

BILL NO.

Introduced by

(At the request of the Public Employees Retirement System)

1 A BILL for an Act to amend and reenact subsection 6 of section 39-03.1-01, section
2 39-03.1-11.2, subsection 3 of section 39-03.1-14.1, subsection 1 of section 54-52-05,
3 subsection 1 of section 54-52-17.2, sections 54-52-17.14 and 54-52-28, subsection 1 of section
4 54-52.1-03, and sections 54-52.1-03.1, 54-52.1-03.4, and 54-52.1-18 of the North Dakota
5 Century Code, relating to the highway patrolmen's retirement plan's and the public employees
6 retirement system's retirement benefits, health insurance plans, life insurance benefits, and
7 employee assistance benefits coverage.

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

9 **SECTION 1. AMENDMENT.** Subsection 6 of section 39-03.1-01 of the North Dakota
10 Century Code is amended and reenacted as follows:

11 6. "Salary" means the actual dollar compensation, excluding any bonus ~~or~~ overtime, or
12 expense allowance, paid to or for a contributor for the contributor's services.

13 **SECTION 2. AMENDMENT.** Section 39-03.1-11.2 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **39-03.1-11.2. Internal Revenue Code compliance.**

16 The board shall administer the plan in compliance with the following sections of the Internal
17 Revenue Code in effect on August 1, ~~2013~~2015, as it applies for governmental plans.

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

20 a. The defined benefit dollar limitation under section 415(b)(1)(A) of the Internal
21 Revenue Code, as approved by the legislative assembly, must be adjusted under
22 section 415(d) of the Internal Revenue Code, effective January first of each year
23 following a regular legislative session. The adjustment of the defined benefit
24 dollar limitation under section 415(d) applies to participating members who have

- 1 had a separation from employment, but that member's benefit payments may not
2 reflect the adjusted limit prior to January first of the calendar year in which the
3 adjustment applies.
- 4 b. If a participating member's benefit is increased by plan amendment after the
5 commencement of benefit payments, the member's annual benefit may not
6 exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the
7 Internal Revenue Code, as adjusted under section 415(d) for the calendar year in
8 which the increased benefit is payable.
- 9 c. If a participating member is, or ever has been, a participant in another defined
10 benefit plan maintained by the employer, the sum of the participant's annual
11 benefits from all the plans may not exceed the defined benefit dollar limitation
12 under section 415(b)(1)(A) of the Internal Revenue Code. If the participating
13 member's employer-provided benefits under all such defined benefit plans would
14 exceed the defined benefit dollar limitation, the benefit must be reduced to
15 comply with section 415 of the Internal Revenue Code. This reduction must be
16 made pro rata between the plans, in proportion to the participating member's
17 service in each plan.
- 18 2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code,
19 including the incidental death benefit requirements under section 401(a)(9)(G), and the
20 regulations issued under that provision to the extent applicable to governmental plans.
21 Accordingly, benefits must be distributed or begin to be distributed no later than a
22 member's required beginning date, and the required minimum distribution rules
23 override any inconsistent provision of this chapter. A member's required beginning
24 date is April first of the calendar year following the later of the calendar year in which
25 the member attains age seventy and one-half or terminates employment.
- 26 3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue
27 Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
- 28 4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly,
29 a distributee may elect to have an eligible rollover distribution, as defined in
30 section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible

1 retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code,
2 specified by the distributee.

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

7 **SECTION 3. AMENDMENT.** Subsection 3 of section 39-03.1-14.1 of the North Dakota
8 Century Code is amended and reenacted as follows:

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

14 a. By using the final average of the highest salary received by the member for any
15 ~~thirty-six months employed during the last one hundred twenty months of~~
16 ~~employment in the highway patrolmen's retirement system~~ as calculated in
17 section 39-03.1-11. If the participating member has worked for less than thirty-six
18 months at retirement, the final average salary is the average salary for the total
19 months of employment.

20 b. Using the final average of the highest salary received by the member for any
21 ~~thirty-six months during the last one hundred twenty months of employment~~ as
22 calculated in section 39-03.1-11, with service credit not to exceed one month in
23 any month when combined with the service credit earned in the alternate
24 retirement system.

