

**FIRST ENGROSSMENT
with Senate Amendments**

ENGROSSED HOUSE BILL NO. 1069

Introduced by

Government and Veterans Affairs Committee

(At the request of the Public Employees Retirement System)

1 A BILL for an Act to create and enact a new section to chapter 39-03.1, a new section to
2 chapter 54-52, a new section to chapter 54-52.1, a new subsection to section 54-52.6-02, and a
3 new section to chapter 54-52.6 of the North Dakota Century Code, relating to military service
4 retirement credit and temporary employee participation in the defined contribution retirement
5 plan under the public employees retirement system and the acceptance and expenditure of
6 funds by the retirement board for the uniform group insurance program from third parties; to
7 amend and reenact section 39-03.1-10.1, subsection 9 of section 39-03.1-11, sections
8 39-03.1-11.2, 39-03.1-28, and 39-03.1-30, subsection 11 of section 54-52-01, subsection 3 of
9 section 54-52-05, section 54-52-06, subsections 9 and 10 of section 54-52-17, sections
10 54-52-17.4 and 54-52-28, subsection 3 of section 54-52.6-01, and section 54-52.6-13 of the
11 North Dakota Century Code, relating to the purchase of service credit for qualified military
12 service, highway patrol retirement options, compliance with Internal Revenue Code provisions,
13 confidentiality of records, purchase of sick leave, eligibility for the law enforcement retirement
14 plan, temporary employee participation in the defined contribution retirement plan, and
15 retirement benefit options under the public employees retirement system; to repeal sections
16 54-52-19.2 and 54-52.6-09.3 of the North Dakota Century Code, relating to prior service credit
17 under the public employees retirement system and retirement contributions for military service;
18 to provide a continuing appropriation; to provide an appropriation; and to provide an effective
19 date.

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

21 **SECTION 1. AMENDMENT.** Section 39-03.1-10.1 of the North Dakota Century Code
22 is amended and reenacted as follows:

1 **39-03.1-10.1. Refund and repurchase of contributions.** Except as provided in
2 ~~subsection 3~~ section 2 of this Act, a contributor whose employment has been terminated for at
3 least thirty days is entitled to a refund of or to repurchase contributions as follows:

- 4 1. a. If the contributor has less than ten years of service at termination of
5 employment, the refund is payable either on application of the contributor or,
6 if within thirty days after termination the contributor has not provided a written
7 statement to the board waiving the refund and requesting the contributor's
8 account remain in the fund, automatically.
- 9 b. If the contributor has at least ten years of service at the date of termination,
10 the contributor may apply for a refund of accumulated deductions instead of
11 retirement benefits. By receiving the refund of accumulated deductions under
12 this subdivision, the contributor forfeits all months of service to the date of
13 refund and cannot use those months for any future benefit calculations.
- 14 2. A contributor who was paid a refund under subdivision a of subsection 1 may,
15 upon reemployment, elect to repurchase the forfeited past service for the
16 retirement program and the retiree health benefits program in accordance with the
17 rules adopted by the board.
- 18 ~~3. A member may elect to purchase qualified military service credit pursuant to the~~
19 ~~Uniformed Services Employment and Reemployment Rights Act of 1994~~
20 ~~[Pub. L. 103-353; 108 Stat. 3150; 38 U.S.C. 4301-4307] at any time prior to~~
21 ~~retirement by submitting a valid application and paying the member portion~~
22 ~~pursuant to rules adopted by the board. It is the responsibility of the applicant to~~
23 ~~supply any documentation required by the board.~~

24 **SECTION 2.** A new section to chapter 39-03.1 of the North Dakota Century Code is
25 created and enacted as follows:

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

1 made had the employee been continuously employed. If the salary the member would have
2 received during the period of service is not reasonably certain, the member's average rate of
3 compensation during the twelve-month period immediately preceding the member's period of
4 service or, if shorter, the period of employment immediately preceding that period, times the
5 number of months of credit being purchased must be used. Employees must be allowed up to
6 three times the period of military service or five years, whichever is less, to make any required
7 payments. This provision applies to all qualifying periods of military service since October 1,
8 1994. Any payments made by the member to receive qualifying credit inconsistent with this
9 provision must be refunded. Employees shall make application to the employer for credit and
10 provide a DD Form 214 to verify service.

