eleven individuals known as the retirement board. No more than one elected member of the board may be in the employ of a single department, institution, or agency of the state or in the employ of a political subdivision. An employee of the public employees retirement system or the state retirement and investment office may not serve on the board.
2. Four members of the legislative assembly must be appointed to serve on the board. The majority leader of the house of representatives shall appoint two members of the house of representatives and the majority leader of the senate shall appoint two members of the senate. The members appointed under this subsection shall serve a term of two years. The members appointed under this subsection serve at the pleasure of the appointing majority leader.
3. Four members of the board must be appointed by the governor to serve a term of five years. Each appointee under this subsection must be a North Dakota citizen who is not a state or political subdivision employee and who is familiar with retirement and employee benefit plans. The governor shall appoint one of the citizen members to serve as chairman of the board. The members appointed under this subsection serve at the pleasure of the governor.
4. Three board members must be elected by and from among the active participating members, members of the retirement plan established under chapter 54-52.6, members of the retirement plan established under chapter 39-03.1, and members of the job service North Dakota retirement plan. Employees who have terminated their employment for whatever reason are not eligible to serve as elected members of the board under this subsection. Board members must be elected to a five-year term pursuant to an election called by the board. Notice of board elections must be given to all active participating members. The time spent in performing duties as a board member may not be charged against any employee's accumulated annual or any other type of leave.
5. The members of the board are entitled to receive one hundred forty-eight dollars per day compensation and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09. This is in addition to any other pay or allowance due the chairman or a member, plus an allowance for expenses they may incur through service on the board.
6. A board member shall serve until the board member's successor qualifies. Each board member is entitled to one vote, and eight of the eleven board members constitute a quorum. Six votes are necessary for resolution or action by the board at any meeting.

54-52-04. Board authority.

1. The board shall adopt rules necessary to implement this chapter, and to manage the system, subject to the limitations of this chapter. The board has the powers and privileges of a corporation, including the right to sue and be sued in its own name as the board. The venue of all actions in which the board is a party must be Burleigh County, North Dakota.
2. The board shall appoint an executive director to serve at its discretion. The executive director shall perform such duties as assigned by the board.
3. The board shall authorize the creation of whatever staff it deems necessary for sound and economical administration of the system. The executive director shall hire the staff, subject to the approval of the board.
4. The board shall arrange for actuarial and medical advisers for the system. The board shall cause a qualified, competent actuary to be retained on a consulting basis. The actuary shall make an annual valuation of the liabilities and reserves of the system and

a determination of the contributions required by the system to discharge its liabilities and pay the administrative costs under this chapter, and to recommend to the board rates of employer and employee contributions required, based upon the entry age normal cost method, to maintain the system on an actuarial reserve basis; once every five years make a general investigation of the actuarial experience under the system including mortality, retirement, employment turnover, and other items required by the board, and recommend actuarial tables for use in valuations and in calculating actuarial equivalent values based on such investigation; and perform other duties as may be assigned by the board.

5. The state shall provide the board with the retirement systems office or offices to be used for the meetings of the board and for the general purposes of the administrative personnel.
6. The funds necessary for paying prior service and service benefits, consultant fees, and making withdrawal payments and refunds are hereby appropriated from the retirement fund for those purposes. The amount necessary to pay the consulting fees and insurance benefits related to the uniform group insurance program is hereby appropriated from the insurance premiums received by the board.
7. The board shall administer chapters 39-03.1, 54-52.1, and 54-52.2, and may administer other optional employee benefit programs, including a flexible benefits plan, an optional employee short-term disability plan, a long-term care plan, or other optional employee benefit programs as the board deems appropriate. The board shall also administer the retirement plan established in 1961 and frozen to new entrants in 1980 for employees of job service North Dakota under chapter 52-11.
8. The board shall annually report the investment performance of the fund and distribute a copy to each participant.
9. The board may distribute the employer contribution and applicable interest for any employee of any development foundation associated with a public institution of higher education in this state who may previously have been included in the public employees retirement system while employed by such foundation. Such employee is entitled to have that employee's contribution and the contribution of the development foundation, with interest.
10. The board may audit any books, papers, accounts, bills, vouchers, and other documents or property of any and all departments, boards, commissions, political subdivisions, financial institutions, contractors, health care organizations, and consultants relating to their participation in services provided to programs administered by the board.
11. The board shall fund the administrative expenses of chapter 54-52.2 from funds collected under chapters 54-52, 54-52.1, and 54-52.3 and from fines and fees collected from deferred compensation services providers, including any fees paid for by participant funds, subject to appropriation by the legislative assembly.
12. Except as provided by section 54-52-17.7, the board may adjust service and make any correction of member, retiree, or beneficiary records and benefits after an error or inequity has been determined.
13. The board may use any amount credited to the separate uniform group insurance program fund created by section 54-52.1-06 in excess of the costs of administration of the uniform group insurance program to reduce the amount of premium amounts paid monthly by enrolled members of the uniform group insurance program, to reduce any increase in premium amounts paid monthly by enrolled members, or to provide increased insurance coverage to the members, as the board may determine.
14. The board may create and implement an Internal Revenue Code section 115 trust health care savings plan for all supreme and district court judges participating in the public employees retirement system if seventy-five percent of the total active participating supreme and district court judges vote to approve the program. If approved, the contribution level specified in the vote applies to all current and future participating supreme and district court judges and must be paid pursuant to the plan document developed by the board. The contribution level may only be changed by a

vote of seventy-five percent of the total active participating supreme and district court judges at that time.