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

27 **SECTION 4. AMENDMENT.** Subsection 1 of section 54-52-05 of the North Dakota Century
28 Code is amended and reenacted as follows:

29 1. Every eligible ~~governmental unit~~ participating political subdivision employee ~~concurring~~
30 ~~in,~~ at the time the political subdivision joins the plan must so state in writing if the
31 employee concurs in the plan and all future eligible employees of the participating

1 political subdivision are participating members in the plan and must be enrolled in the
2 plan within the first month of employment. Except as otherwise provided by law, every
3 other eligible governmental unit employee of a participating governmental unit is a
4 participating member in the plan and must be enrolled in the plan within the first month
5 of employment. An employee who was not enrolled in the retirement system when
6 eligible to participate must be enrolled immediately upon notice of the employee's
7 eligibility, unless the employee waives in writing the employee's right to participate for
8 the previous time of eligibility, to avoid contributing to the fund for past service. An
9 employee who is eligible for normal retirement who accepts a retirement benefit under
10 this chapter and who subsequently becomes employed with a participating employer
11 other than the employer with which the employee was employed at the time the
12 employee retired under this chapter may, before ~~reenrolling~~being reenrolled in the
13 retirement plan within the first month of employment, elect to permanently waive future
14 participation in the retirement plan and the retiree health program and maintain that
15 employee's retirement status. An employee making this election is not required to
16 make any future employee contributions to the public employees retirement system
17 nor is the employee's employer required to make any further contributions on behalf of
18 that employee.

19 **SECTION 5. AMENDMENT.** Subsection 1 of section 54-52-17.2 of the North Dakota
20 Century Code is amended and reenacted as follows:

- 21 1. a. For the purpose of determining eligibility for benefits under this chapter, an
22 employee's years of service credit is the total of the years of service credit earned
23 in the public employees retirement system and the years of service credit earned
24 in any number of the following:
- 25 (1) The teachers' fund for retirement.
 - 26 (2) The highway patrolmen's retirement system.
 - 27 (3) The teachers' insurance and annuity association of America - college
28 retirement equities fund (TIAA-CREF), for service credit earned while
29 employed by North Dakota institutions of higher education.
- 30 Service credit may not exceed twelve months of credit per year.

1 b. Pursuant to rules adopted by the board, an employee who has service credit in
2 the system and in any of the plans described in paragraphs 1 and 2 of
3 subdivision a is entitled to benefits under this chapter. The benefits of a
4 temporary employee employed after July 31, 2015, must be calculated using the
5 benefit formula in section 54-52-17 under the method listed in paragraph 1. A
6 permanent employee or a temporary employee employed before August 1, 2015,
7 may elect to have benefits calculated using the benefit formula in section
8 54-52-17 under either of the following methods:

9 (1) The final average of the highest salary received by the member for any
10 ~~thirty-six months employed during the last one hundred twenty months of~~
11 ~~employment in the public employees retirement system~~ as calculated in
12 section 54-52-17. If the participating member has worked for less than
13 thirty-six months at retirement, the final average salary is the average salary
14 for the total months of employment.

15 (2) The final average of the highest salary received by the member for any
16 ~~thirty-six consecutive months during the last one hundred twenty months~~
17 ~~of~~ as calculated in section 54-52-17 for employment with any of the three
18 eligible employers under this subdivision, with service credit not to exceed
19 one month in any month when combined with the service credit earned in
20 the alternate retirement system.