11 **SECTION 3. AMENDMENT.** Subsection 9 of section 39-03.1-11 of the North Dakota
12 Century Code is amended and reenacted as follows:

- 13 9. The board shall adopt rules providing for the receipt of retirement benefits in the
14 following optional forms:
- 15 a. ~~A~~ An actuarially equivalent joint and survivor one hundred percent option.
 - 16 b. ~~Life~~ An actuarially equivalent life with ~~five-year or ten-year or twenty-year~~
17 certain options.
 - 18 c. An actuarially equivalent partial lump sum distribution option with a
19 twelve-month maximum lump sum distribution.

20 Unless a contributor requests that the contributor receive benefits according to one
21 of these options at the time of applying for retirement, all retirement benefits must
22 be in the form of a lifetime monthly pension, with a fifty percent option to the
23 surviving spouse.

24 **SECTION 4. AMENDMENT.** Section 39-03.1-11.2 of the North Dakota Century Code
25 is amended and reenacted as follows:

26 **39-03.1-11.2. Internal Revenue Code compliance.** The board shall administer the
27 plan in compliance with section 415, section 401(a)(9), section 401(a)(17), and section
28 401(a)(31) of the Internal Revenue Code in effect on August 1, 2005, as it applies for
29 governmental plans.

30 **SECTION 5. AMENDMENT.** Section 39-03.1-28 of the North Dakota Century Code is
31 amended and reenacted as follows:

- 1 **39-03.1-28. Confidentiality of records.** All records relating to the retirement benefits
2 of a member or a beneficiary under this chapter are confidential and are not public records.
3 The information and records may be disclosed, under rules adopted by the board only to:
- 4 1. A person to whom the member has given written consent to have the information
5 disclosed.
 - 6 2. A person legally representing the member, upon proper proof of representation,
7 and unless the member specifically withholds consent.
 - 8 3. A person authorized by a court order.
 - 9 4. A member's participating employer, limited to information concerning the member's
10 years of service credit and years of age. The board may share other types of
11 information as needed by the employer to validate the employer's compliance with
12 existing state or federal laws. Any information provided to the member's
13 participating employer under this subsection must remain confidential except as
14 provided under subsection 6.
 - 15 5. The administrative staff of the retirement and investment office for purposes
16 relating to membership and benefits determination.
 - 17 6. State or federal agencies for purposes of reporting on a service provider's
18 provision of services or when the employer must supply information to an agency
19 to validate the employer's compliance with existing state or federal laws.
 - 20 7. Member interest groups approved by the board on a third-party blind list basis,
21 limited to information concerning the member's participation, name, and address.
 - 22 8. The member's spouse or former spouse, that individual's legal representative, and
23 the judge presiding over the member's dissolution proceeding for purposes of
24 aiding the parties in drafting a qualified domestic relations order under section
25 39-03.1-14.2. The information disclosed under this subsection must be limited to
26 information necessary for drafting the order.
 - 27 9. Beneficiaries designated by a participating member or a former participating
28 member to receive benefits after the member's death, but only after the member's
29 death. Information relating to beneficiaries may be disclosed to other beneficiaries
30 of the same member.

1 10. Any person if the board determines disclosure is necessary for treatment,
2 operational, or payment purposes, including the completion of necessary
3 documents.

4 11. The general public, but only after the board has been unable to locate the member
5 for a period in excess of two years, and limited to the member's name and the fact
6 that the board has been unable to locate the member.

7 **SECTION 6. AMENDMENT.** Section 39-03.1-30 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **39-03.1-30. Conversion of sick leave.** At termination of eligible employment a
10 member is entitled to credit in the retirement system for each month of unused sick leave, as
11 certified by the employer, if the member or the member's employer pays an amount equal to
12 the member's final average salary, times the number of months of sick leave converted, times
13 the employer and employee contribution, plus ~~one percent~~ the required contribution for the
14 retiree health benefits program. Hours of sick leave equal to a fraction of a month are deemed
15 to be a full month for purposes of conversion to service credit. A member may convert all of the
16 member's certified sick leave or a part of that person's certified sick leave. All conversion
17 payments must be made within sixty days of termination and before the member receives a
18 retirement annuity unless the member has submitted an approved payment plan to the board.