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

54-52-05. Membership and assessments - Employer payment of employee contributions. (Retroactive application - See note)

1. a. Every eligible participating political subdivision employee, at the time the political subdivision joins the plan shall so state in writing if the employee concurs in the plan and all future eligible employees of the participating political subdivision are participating members in the plan and must be enrolled in the plan within the first month of employment.
   b. Except as otherwise provided by law, every other eligible governmental unit employee of a participating governmental unit is a participating member in the plan and must be enrolled in the plan within the first month of employment. An employee who was not enrolled in the retirement system when eligible to participate must be enrolled immediately upon notice of the employee's eligibility, unless the employee waives in writing the employee's right to participate for the previous time of eligibility, to avoid contributing to the fund for past service.
   c. An employee eligible for normal retirement who accepts a retirement benefit under this chapter and subsequently becomes employed with a participating employer other than the employer the employee was employed with at the time the employee retired under this chapter may, before being re-enrolled in the retirement plan within the first month of employment, elect to permanently waive future participation in the retirement plan and the retiree health program and maintain that employee's retirement status. An employee making this election is not required to make any future employee contributions to the public employees retirement system nor is the employee's employer required to make any further contributions on behalf of that employee.
   d. An employee eligible for normal retirement who accepts a retirement benefit under this chapter and subsequently becomes employed with the same participating employer the employee was employed with at the time the employee retired under this chapter may not participate in the retirement plan or the retiree health program and may maintain that employee's retirement status if the employee is appointed by an elected state official to an unclassified state position for the duration of the elected official's term until a successor is appointed.
2. Each member must be assessed and required to pay monthly seven percent of the monthly salary or wage paid to the member, and such assessment must be deducted and retained out of such salary in equal monthly installments commencing with the first month of employment.
3. Each employer, at its option, may pay all or a portion of the employee contributions required by subsection 2 and sections 54-52-06.1, 54-52-06.2, 54-52-06.3, and 54-52-06.4 or the employee contributions required to purchase service credit on a pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not receive the contributed amounts directly once the employer has elected to pay the employee contributions. The amount paid must be paid by the employer in lieu of contributions by the employee. If the state determines not to pay the contributions, the amount that would have been paid must continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the employer, they may not be included as gross income of the employee in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions

by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a contribution of a reduction in gross salary and offset against future salary increases. If employee contributions are paid by the employer, they must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made prior to the date on which employee contributions were assumed by the employer. An employer exercising its option under this subsection shall report its choice to the board in writing.

4. For compensation earned after August 1, 2009, all employee contributions required under section 54-52-06.1 and the job service North Dakota retirement plan, and not otherwise paid under subsection 3, must be paid by the employer in lieu of contributions by the member. All contributions paid by the employer under this subsection must be treated as employer contributions in determining tax treatment under this code and the Internal Revenue Code. Contributions paid by the employer under this subsection may not be included as gross income of the member in determining tax treatment under this code and the Internal Revenue Code until the contributions are distributed or made available. Contributions paid by the employer in accordance with this subsection must be treated for the purposes of this chapter in the same manner and to the same extent as member contributions made before the date the contributions were assumed by the employer. The employer shall pay these member contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee. The employer shall continue making payments under this section unless otherwise specifically provided for under the agency's biennial appropriation or by amendment to law.

54-52-06. Employer's contribution to retirement plan - Report to the employee benefits programs committee.

1. a. As determined by actuarial valuations, each state governmental unit that receives budgetary approval from the legislative assembly shall contribute to the defined benefit plan an amount on a level percent of compensation basis for all main system defined benefit retirement plan employees and all defined contribution retirement plan employees sufficient under the actuarial valuation to meet both the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability of the main plan over a closed period of thirty and one-half years, beginning January 1, 2026, and continuing through June 30, 2056. By November fifteenth of each even-numbered year the board shall publish the contribution rate required under this subsection. The board shall calculate this rate based on the July first actuarial report of that year. In lieu of each state governmental unit that receives budgetary approval from the legislative assembly contributing the additional actuarially determined rate, the legislative assembly may authorize a transfer to the public employees retirement system fund in an amount equal to or greater than the actuarially determined amount as most recently published by the board for the succeeding biennium.

   b. Each participating political subdivision and state governmental unit that does not receive budgetary approval from the legislative assembly shall contribute an amount equal to eight and twelve-hundredths percent of the monthly salary or wage of a participating member.

   c. For a participating member who first enrolls after December 31, 2019, a participating political subdivision shall contribute an additional amount equal to one and fourteen-hundredths percent of the monthly salary or wage of the participating member.