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

23 **SECTION 6. AMENDMENT.** Section 54-52-17.14 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **54-52-17.14. Military service under the Uniformed Services Employment and**
26 **Reemployment Rights Act - Member retirement credit.**

27 A member reemployed under the Uniformed Services Employment and Reemployment
28 Rights Act of 1994, as amended [Pub. L. 103-353; 108 Stat. 3150; 38 U.S.C. 4301-4333], is
29 entitled to receive retirement credit for the period of qualified military service. The required
30 contribution for the credit, including payment for retiree health benefits, must be made in the
31 same manner and by the same party as would have been made had the employee been

1 continuously employed. If the salary the member would have received during the period of
2 service is not reasonably certain, the member's average rate of compensation during the
3 twelve-month period immediately preceding the member's period of service or, if shorter, the
4 period of employment immediately preceding that period, times the number of months of credit
5 being purchased must be used. Employees must be allowed up to three times the period of
6 military service or five years, whichever is less, to make any required payments. This provision
7 applies to all qualifying periods of military service since October 1, 1994. Any payments made
8 by the member to receive qualifying credit inconsistent with this provision must be refunded.
9 Employees shall make application to the employer for credit and provide a DD Form 214 to
10 verify service. If a participating member dies after December 31, 2006, while performing
11 qualified military service, as defined in section 414(u)(5) of the Internal Revenue Code, the
12 deceased member's beneficiaries are entitled to any death benefits, other than credit for years
13 of service for purposes of benefits, that would have been provided under the plan if the
14 participating member had resumed employment and then terminated employment on account of
15 death. The period of such member's qualified military service is treated as vesting service under
16 the plan.

17 **SECTION 7. AMENDMENT.** Section 54-52-28 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **54-52-28. Internal Revenue Code compliance.**

20 The board shall administer the plan in compliance with the following sections of the Internal
21 Revenue Code in effect on August 1, ~~2013~~2015, as it applies for governmental plans.

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

- 1 b. If a participating member's benefit is increased by plan amendment after the
2 commencement of benefit payments, the member's annual benefit may not
3 exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the
4 Internal Revenue Code, as adjusted under section 415(d) for the calendar year in
5 which the increased benefit is payable.
- 6 c. If a participating member is, or ever has been, a participant in another defined
7 benefit plan maintained by the employer, the sum of the participant's annual
8 benefits from all the plans may not exceed the defined benefit dollar limitation
9 under section 415(b)(1)(A) of the Internal Revenue Code. If the participating
10 member's employer-provided benefits under all such defined benefit plans would
11 exceed the defined benefit dollar limitation, the benefit must be reduced to
12 comply with section 415 of the Internal Revenue Code. The reduction must be
13 made pro rata between the plans, in proportion to the participating member's
14 service in each plan.
- 15 2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code,
16 including the incidental death benefit requirements under section 401(a)(9)(G), and the
17 regulations issued under that provision to the extent applicable to governmental plans.
18 Accordingly, benefits must be distributed or begin to be distributed no later than a
19 member's required beginning date, and the required minimum distribution rules
20 override any inconsistent provision of this chapter. A member's required beginning
21 date is April first of the calendar year following the later of the calendar year in which
22 the member attains age seventy and one-half or terminates employment.
- 23 3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue
24 Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
- 25 4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly,
26 a distributee may elect to have an eligible rollover distribution, as defined in
27 section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible
28 retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code,
29 specified by the distributee.
- 30 5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued,
31 the rights of all affected participating members to accrued retirement benefits under

1 this chapter as of the date of termination or discontinuance is nonforfeitable, to the
2 extent then funded.

3 **SECTION 8. AMENDMENT.** Subsection 1 of section 54-52.1-03 of the North Dakota
4 Century Code is amended and reenacted as follows:

5 1. Any eligible employee may be enrolled in the uniform group insurance program
6 created by this chapter by requesting enrollment with the employing department. If an
7 eligible employee does not enroll in the uniform group insurance program at the time
8 of beginning employment, in order to enroll at a later time the eligible employee must
9 meet minimum requirements established by the board to enroll thereafter. An
10 employing department may not require an active eligible employee to request
11 coverage under the uniform group insurance program as a prerequisite to receive the
12 minimum employer-paid life insurance benefits coverage or employee assistance
13 program benefits coverage.