19 **SECTION 7. AMENDMENT.** Subsection 11 of section 54-52-01 of the North Dakota
20 Century Code is amended and reenacted as follows:

21 11. "Peace officer" means a participating member who is a peace officer as defined in
22 section 12-63-01 and is employed as a peace officer by a political subdivision and,
23 notwithstanding subsection 12, for persons employed after August 1, 2005, is
24 employed thirty-two hours or more per week and at least twenty weeks each year
25 of employment. Participating members of the law enforcement retirement plan
26 created by this chapter who begin employment after August 1, 2005, are ineligible
27 to participate concurrently in any other retirement plan administered by the public
28 employees retirement system.

29 **SECTION 8. AMENDMENT.** Subsection 3 of section 54-52-05 of the North Dakota
30 Century Code is amended and reenacted as follows:

1 3. Each employer, at its option, may pay all or a portion of the employee contributions
2 required by subsection 2 and sections 54-52-06.1, 54-52-06.2, and 54-52-06.3 or
3 the employee contributions required to purchase service credit on a pretax basis
4 pursuant to subsection ~~6~~ 5 of section 54-52-17.4. Employees may not receive the
5 contributed amounts directly once the employer has elected to pay the employee
6 contributions. The amount paid must be paid by the employer in lieu of
7 contributions by the employee. If the state determines not to pay the contributions,
8 the amount that would have been paid must continue to be deducted from the
9 employee's compensation. If contributions are paid by the employer, they must be
10 treated as employer contributions in determining tax treatment under this code and
11 the federal Internal Revenue Code. If contributions are paid by the employer, they
12 may not be included as gross income of the employee in determining tax treatment
13 under this code and the Internal Revenue Code until they are distributed or made
14 available. The employer shall pay these employee contributions from the same
15 source of funds used in paying compensation to the employee or from the levy
16 authorized by subsection 5 of section 57-15-28.1. The employer shall pay these
17 contributions by effecting an equal cash reduction in the gross salary of the
18 employee or by an offset against future salary increases or by a contribution of a
19 reduction in gross salary and offset against future salary increases. If employee
20 contributions are paid by the employer, they must be treated for the purposes of
21 this chapter in the same manner and to the same extent as employee contributions
22 made prior to the date on which employee contributions were assumed by the
23 employer. An employer exercising its option under this subsection shall report its
24 choice to the board in writing.

25 **SECTION 9. AMENDMENT.** Section 54-52-06 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **54-52-06. Employer's contribution to retirement plan.** Each governmental unit shall
28 contribute an amount equal to four and twelve-hundredths percent of the monthly salary or
29 wage of a participating member. For those members who elect to exercise their rights under
30 ~~subsection 5 of section 54-52-17.4~~ section 12 of this Act, the employing governmental unit, or
31 in the case of a member not presently under covered employment the most recent employing

1 governmental unit, shall pay the associated employer contribution. If the employee's
2 contribution is paid by the governmental unit under subsection 3 of section 54-52-05, the
3 employer unit shall contribute, in addition, an amount equal to the required employee's
4 contribution. Each governmental unit shall pay the contribution monthly, or in the case of an
5 election made pursuant to ~~subsection 5 of section 54-52-17.4~~ section 12 of this Act a lump
6 sum, into the retirement fund from its funds appropriated for payroll and salary or any other
7 funds available for these purposes. Any governmental unit failing to pay the contributions
8 monthly, or in the case of an election made pursuant to ~~subsection 5 of section 54-52-17.4~~
9 section 12 of this Act a lump sum, is subject to a civil penalty of fifty dollars and, as interest,
10 one percent of the amount due for each month of delay or fraction thereof after the payment
11 became due. In lieu of assessing a civil penalty or one percent per month, or both, interest at
12 the actuarial rate of return may be assessed for each month the contributions are delinquent. If
13 contributions are paid within ninety days of the date they became due, penalty and interest to
14 be paid on delinquent contributions may be waived. An employer is required to submit
15 contributions for any past eligible employee who was employed after July 1, 1977, for which
16 contributions were not made if the employee would have been eligible to become vested had
17 the employee participated and if the employee elects to join the public employees retirement
18 system. Employer contributions may not be assessed for eligible service that an employee has
19 waived pursuant to subsection 1 of section 54-52-05. The board shall report to each session of
20 the legislative assembly the contributions necessary, as determined by the actuarial study, to
21 maintain the fund's actuarial soundness.