2. For those members who elect to exercise their rights under section 54-52-17.14, the employing governmental unit, or in the case of a member not presently under covered employment the most recent employing governmental unit, shall pay the associated employer contribution. If the employee's contribution is paid by the governmental unit under subsection 3 of section 54-52-05, the employer unit shall contribute, in addition,

an amount equal to the required employee's contribution. Each governmental unit shall pay the contribution monthly, or in the case of an election made pursuant to section 54-52-17.14 a lump sum, into the retirement fund from the governmental unit's funds appropriated for payroll and salary or any other funds available for these purposes. Any governmental unit failing to pay the contributions monthly, or in the case of an election made pursuant to section 54-52-17.14 a lump sum, or failing to otherwise comply with the board's established wage reporting or payroll reporting process requirements, is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction of a month after the payment became due. In lieu of assessing a civil penalty or one percent per month, or both, interest at the actuarial rate of return may be assessed for each month the contributions are delinquent. If contributions are paid within ninety days of the date the contributions became due, penalty and interest to be paid on delinquent contributions may be waived.

3. An employer is required to submit contributions for any past eligible employee who was employed after July 1, 1977, for which contributions were not made if the employee would have been eligible to become vested had the employee participated and if the employee elects to join the public employees retirement system. Employer contributions may not be assessed for eligible service that an employee has waived pursuant to subsection 1 of section 54-52-05.
4. Annually, the board shall report to the employee benefits programs committee the contributions necessary, as determined by the actuarial study, to maintain the fund's actuarial soundness.

54-52-06.1. Contribution by supreme and district court judges - Employer contribution.

Each judge of the supreme or district court who is a member of the public employees retirement system must be assessed and required to pay monthly five percent of the judge's monthly salary. Member contributions increase by one percent of the judge's monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. The assessment must be deducted and retained out of the judge's salary in equal monthly installments. The state shall contribute an amount equal to fourteen and fifty-two one-hundredths percent of the monthly salary of a supreme or district court judge who is a participating member of the system, which matching contribution must be paid from its funds appropriated for salary, or from any other funds available for such purposes. State contributions increase by one percent of the monthly salary of a supreme or district court judge who is a participating member of the system beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. If the judge's contribution is paid by the state under subsection 3 of section 54-52-05, the state shall contribute, in addition, an amount equal to the required judge's contribution.

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

Each national guard security officer or firefighter who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Member contributions increase by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2014. Effective August 1, 2015, each national guard security officer or firefighter who is a participating member of the plan under this section becomes a participating member of the plan under section 54-52-06.4 and the board shall thereafter manage any account balance associated with those participating members under section 54-52-06.4. After July 31, 2015, a new eligible employee may not become a participating member of the plan under this section. The assessment must be

deducted and retained out of the employee's salary in equal monthly installments. The national guard security officer's or firefighter's employer shall contribute an amount determined by the board to be actuarially required to support the level of benefits specified in section 54-52-17. The employer's contribution must be paid from funds appropriated for salary or from any other funds available for such purposes. If the security officer's or firefighter's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required national guard security officer's or firefighter's assessment.

54-52-06.3. Contribution by peace officers, firefighters, dispatchers, emergency medical services personnel, and correctional officers employed by political subdivisions - Employer contribution.

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

54-52-06.4. Contribution by peace officers, dispatchers, firefighters, and correctional officers employed by the state or security officers employed by the national guard - Employer contribution. (Retroactive application - See note)

1. a. Each peace officer employed by the bureau of criminal investigation who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Peace officer contributions increase by one percent of the member's monthly salary beginning with the monthly reporting period of January 2012; with an additional increase of one percent, beginning with the reporting period of January 2013; with an additional increase of one percent, beginning with the reporting period of January 2024; and with an additional increase of one percent, beginning with the reporting period of January 2025.
   b. Each correctional officer, dispatcher, firefighter, and peace officer employed by the state, other than a peace officer employed by the bureau of criminal investigation, who is a member of the public employees retirement system is assessed and shall pay six percent of the employee's monthly salary.
   c. Effective August 1, 2015, each national guard security officer who is a member of the public employee's retirement system is assessed and monthly shall pay six percent of the employee's monthly salary. National guard security officer contributions decrease by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2016.
   d. The assessment under this subsection must be deducted and retained out of the employee's salary in equal monthly installments.

