FIRST DRAFT:
Prepared by the Legislative Council staff for the
Insurance and Health Care Committee
July 1998

Fifty-sixth
Legislative Assembly
of North Dakota

Introduced by

A BILL for an Act to create and enact chapter 23-35 of the North Dakota Century Code, relating to public health law; to amend and reenact section 23-01-04.2, subsection 2 of section 23-07.6-01, subdivision h of subsection 1 of section 40-01.1-04, and section 54-52-02 of the North Dakota Century Code, relating to references to public health law; to repeal chapters 23-03, 23-04, 23-05, and 23-14 of the North Dakota Century Code, relating to public health; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-01-04.2 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-01-04.2. ~~Legislative intent~~ Department rulemaking authority - Health vaccination charges - Health districts. ~~It is the intent of the legislative assembly that the~~ The state department of health shall adopt rules defining appropriate administration charges for vaccine provided by the department to physicians, private clinics, and hospitals. The department may adopt rules implementing health districts under chapter 23-35. If adopted, the rules must include provisions to aid health districts in providing equality of health care and to provide a procedure for distributing grants.

SECTION 2. AMENDMENT. Subsection 2 of section 23-07.6-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Local board" means a board of health as ~~described~~ defined under section ~~23-05-01 or a district board of health as described under section 23-14-04~~ 23-35-01.

SECTION 3. Chapter 23-35 of the North Dakota Century Code is created and enacted as follows:

23-35-01. Definitions. As used in this chapter, unless the context otherwise requires:

1. "Board of health" means a district, county, or city board of health.
2. "City board of health" means a board of health of a city operating under a commission system of government or a council system of government.
3. "Department" means the state department of health.
4. "Health district" means an entity formed under section 23-35-05 or 23-35-06.
5. "Joint board of county commissioners" means the boards of county commissioners of two or more counties acting together in joint session.

23-35-02. Boards of health.

1. The department shall supervise boards of health.
2. In a city operating under the council system of government, the city council may create a six-member city board of health. At the first meeting of the city council in June of each year, the mayor shall appoint the city engineer, the city health officer, and four council members to the board of health.
3. In a city operating under the commission system of government, the board of city commissioners may serve as the city board of health or may appoint a city board of health. If the commission serves as the board, the city physician is the executive officer of the board. If the board of city commissioners appoints the board of health, the board of city commissioners shall appoint one physician; one dentist; one business or professional individual; and one city commissioner. The president of the board of city commissioners shall appoint one individual, subject to confirmation by the board of city commissioners. A commission city board of health shall elect one of its members president, one vice president, and other officers the board deems necessary, and the city health officer is the secretary of the board.
4. A board of county commissioners may appoint a five-member county board of health consisting of one physician, one dentist, one business or professional individual, one farmer, and one county commissioner. If a county does not have a resident physician or dentist, these positions may be filled by a physician or dentist from an adjacent county, or if this is not practical, by a licensed provider of health services who is a resident of the county. At the first meeting after appointment, and annually, the members of a county board of health shall organize by electing a

president, a vice president, and other officers the board deems necessary. The health officer is the secretary of the board.

5. A joint board of county commissioners shall appoint a district board of health consisting of at least five members including one physician, one dentist, one business or professional individual, one farmer, and one county commissioner. Each county in the health district must have at least one representative on the district board of health and each county of over fifteen thousand population must have an additional representative for each fifteen thousand population or major fraction of that number. In a district of fewer than five counties, each county must have at least one representative on the district board of health, and the additional representatives selected to constitute the minimum five-member board must be equitably apportioned among the counties on a population basis. In a joint city-county health district composed of only one county and having at least one city over fifteen thousand population, each city having a population over fifteen thousand must have a representative on the district board of health for each fifteen thousand population or major fraction of that number and the remaining population of the county, exclusive of the populations of cities with more than fifteen thousand population each, must have a representative on the district board of health for each fifteen thousand population or major fraction of that number. At the first meeting after appointment, and annually, the members of the board shall elect a president, a treasurer, and any other necessary officers. The treasurer must be bonded in an amount fixed by the board. The district health officer is the secretary of the board. If the district health officer is not the physician appointed to the board, the health officer does not have a vote in matters of the board. The office of secretary and treasurer may be combined if the health officer is the physician appointed to the board.