22 **SECTION 10. AMENDMENT.** Subsections 9 and 10 of section 54-52-17 of the North
23 Dakota Century Code are amended and reenacted as follows:

- 24 9. The board shall adopt rules providing for the receipt of retirement benefits in the
25 following optional forms:
- 26 a. Single life.
 - 27 b. An actuarially equivalent joint and survivor option, with fifty percent or one
28 hundred percent options.
 - 29 c. An actuarially equivalent level social security option, which is available only to
30 members who retire prior to attaining the age at which they may begin to
31 receive unreduced social security benefits.

1 d. Life Actuarially equivalent life with five-year or ten-year or twenty-year certain
2 options.

3 e. An actuarially equivalent partial lump sum distribution option with a
4 twelve-month maximum lump sum distribution.

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

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

17 **SECTION 11. AMENDMENT.** Section 54-52-17.4 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **54-52-17.4. Purchase of additional credit.**

20 1. A member may elect to purchase credit for years of service and prior service for
21 which the member is not presently receiving credit. A member is entitled to
22 purchase additional credit under this section for the following service or prior
23 service, except this service is not eligible for credit if the years claimed also qualify
24 for retirement benefits from another retirement system:

25 a. Active prior employment in the armed forces of the United States, except as
26 provided in ~~subsection 5~~ section 12 of this Act, for up to four years of credit.

27 b. Employment as a permanent employee by a public employer either within or
28 outside the state of North Dakota.

29 c. Employment as a permanent employee by a political subdivision participating
30 in the public employees retirement system which did not pay the cost of past
31 service benefits under section 54-52-02.1.

- 1 d. Service the participating member did not elect to repurchase upon
- 2 reemployment under section 54-52-02.6.
- 3 e. Service of an eligible employee, who exercised the privilege to withdraw from
- 4 the predecessor plan to the public employees retirement system under
- 5 subsection 10 of section 54-52-17 as created by section 13 of chapter 499 of
- 6 the 1977 Session Laws.
- 7 f. Employment as a permanent employee by the federal government.
- 8 2. A participating member may elect to purchase credit for the following absences for
- 9 which the participating member is not receiving service credit:
- 10 a. Employer-approved leave of absence; or
- 11 b. Months away from work while participating as a seasonal employee.
- 12 3. Supreme and district court judges under the public employees retirement system
- 13 may elect to purchase credit for the following years of service:
- 14 a. Except as provided in ~~subsection 5~~ section 12 of this Act, for up to four years
- 15 of credit for active employment in the armed forces of the United States.
- 16 b. As a county judge in a county or counties that did not participate in the public
- 17 employees retirement system under this chapter.
- 18 c. Participation in the public employees retirement system as a county judge
- 19 may be converted to credit in the judges' retirement system.
- 20 4. The member may purchase credit under this section, or the member's employer
- 21 may purchase for the member, by paying to the board an amount equal to the
- 22 actuarial cost to the fund of providing the credit. If the member purchases credit
- 23 pursuant to subdivision d of subsection 1, the member must pay to the board an
- 24 amount equal to the greater of the actuarial cost to the fund of providing the credit,
- 25 or the amount the member received upon taking a refund of the member's account
- 26 balance, plus interest at the actuarial rate of return from the time the member was
- 27 issued the refund. If the member is not repurchasing all of the credit originally
- 28 refunded, the member must pay a pro rata amount of the refunded amount
- 29 determined by dividing the refunded amount by the number of months of credit
- 30 refunded, multiplying that amount times the number of months of credit the
- 31 member seeks to repurchase, and adding interest at the actuarial rate of return.

1 The member or the member's employer shall also pay to the retiree health benefits
2 fund established under section 54-52.1-03.2 an amount equal to the actuarial cost
3 to that fund for the additional credit. This contribution must be recorded as a
4 member contribution pursuant to section 54-52.1-03.2. The board shall adopt
5 rules governing the purchase of additional credit under this section.