2. The employer of a correctional officer, dispatcher, firefighter, or peace officer employed by the state or a national guard security officer shall contribute an amount determined by the board to be actuarially required to support the level of benefits specified in section 54-52-17. The employer's contribution must be paid from funds appropriated for salary or from any other funds available for such purposes. If the correctional officer's, dispatcher's, firefighter's, peace officer's, or security officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required correctional officer's, dispatcher's, firefighter's, peace officer's, or security officer's assessment.

54-52-06.5. Reduction in member and employer contributions.

Repealed by S.L. 2023, ch. 514, § 32.

54-52-07. Governmental unit contribution is retirement contribution.

The governmental unit contribution to a retirement plan must be considered a retirement contribution and not an additional compensation. This applies specifically to elected and appointed officials whose maximum annual compensation is set by statute or by state, county, city, or school district governing bodies, boards, or commissions. The retirement contribution may not be considered by the employee as income in computing the employee's net income for purposes of state income tax until the moneys come under the control of the employee.

54-52-08. State income tax deductions.

For the purposes of state income tax, the assessment imposed by this chapter on the employee must be treated in accordance with existing state statutes on state income tax.

54-52-09. Exemption from state premium tax.

Premiums, consideration for annuities, and membership fees are exempt from premium taxes payable pursuant to section 26.1-03-17.

54-52-10. Allocation of funds.

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

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

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

54-52-11. Vesting - Vesting schedule of agency, county, city, or school district contribution.

Repealed by S.L. 1977, ch. 499, § 17.

54-52-11.1. Vesting of employer contributions.

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

1. For months one through twelve of service credit, twenty-five dollars or one percent of the member's monthly salary, whichever is greater.
2. For months thirteen through twenty-four of service credit, twenty-five dollars or two percent of the member's monthly salary, whichever is greater.

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

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

54-52-12. Exemption from taxation and judicial process - Prohibition of assignment.

Repealed by S.L. 1987, ch. 386, § 2.

54-52-13. Deposit of moneys - Appropriation.

All moneys, including but not limited to employers' contributions, employees' contributions, grants, donations, legacies, and devises for the benefit of the fund, must be deposited in the public employees retirement fund account with the Bank of North Dakota. All of said moneys, not otherwise appropriated, are hereby appropriated for the purpose of making investments for the employees retirement fund and to make payments to beneficiaries under the program.

54-52-13.1. Retirement benefits - Continuing appropriation.

The funds necessary for paying prior service and service benefits, consultant fees, and making withdrawal payments and refunds, are hereby appropriated from the retirement fund for those purposes.

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

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

54-52-14.1. Investment of moneys in fund.

Investment of the fund is under the supervision of the state investment board in accordance with chapter 21-10. Such moneys must be placed for investment only with a firm or firms whose endeavor is money management, and only after a trust agreement or contract has been executed. Investment costs may be paid directly from the fund, and are hereby appropriated for that purpose, in accordance with section 21-10-06.2.

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

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

54-52-14.3. Public employee retirement funds - Use and investment.

Any provision of law relating to the use and investment of public employee retirement funds must be deemed a part of the employment contracts of the employees participating in any public employee retirement system. All moneys from any source paid into any public employee retirement system fund created by the laws of this state must be used and invested only for the exclusive benefit of the members, retirees, and beneficiaries of the retirement system, including the payment of system administrative costs.

54-52-15. Accounting requirements.

Repealed by S.L. 1969, ch. 458, § 1.

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

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

contract with any qualified trust company or companies, or combinations of insurance contracts and trust contracts.

54-52-17. Formulation of plan. (Retroactive application - See note)

Participating members shall receive benefits according to this section and according to rules adopted by the board, not inconsistent with this chapter. An individual is not entitled to receive a prior service benefit if the individual was not continuously employed by a governmental unit in North Dakota for a period of not less than two years immediately before 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. For members who terminate employment on or after August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred eighty months of employment. For members who terminate employment between July 31, 2005, and August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the period for which the board has appropriate and accurate salary records on the board's electronic database, but that period may not be more than the last one hundred eighty months of employment. For members who terminate employment after December 31, 2019, final average salary is the higher of the final average salary calculated on December 31, 2019, or the average salary earned in the three highest periods of twelve consecutive months employed during the last one hundred eighty months of employment. Months without earnings are excluded 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, a firefighter, dispatcher, correctional officer, or peace officer employed by the state, or a firefighter, dispatcher, emergency medical services personnel, peace officer, or correctional officer employed by a political subdivision, is:
      (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
      (2) When the member has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
   b. Normal retirement date for members first enrolled after December 31, 2015, except for a national guard security officer or firefighter, a firefighter, dispatcher, correctional officer, or peace officer employed by the state, a firefighter, dispatcher, emergency medical services personnel, peace officer, or correctional officer employed by a political subdivision, or a supreme court or district court judge, is:
      (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
      (2) When the member has a combined total of years of service credit and years of age equal to ninety and the member attains a minimum age of sixty and has not received a retirement benefit under this chapter.
   c. Normal retirement date for a national guard security officer or firefighter is:
      (1) The first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty-five years and has completed at least three eligible years of employment; or