NOTE: The distinction between boards of health of council cities and boards of health of commission cities has been retained. A question for consideration is whether this distinction is still relevant. Note there are also modern council and city manager forms of city government.

23-35-03. Boards of health - Terms - Appointments - Compensation and reimbursement. The initial members of any board of health appointed by a board of city commissioners, a board of county commissioners, or a joint board of county commissioners

must be appointed for terms as follows: at least one for one year, one for two years, one for three years, one for four years, and one for five years. All subsequent appointments are for five-year terms. Each board member shall serve until a successor is appointed and qualified. If a vacancy occurs, the appointing authority shall appoint a member for the remainder of the unexpired term. Each appointee shall qualify by filing the oath of office in the office of the city or county auditor, as the case may be, or in the case of a health district in the office of the county auditor of the county with the largest population. A board of health may not be all male or all female. Board members are entitled to be compensated at a rate not exceeding forty-five dollars per day, but for no more than twenty-five days per year, and are entitled to reimbursement of expenses incurred in the manner and to the extent provided for state officers. Compensation and expense reimbursement must be from the health district fund.

23-35-04. Boards of health - Meetings. A board of health shall meet at least quarterly. Special meetings may be held at any time on the call of the president and secretary. The president of the board shall determine the time and location of meetings.

NOTE: The substance of this section gives discretion for meetings, as long as meetings are held at least quarterly. Current law requires a county board to meet at the county seat at least quarterly; a city board to meet in January, April, July, and October; and a district board to meet at least quarterly in the courthouse of the largest county at least once.

23-35-05. Health districts - Formation.

1. If the state health officer determines, based on information obtained in cooperation with local health officers and local boards of health, that the health needs of any given area may be better served by forming a health district as provided for under this chapter, the state health officer shall notify the county auditor of each county involved and the city auditor of each city involved which has a population exceeding fifteen thousand individuals. Each involved county and city auditor shall place the matter before the governing body of the county or city at the governing body's next regular meeting. The governing body, by resolution, shall adopt or reject the health district plan at that meeting or the next meeting.
   a. If the governing bodies adopt the health district plan, any laws in conflict with the plan become inoperative throughout the district.
   b. If a board of county commissioners, city council, or board of city commissioners rejects a health district plan, the question of adoption of the

plan may be submitted to the qualified electors of the relevant county or city at the next election held in the county or city. In a health district election under this chapter, votes cast in a city with a population over fifteen thousand individuals are considered separate from the votes cast elsewhere in the county. City participation in a health district is governed by the votes cast in the city as distinguished from the votes cast elsewhere in the county. If a majority of the qualified electors voting vote in favor of adoption of a health district plan, the board of county commissioners shall adopt the resolution within ten days after the canvass of the election. Upon the adoption of a resolution, the counties and the cities voting in favor of the plan are a health district. If a petition is filed with the county auditor which is signed by qualified electors of the county equal to ten percent or more of the votes cast in that county for the office of governor at the last general election, an election on the question of forming a health district must be held as provided under this section.

2. A health district must follow county lines. If a health district outlined by the state health officer includes more than one county and the plan is adopted in any county or city and rejected in any county or city, the plan becomes effective in the counties and cities adopting the plan upon approval by the state health officer.

3. Notwithstanding this chapter, the board of county commissioners of a county not included in any health district, upon adoption of a resolution, may contract with a city within the county which has a health department approved by the state department of health to provide health services throughout the county and in any city within the county which does not have an approved health department. A city having a health department approved by the state department of health may contract with the board of county commissioners of the county in which the city is located to provide health services to the county and in cities throughout the county which do not have an approved health department. The contract must comply with section 54-40-08. After one year, the contract may be renegotiated by mutual agreement between parties to the contract or by one of the contracting parties giving notice by certified mail to the other contracting party. The notice must

specify a time, at least fifteen days after certified mailing, and place for the contracting parties to meet and renegotiate the existing contract. When a contract is executed, any provision of this chapter relating to organizing district boards of health does not apply, and the city health department shall exercise all the necessary powers and duties under this title. The state department of health shall treat a county with a contract under this subsection as a health district.

23-35-06. Health districts - Expansion - Merger.