6 ~~5- A participating member, or a member not presently under covered employment,
7 may request credit for qualified military service pursuant to the Uniformed Services
8 Employment and Reemployment Rights Act of 1994 [Pub. L. 103-353; 108 Stat.
9 3150; 38 U.S.C. 4301-4307]. The member shall submit a qualified application
10 with proof of eligible military service to the board in order to receive credit for
11 military service. For credit on and after July 1, 1966, the member must pay four
12 percent times the salary the member would have received but for the period of
13 service or, if that amount is not reasonably certain, the member's average rate of
14 compensation during the twelve-month period immediately preceding the
15 member's period of service or, if shorter, the period of employment immediately
16 preceding that period, times the number of months of credit being purchased. If
17 the member makes the above payment, the governmental unit, or, in the case of a
18 member not under covered employment, the last employing governmental unit,
19 shall pay four and twelve hundredths percent times the salary the member would
20 have received but for the period of service or, if that amount is not reasonably
21 certain, the member's average rate of compensation during the twelve-month
22 period immediately preceding the member's period of service or, if shorter, the
23 period of employment immediately preceding that period, times the number of
24 months of credit being purchased. In addition, the governmental unit, or in the case
25 of a member not under covered employment the last employing governmental unit,
26 shall pay to the retiree health benefits fund established under section 54-52.1-03.2
27 the percentage required by section 54-52.1-03.2 times the salary the member
28 would have received but for the period of service or, if that amount is not
29 reasonably certain, the member's average rate of compensation during the
30 twelve-month period immediately preceding the member's period of service or, if
31 shorter, the period of employment immediately preceding that period, times the~~

1 ~~member's months of credit being purchased. For credit before July 1, 1966, no~~
2 ~~contribution is required.~~

3 6- 5. Pursuant to rules adopted by the board, the board may allow a member to
4 purchase service credit with either pretax or aftertax moneys, at the board's
5 discretion. If the member elects to purchase service credit using pretax moneys,
6 the requirements and restrictions in subsection 3 of section 54-52-05 apply to the
7 purchase arrangement.

8 7- 6. In addition to service credit identified in this section, a vested member may
9 purchase up to five years of service credit unrelated to any other eligible service.

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

12 **Military service under the Uniformed Services Employment and Reemployment**

13 **Rights Act - Member retirement credit.** A member reemployed under the Uniformed

14 Services Employment and Reemployment Rights Act of 1994, as amended [Pub. L. 103-353;

15 108 Stat. 3150; 38 U.S.C. 4301-4333], is entitled to receive retirement credit for the period of

16 qualified military service. The required contribution for the credit, including payment for retiree

17 health benefits, must be made in the same manner and by the same party as would have been

18 made had the employee been continuously employed. If the salary the member would have

19 received during the period of service is not reasonably certain, the member's average rate of

20 compensation during the twelve-month period immediately preceding the member's period of

21 service or, if shorter, the period of employment immediately preceding that period, times the

22 number of months of credit being purchased must be used. Employees must be allowed up to

23 three times the period of military service or five years, whichever is less, to make any required

24 payments. This provision applies to all qualifying periods of military service since October 1,

25 1994. Any payments made by the member to receive qualifying credit inconsistent with this

26 provision must be refunded. Employees shall make application to the employer for credit and

27 provide a DD Form 214 to verify service.

28 **SECTION 13. AMENDMENT.** Section 54-52-28 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **54-52-28. Internal Revenue Code compliance.** The board shall administer the plan
2 in compliance with section 415, section 401(a)(9), section 401(a)(17), and section 401(a)(31) of
3 the Internal Revenue Code in effect on August 1, 2005, as it applies for governmental plans.

4 **SECTION 14.** A new section to chapter 54-52.1 of the North Dakota Century Code is
5 created and enacted as follows:

6 **Acceptance and expenditure of third-party payments - Continuing appropriation.**

7 The board may receive moneys from third parties, including the federal government, pursuant
8 to one or more federal programs. Any money received from a third party by the board is
9 appropriated to the board on a continuing basis for the board's use in paying benefits,
10 premiums, or administrative expenses under the uniform group insurance program.

11 **SECTION 15. AMENDMENT.** Subsection 3 of section 54-52.6-01 of the North Dakota
12 Century Code is amended and reenacted as follows:

13 3. "Eligible employee" means a permanent state employee, except an employee of
14 the judicial branch or an employee of the board of higher education and state
15 institutions under the jurisdiction of the board, who is eighteen years or more of
16 age and who is in a position not classified by North Dakota human resource
17 management services. If a participating member loses permanent employee
18 status and becomes a temporary employee, the member may still participate in the
19 defined contribution retirement plan.