(2) When the national guard security officer or firefighter has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.

d. Normal retirement date for a dispatcher, emergency medical services personnel, peace officer, firefighter, or correctional officer employed by a political subdivision is:

(1) The first day of the month next following the month in which the dispatcher, emergency medical services personnel, peace officer, firefighter, or correctional officer attains the age of fifty-five years and has completed at least three eligible years of employment; or

(2) When the dispatcher, emergency medical services personnel, peace officer, firefighter, or correctional officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.

e. (1) Normal retirement date for a peace officer employed by the bureau of criminal investigation is:

(a) [1] For a member employed before August 1, 2023, the first day of the month next following the month in which the peace officer attains the age of fifty-five years and has completed at least three eligible years of employment; and

[2] For a member employed after July 31, 2023, the first day of the month next following the month in which the peace officer attains the age of fifty-five years and has completed at least ten eligible years of employment; or

(b) When the peace officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.

(2) Normal retirement date for a firefighter, dispatcher, correctional officer, or peace officer employed by the state, other than a peace officer employed by the bureau of criminal investigation, is:

(a) The first day of the month next following the month in which the firefighter, dispatcher, correctional officer, or peace officer attains the age of fifty-five years and has completed at least three eligible years of employment; or

(b) When the firefighter, dispatcher, correctional officer, or peace officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.

f. Postponed retirement date is the first day of the month next following the month in which the member, on or after July 1, 1977, actually severs or has severed the member's employment after reaching the normal retirement date.

g. (1) Early retirement date, except for a national guard security officer or firefighter, a firefighter, dispatcher, emergency medical services personnel, peace officer, or correctional officer employed by a political subdivision, or a firefighter, dispatcher, correctional officer, or peace officer employed by the state, is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed three years of eligible employment.

(2) For a national guard security officer or firefighter, early retirement date is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty years and has completed at least three years of eligible employment.

(3) For a firefighter, dispatcher, correctional officer, or peace officer employed by the state, other than a peace officer employed by the bureau of criminal investigation, or a dispatcher, emergency medical services personnel, firefighter, peace officer, or correctional officer employed by a political

subdivision, early retirement date is the first day of the month next following the month in which the dispatcher, emergency medical services personnel, peace officer, firefighter, or correctional officer attains the age of fifty years and has completed at least three years of eligible employment.

(4) For a peace officer employed by the bureau of criminal investigation, early retirement date is the first day of the month next following the month in which the peace officer attains the age of fifty years and has completed:

(a) If hired before August 1, 2023, at least three years of eligible employment; or

(b) If hired after July 31, 2023, at least ten years of eligible employment.

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

(1) A member is eligible to receive disability retirement benefits only if the member became disabled during the period of eligible employment and applies for disability retirement benefits within twelve months of the date the member terminates employment.

(2) A member is eligible to continue to receive disability benefits as long as the permanent and total disability continues and the member submits the necessary documentation and undergoes medical testing required by the board, or for as long as the member participates in a rehabilitation program required by the board, or both. If the board determines a member no longer meets the eligibility definition, the board may discontinue the disability retirement benefit. The board may pay the cost of any medical testing or rehabilitation services the board deems necessary and these payments are appropriated from the retirement fund for those purposes. A member's receipt of disability benefits under this section is limited to receipt from the fund to which the member was actively contributing at the time the member became disabled.

(3) A member who has reached normal retirement age or normal retirement date and is eligible for unreduced retirement benefits may not apply for a disability retirement benefit.

4. The board shall calculate retirement benefits as follows:

a. Normal retirement benefits for a retiree, except a supreme or district court judge and peace officer employed by the bureau of criminal investigation reaching normal retirement date equals 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) For a member first enrolled:

(a) Before January 1, 2020, service benefit equals two percent of final average salary multiplied by the number of years of service employment.

(b) After December 31, 2019, service benefit equals one and seventy-five hundredths 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 a supreme or district court judge under the public employees retirement system reaching normal retirement date equals 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. Normal retirement benefits for a peace officer employed by the bureau of criminal investigation reaching the normal retirement date equals an annual amount, payable monthly, comprised of a service benefit and a prior service benefit determined as follows:

(1) The first twenty years of credited service multiplied by three percent of final average salary.

(2) For years in excess of twenty years of credited service multiplied by one and seventy-five hundredths percent of final average salary.