14 **SECTION 9. AMENDMENT.** Section 54-52.1-03.1 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **54-52.1-03.1. Certain political subdivisions authorized to join uniform group**
17 **insurance program - Employer contribution.**

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

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

11 **SECTION 10. AMENDMENT.** Section 54-52.1-03.4 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **54-52.1-03.4. Temporary employees and employees on unpaid leave of absence.**

14 A temporary employee employed before August 1, 2007, may elect to participate in the
15 uniform group insurance program by completing the necessary enrollment forms and qualifying
16 under the medical underwriting requirements of the program if such election is made before
17 January 1, 2015, and if the temporary employee is participating in the uniform group insurance
18 program on January 1, 2015. A temporary employee employed on or after August 1, 2007, is
19 only eligibleIn order for a temporary employee employed after July 31, 2007, to qualify to
20 participate in the uniform group insurance program if, the employee ismust be employed at least
21 twenty hours per week and; must be employed at least twenty weeks each year of employment;
22 must make the election to participate before January 1, 2015; and must be participating in the
23 uniform group insurance program as of January 1, 2015. ATo be eligible to participate in the
24 uniform group insurance program, a temporary employee first employed after December 31,
25 20132014, or any temporary employee not participating in the uniform group insurance program
26 as of January 1, 2015, is eligible to participate in the uniform group insurance program only if
27 the employee meetsmust meet the definition of a full-time employee under section 4980H(c)(4)
28 of the Internal Revenue Code [26 U.S.C. 4980H(c)(4)]. ~~The~~Monthly, the temporary employee or
29 the temporary employee's employer shall pay ~~monthly~~ to the board the premiums in effect for
30 the coverage being provided. In the case of a temporary employee who is an applicable
31 taxpayer as defined in section 36B(c)(1)(A) of the Internal Revenue Code [26 U.S.C. 36B(c)(1)

1 (A)], the temporary employee's required contribution for medical and hospital benefits self-only
2 coverage may not exceed the maximum employee required contribution specified under
3 section 36B(c)(2)(C) of the Internal Revenue Code [26 U.S.C. 36B(c)(2)(C)], and the employer
4 shall pay any difference between the maximum employee required contribution for medical and
5 hospital benefits self-only coverage and the cost of the premiums in effect for this coverage. An
6 employer may pay health or life insurance premiums for a permanent employee on an unpaid
7 leave of absence. A political subdivision, department, board, or agency may make a contribution
8 for coverage under this section.

9 **SECTION 11. AMENDMENT.** Section 54-52.1-18 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **54-52.1-18. High-deductible health plan alternative with health savings account**
12 **option.**

13 1. The board shall develop and implement a high-deductible health plan as an alternative
14 to the plan under section ~~54-52.1-06~~54-52.1-02. The high-deductible health plan
15 alternative with a health savings account must be made available to state employees
16 by January 1, 2012. ~~The~~After June 30, 2013, at the board's discretion, the
17 high-deductible health plan alternative may be offered, at the discretion of the board,
18 to political subdivisions after June 30, 2013 for coverage of political subdivision
19 employees. If a political subdivision elects this high-deductible option the political
20 subdivision may not offer the plan under section 54-52.1-02.

21 2. Health savings account fees for participating state employees must be paid by the
22 employer. ~~Subject~~

23 a. Except as provided in subdivision b, subject to the limits of section 223(b) of the
24 Internal Revenue Code [26 U.S.C. 233(b)], the difference between the cost of the
25 single and family premium for eligible state employees under section 54-52.1-06
26 and the premium for those employees electing to participate under the
27 high-deductible health plan under this section must be deposited in a health
28 savings account for the benefit of each participating employee.

29 b. If the public employees retirement system is unable to establish a health savings
30 account due to the employee's ineligibility under federal or state law or due to
31 failure of the employee to provide necessary information in order to establish the

1 account, the system is not responsible for depositing the health savings account
2 contribution. The member will remain a participant in the high-deductible health
3 plan regardless of whether a health savings account is established.

4 3. Each new state employee ~~of a participating employer under this section~~ must be
5 provided the opportunity to elect the high-deductible health plan alternative. At least
6 once each biennium, the board shall ~~have~~provide an open enrollment period allowing
7 existing state employees ~~of a participating employer under this section~~or a political
8 subdivision to change their coverage.