1. Upon adoption of a resolution, a county contiguous to a health district or a city adjacent to a county that is a health district, which is not included in any health district, may request inclusion as a part of an existing health district. Upon receipt of a request to become part of an existing health district, the board of health shall consider the request and if the board approves the request by a majority vote, shall submit the matter to each county and city in the health district. If each governing body approves the request by a majority vote, the requesting county or city becomes a part of the health district.
2. Before adopting a resolution under subsection 1, the county or city must first be approved by the state health officer. The state health officer, or the state health officer's designee, shall confer individually with the county or city and the existing health district concerning the health needs of each. If the state health officer is satisfied the needs of the requesting county or city comport with the needs of the existing health district, the state health officer shall grant approval.
3. Upon expansion of a health district under this section, the number of board members must be adjusted to allow the added county or city the same proportion of members allowed to member cities and counties of the existing health district as determined under this chapter.
4. Any two or more contiguous health districts may merge into a single health district upon a majority vote of the respective boards of health and a majority vote of the governing body of each respective city or county. The assets of each merging health district become the property of the newly created health district. Board membership of the new health district must be determined pursuant to section 23-35-02. The new health district maintains the same authority and powers of the

previous health districts. The mill levy in the newly created health district is not limited by the old mill levy but may not exceed the amount allowed under section 23-35-08.

5. Upon adoption of a health district plan by two or more contiguous counties, the joint board of county commissioners shall appoint a district board of health. The joint board of county commissioners shall meet at the county seat of the county with the largest population.

23-35-07. Health districts - Dissolution - Withdrawal.

1. After a health district has been in operation for two years, the district may be dissolved as provided for in this section. If a petition is filed with the county auditor of each county of a health district which is signed by qualified electors of the county equal to ten percent or more of the votes cast in that county for governor at the last general election, an election on the question of dissolution must be presented to the qualified electors in each county in the district at the next election held in each county in the district. If a majority of the votes cast on the question in a majority of the counties favor dissolution, the health district is dissolved on January first following the election. If a majority of the votes cast on the question in a majority of the counties are against dissolution, no other election on this issue may be held for two years.

2. After a health district has been in operation for two years, any county may withdraw from the district as provided in this section. If a petition is filed with the county auditor which is signed by qualified electors of the county equal to ten percent or more of the votes cast in that county for governor at the last general election, an election on the question of withdrawal must be presented to the qualified electors in the county at the next election held in the county. If a majority of the votes cast on the question favor withdrawing from the district, the county is withdrawn from the district on January first following the election. If a majority of the votes cast on the question are against withdrawal, no other election on this issue may be held for two years.

23-35-08. Health district fund.

1. A district board of health shall prepare a budget for the next fiscal year at the time at which and in the manner in which a county budget is adopted and shall submit this budget to the board of county commissioners for approval. The amount budgeted and approved must be prorated in health districts composed of more than one county among the various counties in the health district according to the assessed valuation of the respective counties comprising the health district. Within ten days after approval by the board of county commissioners, the district board of health shall certify the budget to the respective county auditors and the budget must be included in the levies of the counties. The budget may not exceed the amount that can be raised by a levy of five mills on the taxable valuation, subject to public hearing in each county comprising the district at least fifteen days before an action taken by the joint board of county commissioners. Action taken by the joint board of county commissioners must be based on the record, including comments received at the public hearing. A levy under this section is not subject to the limitation on the county tax levy for general and special county purposes. The amount derived from a levy under this section must be placed in the health district fund. The health district fund must be deposited with and disbursed by the treasurer of the district board of health. All counties comprising the health district quarterly shall remit and make settlements with the treasurer. Any funds remaining at the end of any fiscal year may be carried over to the next fiscal year.
2. The district board of health, or the president and secretary of the board when authorized or delegated by the board, shall audit all claims against the health district fund. The treasurer shall pay all claims from the health district fund. The district board of health shall approve or ratify all claims at the board's quarterly meetings.

23-35-09. Boards of health - Powers and duties. Within its jurisdiction, each board of health:

1. May employ persons necessary to effectuate board rules and this title.
2. May inquire into all nuisances, sources of filth, and causes of sickness; may make regulations regarding nuisances, sources of filth, and causes of sickness which are necessary for the public health and safety; and shall proceed as provided under

this chapter to abate or remove any nuisance, source of filth, or cause of sickness when necessary to protect the public health.

3. May adopt quarantine and sanitary measures in compliance with chapter 23-07.6 which are necessary when an infectious or contagious disease exists.