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

e. 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 before the normal retirement date, as determined under subsection 3. Except for a national guard security officer or firefighter, a firefighter, dispatcher, or emergency medical services personnel employed by a political subdivision, a dispatcher, correctional officer, or peace officer employed by a governmental unit, or a supreme court or district court judge, early retirement benefits for members first enrolled after December 31, 2015, are calculated for single life benefits accrued to the date of termination of employment, but must be reduced by fixed rate of eight percent per year to account for benefit payments beginning before the normal retirement date. A retiree, other than a supreme or district court judge, or a peace officer employed by the bureau of criminal investigation and hired after July 31, 2023, 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. A peace officer employed by the bureau of criminal investigation and hired after July 31, 2023, is eligible for early retirement benefits only after having completed ten years of eligible employment.

f. Except for a supreme or district court judge, disability retirement benefits are twenty-five percent of the member's final average salary. Disability retirement benefits for a supreme or district court judge are seventy percent of final average salary reduced by any social security benefits and by any workforce safety and insurance benefits paid to the member. The minimum monthly disability retirement benefit under this section is one hundred dollars.

5. Upon termination of employment after completing three years of eligible employment, except for a supreme or district court judge, who must complete five years of eligible employment, or a peace officer employed by the bureau of criminal investigation and hired after July 31, 2023, who must complete ten years of eligible employment, but before normal retirement date, a member who does not elect to receive early retirement benefits is eligible to receive deferred vested retirement benefits payable commencing on the member's normal retirement date in one of the optional forms provided in subsection 9. Members who have delayed or inadvertently failed to apply for retirement benefits to commence on their normal retirement date may choose to receive either a lump sum payment equal to the amount of missed payments, or an actuarial increase to the form of benefit the member has selected, which increase must reflect the missed payments.

6. If before retiring a member dies after completing three years of eligible employment, except for a supreme or district court judge, who must have completed five years of eligible employment, or a peace officer employed by the bureau of criminal investigation and hired after July 31, 2023, who must complete ten years of eligible employment, the board shall pay the member's account balance to the member's designated beneficiary as provided in this subsection. If the member has designated an alternate beneficiary with the surviving spouse's written consent, the board shall pay the member's account balance to the named beneficiary. If the member has named more than one primary beneficiary, the board shall pay the member's account balance to the named primary beneficiaries in the percentages designated by the member or, if the member has not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the member, the board shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If any beneficiary survives the member, yet dies before distribution of the beneficiary's share, the beneficiary must be treated as if the beneficiary predeceased the member. If there are no remaining primary beneficiaries, the 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) Payment of a monthly retirement benefit equal to fifty percent of the deceased member's accrued single life retirement benefits until the spouse dies.
      (3) If the member dies on or after the member's normal retirement date, the payment of a monthly retirement benefit equal to an amount that would have been paid to the surviving spouse if the member had retired on the day of the member's death and had selected a one hundred percent joint and survivor annuity, payable until the spouse dies. A surviving spouse who received a benefit under this subsection as of July 31, 1995, is entitled to the higher of that person's existing benefit or the equivalent of the accrued benefit available under the one hundred percent joint and survivor provision as if the deceased member were of normal retirement age, with the increase payable beginning August 1, 1995.
7. If a member not coming under the provisions of subsection 6 terminates employment because of death, permanent and total disability, or any voluntary or involuntary reason prior to retirement, the member or the member's designated beneficiary is entitled to the member's account balance at termination. The board automatically shall refund a member's account balance if the member has completed less than three years of eligible employment, has an account balance of less than one thousand dollars, and was not a supreme or district court judge or a peace officer employed by the bureau of criminal investigation and hired after July 31, 2023. If the member was a supreme or district court judge, the board automatically shall refund a member's account balance if the member completed less than five years of eligible employment and has an account balance of less than one thousand dollars. If the member was a peace officer employed by the bureau of criminal investigation and hired after July 31,

2023, the board automatically shall refund a member's account balance if the member completed less than ten years of eligible employment and has an account balance of less than one thousand dollars. 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. A benefit payment owed to the member, surviving spouse, or alternate beneficiary which was not paid before the death of the member, surviving spouse, or alternate beneficiary must be paid to the named beneficiary of the recipient or, if there is no named beneficiary, to the recipient's estate.
9. a. The board shall adopt rules providing for the receipt of retirement benefits in the following optional forms:
   (1) Single life.
   (2) An actuarially equivalent joint and survivor option, with fifty percent or one hundred percent options.
   (3) Actuarially equivalent life with ten-year or twenty-year certain options.
   (4) An actuarially equivalent partial lump sum distribution option with a twelve-month maximum lump sum distribution.
   (5) An actuarially equivalent graduated benefit option with either a one percent or two percent increase to be applied the first day of January of each year.

   b. Except for a supreme or district court judge, 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 a supreme or district court judge, unless a member specifically requests that the member receive benefits according to one of these options at the time of applying for retirement, all retirement benefits must be in the form of a lifetime monthly pension with fifty percent of the benefit continuing for the life of the surviving spouse, if any.
10. The fund may accept rollovers from other eligible plans under rules adopted by the 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.

54-52-17.1. Actuarial studies required.

Before making changes in benefit levels the legislative assembly and the board shall have an actuarial study conducted to determine the total cost of such changes.

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

1. a. For the purpose of determining eligibility for benefits under this chapter, an employee's years of service credit is the total of the years of service credit earned

in the public employees retirement system and the years of service credit earned in any number of the following:

(1) The teachers' fund for retirement.
(2) The highway patrol troopers' 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. Subject to section 54-52-02.15 and pursuant to rules adopted by the board, an employee who has service credit in the system and in any of the plans described in paragraphs 1 and 2 of subdivision a is entitled to benefits under this chapter. The benefits of a temporary employee employed after July 31, 2015, must be calculated using the benefit formula in section 54-52-17. A permanent employee or a temporary employee employed before August 1, 2015, may elect to have benefits calculated using the benefit formula in section 54-52-17 under either of the following methods:

(1) The final average salary as calculated in section 54-52-17. If the participating member has worked for less than thirty-six months at retirement, the final average salary is the average salary for the total months of employment.
(2) The final average salary as calculated in section 54-52-17 for employment with any of the three eligible employers under this subdivision, with service credit not to exceed one month in any month when combined with the service credit earned in the alternate retirement system.

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

2. a. If an employee who is eligible to participate in the public employees retirement system is also employed in any position when membership in an alternate retirement system is required, then, for purposes of current participation, the employee is a member of each applicable retirement system. The employer shall pay over to each retirement system the member assessment and employer contributions at the rates currently existing for that retirement system.

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

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

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

54-52-17.4. Purchase of additional credit.

1. A participating member may elect to purchase credit for years of service and prior service for which the participating member is not presently receiving credit. A participating member is entitled to purchase additional credit under this section for the

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

a. Active prior employment in the armed forces of the United States, except as provided in section 54-52-17.14, for up to four years of credit.
b. Employment as a permanent employee by a public employer either within or outside the state of North Dakota.
c. Employment as a permanent employee by a political subdivision participating in the public employees retirement system which did not pay the cost of past service benefits under section 54-52-02.1.
d. Service the participating member did not elect to repurchase upon re-employment under section 54-52-02.6.
e. Service of an eligible employee, who exercised the privilege to withdraw from the predecessor plan to the public employees retirement system under subsection 10 of section 54-52-17 as created by section 13 of chapter 499 of the 1977 Session Laws.
f. Employment as a permanent employee by the federal government.

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

54-52-17.5. Postretirement adjustments.

An individual or the individual's beneficiary who, on July 31, 2001, is receiving retirement benefits under subdivision a, c, d, or e of subsection 4 of section 54-52-17 is entitled to receive an increase in benefits equal to six percent of the individual's present benefits with the increase payable beginning August 1, 2001.

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

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

54-52-17.7. Employment records.

The years of service and prior service credit for each member as indicated in the records of the public employees retirement system as of July 1, 1991, are deemed correct and recognized as creditable years of service and prior service credit for purposes of calculating retirement benefits under this chapter and may not be reduced. However, the records may be corrected to reflect additional months of creditable service and prior service credit upon proper verification.

54-52-17.8. Benefit limitations.

Repealed by S.L. 2003, ch. 498, § 22.

54-52-17.9. Prior service retiree adjustment.

Repealed by S.L. 2001, ch. 494, § 10.

54-52-17.10. Prior service retiree adjustment.

Prior service retirees who are receiving benefits under this chapter on July 31, 2001, are entitled to receive an increase in benefits equal to six percent of the individual's present benefit, with the increased benefits payable beginning August 1, 2001. A prior service retiree is a former participating employee who receives a supplemental monthly payment from the retirement system based upon the original prior service credit system.

54-52-17.11. Judges postretirement adjustments.

A supreme or district court judge or that person's beneficiary who, on December 31, 2007, is receiving retirement benefits under subdivision b of subsection 4 of section 54-52-17, is entitled to receive an increase in benefits equal to two percent of the individual's present benefits with the increase payable beginning January 1, 2008. A supreme or district court judge or that person's beneficiary who, on December 31, 2008, is receiving retirement benefits under subdivision b of subsection 4 of section 54-52-17, is entitled to receive an increase in benefits equal to two percent of the individual's present benefits with the increase payable beginning January 1, 2009. The increases allowed by this section may only be given if the public employees retirement board determines there is actuarial margin sufficient to pay the increases.

54-52-17.12. Judges postretirement adjustments.

Repealed by S.L. 2001, ch. 495, § 5.

54-52-17.13. Supplemental retiree benefit payment.

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

54-52-17.14. Military service under the Uniformed Services Employment and Reemployment Rights Act - Member retirement credit.