4. At any time, may enter and examine any place to ascertain the condition of the place as the condition relates to public health.

5. May make rules in health districts and county health departments, as the case may be, and in the case of a city board of health may recommend to a city council or board of city commissioners ordinances for the protection of public health and safety.

6. Shall keep records and make reports required by the department.

7. Shall publish any notice of general orders and rules made by the board. Publication must occur in the official newspaper published within the jurisdiction of the board. If no official newspaper is published within the jurisdiction, the board shall publish the notice in the county official newspaper or shall post the notice in five public places within the jurisdiction of the board.

8. As the case may be, shall prepare a county health budget for the next fiscal year at the time and in the manner a county budget is adopted and shall submit the budget to the board of county commissioners for approval; shall prepare a city health budget for the next fiscal year and shall submit the budget to the governing body of the city for approval; or shall prepare a district budget as provided under this chapter.

9. Shall audit, allow, and certify for payment expenses incurred by a board of health in carrying into effect this title. In the case of a city board of health, the board shall certify the expenses to the city auditor for payment out of the general fund of the city.

10. May accept and receive any contributions offered to aid in the work of the board or district.

23-35-10. Abatement and removal of nuisance, source of filth, and cause of sickness.

1. When it is necessary for the protection of the public health to abate or remove any nuisance, source of filth, or cause of sickness found on private property, the board of health shall serve notice on the owner or occupant of the property requiring the owner or occupant, at the owner or occupant's expense, to remove or abate the nuisance, source of filth, or cause of sickness within thirty days. If the owner or occupant fails to comply with the notice to remove or abate or if the nuisance, source of filth, or cause of sickness exists on the property of nonresident owners or upon property the owners of which cannot be found, the board of health shall remove or destroy the nuisance, source of filth, or cause of sickness at the expense of the county, city, or township, which shall charge the expense against the lot, piece, or parcel of land upon which the work is done.

2. In a city, the board of health shall assess against the property the cost of the removal or destruction of a nuisance, source of filth, or cause of sickness. The city engineer, or in a city having no city engineer, the member of the governing body responsible for streets, shall return the assessment and file it in the office of the city auditor. The city auditor shall publish, in one issue of the official newspaper of the city at least ten days before the meeting of the governing body at which the approval of the assessment will be considered, the amount of the assessment, together with a notice of the time and location the governing body will meet to consider the approval of the assessment. Each assessment must be collected and paid as other taxes are collected and paid.

3. In a township or county, the governing body shall levy and assess the costs of removing or destroying a nuisance, source of filth, or cause of sickness against the appropriately charged land. The city auditor or township clerk, as the case may be, shall deliver the assessment roll to the county auditor, who shall extend the assessment in the proper column against the property assessed. Each assessment must be collected and paid as other taxes are collected and paid.

4. Whenever a board of health determines it necessary for the preservation of the public health to enter any building within the board's jurisdiction to examine, destroy, remove, or prevent any nuisance, source of filth, or cause of sickness, and is refused entrance into the building, any member of the board of health may make

a complaint under oath to a district judge within the jurisdiction of the board, stating the facts in the case which the member of the board has knowledge. The judge shall issue a warrant to the sheriff or other peace officer which commands the sheriff or peace officer, under the direction of any member of the board of health who accompanies the sheriff or peace officer, to destroy, remove, or prevent, between the hours of sunrise and sunset, the nuisance, source of filth, or cause of sickness.

23-35-11. City health officer - Appointment - Term - Qualifications - Removal - Powers and duties - Community aid.

1. At the regular meeting of the city council in April of each odd-numbered year, the mayor shall appoint a city health officer. The board of health in a city operating under a commission system of government shall appoint a city health officer, subject to confirmation by the board of city commissioners. The city health officer must be licensed to practice medicine in this state. The city health officer's term of office is two years and until a successor is appointed and qualified. When the state health officer determines the city health officer is neglecting or refusing to perform the duties of office, the state health officer may report the case to the city council. At the council's next meeting, the mayor shall declare the office vacant and shall appoint another physician to fill the unexpired term, or report the matter to the city board of health, and at the board's next meeting, the board shall declare the office vacant and shall appoint another physician to fill the unexpired term.
2. A city health officer shall:
   a. Keep a record of the proceedings of the city board of health and of the city health officer's official acts.
   b. Enforce within the city health officer's jurisdiction the health ordinances of the city, the rules of the department and of the city board of health, and this title.
   c. Exercise the powers and duties of the city board of health under the supervision of the board and the department.
   d. Make sanitary inspections of any place within the jurisdiction in which the city health officer believes there is a probability that a health-threatening condition exists and take any action necessary for the protection of the public health.