A member reemployed under the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended [Pub. L. 103-353; 108 Stat. 3150; 38 U.S.C. 4301-4333], is entitled to receive retirement credit for the period of qualified military service. The required contribution for the credit, including payment for retiree health benefits, must be made in the same manner and by the same party as would have been made had the employee been continuously employed. If the salary the member would have received during the period of service is not reasonably certain, the member's average rate of compensation during the twelve-month period immediately preceding the member's period of service or, if shorter, the period of employment immediately preceding that period, times the number of months of credit being purchased must be used. Employees must be allowed up to three times the period of military service or five years, whichever is less, to make any required payments. This provision applies to all qualifying periods of military service since October 1, 1994. Effective for years after December 31, 2008, compensation for purposes of Internal Revenue Code section 415 [26 U.S.C. 415], as amended, includes military differential wage payments, as defined in Internal Revenue Code section 3401(h) [26 U.S.C. 3401(h)], as amended. Any payments made by the member to receive qualifying credit inconsistent with this provision must be refunded. Employees shall make application to the employer for credit and provide a DD Form 214 to verify service. If a participating member dies after December 31, 2006, while performing qualified military service, as defined in section 414(u)(5) [26 U.S.C. 414(u)(5)] of the Internal Revenue Code, as amended, the deceased member's beneficiaries are entitled to any death benefits, other than credit for years of service for purposes of benefits, that would have been provided under the plan if the participating member had resumed employment and then terminated employment on account of death. The period of such member's qualified military service is treated as vesting service under the plan.

54-52-18. Apportionment of benefits.

Repealed by S.L. 1977, ch. 499, § 17.

54-52-19. Prior service.

Repealed by S.L. 1977, ch. 499, § 17.

54-52-19.1. Continuance of prior service benefits earned under former plan.

Any retired employee receiving prior service benefits under former section 54-52-19 is entitled to continue to receive those benefits. For the purposes of this section only, section 54-52-19 is deemed to remain in effect. The amount of benefits to which the employee is entitled is double that computed under original section 54-52-19.

54-52-19.2. Grant of prior service credit after refund.

Repealed by S.L. 2005, ch. 531, § 19.

54-52-20. Prior service - Register - Benefits.

Repealed by S.L. 1977, ch. 499, § 17.

54-52-21. Plan not employment contract.

The adoption of or participation in a retirement plan may not be deemed to give an employee the right to be retained in the employ of a governmental unit or to interfere with the right of the governmental unit to discharge any employee at any time.

54-52-22. Interpretation clause.

This chapter may not be construed so as to commit the state of North Dakota, or any county, city, or school district or the agency to any liability either moral or legal for any benefits to any beneficiary under the plan or plans resulting from enactment of this chapter, nor as exemption from any regulatory laws of the state of North Dakota.

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

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

54-52-24. Planning and organizing funds.

Repealed by S.L. 1969, ch. 456, § 13; S.L. 1969, ch. 457, § 12.

54-52-25. Limitation of powers.

Repealed by S.L. 1989, ch. 667, § 13.

54-52-26. Confidentiality of records.

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

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

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

54-52-27. Purchase of sick leave credit.

A member is entitled to credit in the retirement system for each month of unused sick leave, as certified by the member's employer, if the member or the member's employer pays an amount equal to the member's final average salary, times the number of months of sick leave converted, times the percent of employer and employee contributions to the retirement program of the member, plus the required contribution for the retiree health benefits program. Hours of sick leave equal to a fraction of a month are deemed to be a full month for purposes of conversion to service credit. A member may convert all of the member's certified sick leave or a part of the member's certified sick leave.

54-52-28. Internal Revenue Code compliance.

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

1. Section 415, including the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code.
    a. The defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as approved by the legislative assembly, must be adjusted under section 415(d) of the Internal Revenue Code, effective January first of each year following a regular legislative session. The adjustment of the defined benefit dollar limitation under section 415(d) applies to participating members who have had a separation from employment, but that member's benefit payments may not reflect the adjusted limit prior to January first of the calendar year in which the adjustment applies.
    b. If a participating member's benefit is increased by plan amendment after the commencement of benefit payments, the member's annual benefit may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as adjusted under section 415(d) for the calendar year in which the increased benefit is payable.

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

2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirements under section 401(a)(9)(G), and the regulations issued under that provision to the extent applicable to governmental plans, as amended. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter.
3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee. For purposes of this section, "distributee" includes a beneficiary, other than a spouse, of a deceased member, provided however, in the case of a beneficiary other than a spouse, the direct rollover may be made only to an individual retirement account or individual retirement annuity described in section 408 or 408A of the Internal Revenue Code which is established on behalf of the beneficiary and will be treated as an inherited individual retirement account or individual retirement annuity under section 402(c)(11) of the Internal Revenue Code.
5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.

54-52-29. Employer service purchases.

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

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