e. Investigate, subject to the supervisory control of the department, public water and ice supplies that are suspected of contamination and initiate necessary condemnation proceedings.

f. Enforce cleanliness in schools; inspect overcrowded, poorly ventilated, and unsanitary schoolhouses; and when necessary, report cases of unsanitary or unsafe school buildings to the city board of health for investigation.

g. Set the time and location of city board of health meetings.

3. All members of the police force of a city, all magistrates and other civil officers of a city, and all citizens shall aid the city health officer discharge official duties. Upon the city health officer's request, the chief of police shall serve, or detail one or more police officers to serve, any notice issued by the city health officer and perform any other duties the city health officer may require.

23-35-12. County boards of health - Additional powers and duties. Subject to the supervisory control of the department, a county board of health:

1. May supervise all matters relating to preservation of life and health of people in the county, including the supervision of public water supplies and sewerage systems.
2. May isolate, kill, or remove any animal affected with a contagious or infectious disease when the animal is a menace to the health of humans.
3. May make and enforce orders in local matters when an emergency exists, or when the city board of health has neglected or refused to act with promptness or efficiency, or when the city board has not been established.
4. Shall appoint and set the rate of compensation for a county health officer.
5. May appoint a director of health programs who is subject to removal for cause by the board. The board may assign to the director the duties of the county health officer, and the director shall perform these duties under the direction of the county health officer.
6. May contract with any person to provide the services necessary to carry out the purposes of the county board of health.

NOTE: Reference to supervisory control of the state department of health and the state health officer was revised to "state department of health" because North Dakota Century Code Section 23-01-01 defines the department as consisting of a "health council, a state health officer, section chiefs, director of divisions, and other employees of the department." Elsewhere in this draft, references to state health officer were used

to identify a responsible individual for making decisions, and references to department were used to allow delegation of functions to appropriate employees.

23-35-13. County health officer - Removal - Qualifications - Compensation - Powers and duties - Quarantine. A county health officer shall serve a term of five years, subject to removal for cause by the county board of health. The health officer must be a physician licensed to practice medicine in this state and need not be a resident of the county when appointed. The appointee shall qualify by filing the constitutional oath of office in the manner provided for the members of the county board of health. Whenever the state health officer believes the county health officer is failing to perform the duties of the position, the state health officer may report the case to the county board of health, which after proper hearing at the next board meeting, may declare the office vacant, and may appoint another physician to the office for the remainder of the unexpired term. A county health officer shall:

1. Exercise, throughout the county outside of the corporate limits of any cities, the powers of the county board of health under the supervision of the board and the department.
2. Make sanitary inspections of places the health officer deems advisable when the county health officer determines there is a probability that a health-threatening condition exists within the jurisdiction.
3. Take any action necessary for the protection of the public health.
4. Investigate, subject to the supervisory control of the department, public water and ice supplies that are suspected of contamination and initiate necessary condemnation proceedings.
5. Enforce cleanliness in schools; inspect overcrowded, poorly ventilated, and unsanitary schoolhouses; and when necessary, report cases of unsanitary or unsafe school buildings to the county board of health for investigation.
6. Enforce all laws and rules relating to the preservation of the life and health of the people of the county.
7. Keep a record of all proceedings of the county board of health and of the county health officer's official acts.
8. Determine when quarantine and disinfection is necessary for the safety of the public. The county health officer may establish quarantines consistent with procedures provided under chapter 23-07.6 and perform any acts required for

disinfection when necessary. The county health officer may enforce a county health officer order and any order of the county board of health in connection with quarantine and disinfection. The county board of health shall audit any expenses incurred in quarantining or disinfecting outside of incorporated cities and shall pay for any expenses out of the general fund of the county.

23-35-14. District boards of health - Additional powers and duties. A district board of health shall exercise all the powers and duties applicable to boards of health to the extent the powers and duties are not inconsistent with the powers and duties specific to a district board of health. A board may establish by rule a schedule of reasonable fees that may be charged for services rendered. Services may not be withheld due to an inability to pay any fees established under this section. The district board of health shall:

1. Appoint a full-time or part-time district health officer.
2. Designate the location of the district health officer's office and shall furnish the office with necessary equipment.
3. Provide for personnel the board deems necessary. When a health district is served by a part-time health officer, the district board of health may appoint an executive officer.
4. Set the salaries of the district health officer and assistant health officers and shall set the compensation of district personnel.
5. Pay for necessary travel of the district health officer, the district health officer's assistants, and other personnel, in the manner and to the extent allowed state officers.

23-35-15. District boards of health - Acquiring and disposing of property.

1. A district board of health may acquire by lease, purchase, construction, or gift for district health office use and control real and personal property for all purposes authorized by law or necessary to the exercise of the powers granted in this chapter. The district board of health may finance the purchase, construction, or equipping of a building on owned or leased property for the use and purposes for which the health district is formed and carry out the functions of the health district as provided by law, in either of the following ways:

a. The district board of health may issue and sell bonds in an aggregate amount not exceeding two times the authorized tax revenues of the district for the year in which the bonds are to be issued and sold; or

b. The district board of health may mortgage or otherwise encumber the building constructed in an amount not exceeding two times the authorized tax revenue of the district for the year in which the construction is to be commenced.

2. Bonds issued under this section and income from under this section are exempt from any taxes except inheritance, estate, and transfer taxes. The indebtedness for which the bonds are issued, or for which a mortgage may be given as under this section, is neither an obligation or an indebtedness of this state nor of the counties or cities comprising the district board of health. Any indebtedness under this section may be foreclosed in any manner provided by law. The district board of health may convey or transfer personal and real property acquired as provided under this section. If, upon dissolution of a health district, any balance remains in the health district fund after all obligations have been paid, the balance must be transferred to the general fund of the counties comprising the health district in proportion to the assessed valuation most recently used in preparing the health district budget under this chapter. If any county in the district votes to withdraw from the district, any assets and inventory of supplies and equipment located in the county for use in health district programs and services remain the property of the district for use elsewhere in the district.

23-35-16. District health officer - Duties - Assistant. A district health officer shall serve a term of five years, subject to removal for cause by the district board of health. The health officer must be a physician licensed to practice medicine in this state and need not be a resident of the district when appointed. The district health officer shall qualify by filing the constitutional oath of office in the manner provided for the members of the district board of health. Consistent with the terms of appointment, the district health officer shall maintain the office within the jurisdiction of the health district. The district health officer shall perform all the duties and must be guided by the limitations prescribed by law relative to city and county health officers and shall make reports and keep records as required by the board and the department.

The district health officer may select and discharge assistant health officers in the counties and cities in the district.

23-35-17. Penalty. Every person who violates any lawful order, direction, prohibition, ordinance, or rule prescribed by any board of health or health officer or any rule lawfully adopted under this chapter is guilty of a class B misdemeanor.

NOTE: Reference to obstructing or opposing enforcement of this chapter was deleted because North Dakota Century Code Section 12.1-08-01 makes obstruction of a government function a class A misdemeanor.

SECTION 4. AMENDMENT. Subdivision h of subsection 1 of section 40-01.1-04 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

h. Use of other statutory tools relating to social and economic development, land use, transportation and roads, health, law enforcement, administrative and fiscal services, recording and registration services, educational services, environmental quality, water, sewer, solid waste, flood relief, parks and open spaces, hospitals, public buildings, or other county functions or services, including creation of cooperative county job development authorities pursuant to section 11-11.1-03, multicounty health units pursuant to ~~sections 23-14-01.1 through 23-14-01.6~~ chapter 23-35, regional planning and zoning commissions pursuant to section 11-35-01, boards of joint county park districts pursuant to chapter 11-28 or a combination of boards of park commissioners with a city pursuant to chapter 40-49.1, or multicounty social service districts pursuant to chapter 50-01.1.

SECTION 5. AMENDMENT. Section 54-52-02 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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 employees or to their beneficiaries thereby enabling the employees to care for themselves and their dependents and which by its provisions will improve state 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 county and city health district formed under section ~~23-14-01.1~~ 23-35-05 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.

SECTION 6. REPEAL. Chapters 23-03, 23-04, 23-05, and 23-14 of the North Dakota Century Code are repealed.