20 **SECTION 16.** A new subsection to section 54-52.6-02 of the North Dakota Century
21 Code is created and enacted as follows:

22 A participating member who becomes a temporary employee may still participate
23 in the defined contribution retirement plan upon filing an election with the board
24 within one hundred eighty days of transferring to temporary employee status. The
25 participating member may not become a member of the defined benefit plan as a
26 temporary employee. The temporary employee electing to participate in the
27 defined contribution retirement plan shall pay monthly to the fund an amount equal
28 to eight and twelve-hundredths percent times the temporary employee's present
29 monthly salary. The temporary employee shall also pay the required monthly
30 contribution to the retiree health benefit fund established under section
31 54-52.1-03.2. This contribution must be recorded as a member contribution

1 pursuant to section 54-52.1-03.2. An employer may not pay the temporary
2 employee's contributions. A temporary employee may continue to participate as a
3 temporary employee until termination of employment or reclassification of the
4 temporary employee as a permanent employee.

5 **SECTION 17.** A new section to chapter 54-52.6 of the North Dakota Century Code is
6 created and enacted as follows:

7 **Military service under the Uniformed Services Employment and Reemployment**

8 **Rights Act - Member retirement credit.** A member reemployed under the Uniformed
9 Services Employment and Reemployment Rights Act of 1994, as amended [Pub. L. 103-353;
10 108 Stat. 3150; 38 U.S.C. 4301-4333], is entitled to receive retirement credit for the period of
11 qualified military service. The required contribution for the credit, including payment for retiree
12 health benefits, must be made in the same manner and by the same party as would have been
13 made had the employee been continuously employed. If the salary the member would have
14 received during the period of service is not reasonably certain, the member's average rate of
15 compensation during the twelve-month period immediately preceding the member's period of
16 service or, if shorter, the period of employment immediately preceding that period, times the
17 number of months of credit being purchased must be used. Employees must be allowed up to
18 three times the period of military service or five years, whichever is less, to make any required
19 payments. This provision applies to all qualifying periods of military service since October 1,
20 1994. Any payments made by the member to receive qualifying credit inconsistent with this
21 provision must be refunded. Employees shall make application to the employer for credit and
22 provide a DD Form 214 to verify service.

23 **SECTION 18. AMENDMENT.** Section 54-52.6-13 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **54-52.6-13. Distributions.**

- 26 1. A participating member is eligible to receive distribution of that person's
27 accumulated balance in the plan upon becoming a former participating member.
- 28 2. Upon the death of a participating member or former participating member, the
29 accumulated balance of that deceased participant is considered to belong to the
30 refund beneficiary, if any, of that deceased participant. If a valid nomination of
31 refund beneficiary is not on file with the board, the board, in a lump sum

- 1 distribution, shall distribute the accumulated balance to a legal representative, if
2 any, of the deceased participant or, if there is no legal representative, to the
3 deceased participant's estate.
- 4 3. A former participating member ~~or refund beneficiary~~ may elect one or a
5 combination of several of the following methods of distribution of the accumulated
6 balance:
- 7 a. A lump sum distribution to the recipient.
- 8 b. A lump sum direct rollover to another qualified plan, to the extent allowed by
9 federal law.
- 10 c. Periodic distributions, as authorized by the board.
- 11 d. No current distribution, in which case the accumulated balance must remain
12 in the plan until the former participating member or refund beneficiary elects a
13 method or methods of distribution under this section, to the extent allowed by
14 federal law.

15 A surviving spouse beneficiary may elect one or a combination of several of the
16 methods of distribution provided in subdivisions a, b, or c. A beneficiary who is not
17 the surviving spouse may only choose a lump sum distribution of the accumulated
18 balance.

- 19 4. If the former participating member's vested account balance is less than five
20 thousand dollars, the board shall automatically refund the member's vested
21 account balance upon termination of employment. The member may waive the
22 refund if the member submits a written statement to the board, within one hundred
23 twenty days after termination, requesting that the member's vested account
24 balance remain in the plan.

25 **SECTION 19. REPEAL.** Section 54-52-19.2 of the North Dakota Century Code is
26 repealed.

27 **SECTION 20. REPEAL.** Section 54-52.6-09.3 of the North Dakota Century Code is
28 repealed.

29 **SECTION 21. APPROPRIATION.** The funds provided in this section, or so much of
30 the funds as may be necessary, are appropriated out of any moneys in the general fund in the
31 state treasury, not otherwise appropriated, and from other funds derived from federal funds and

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1 other income, to the following departments for the purpose of defraying the cost of paying
2 military service retirement credit for the biennium beginning July 1, 2005, and ending June 30,
3 2007, as follows:

	GENERAL	OTHER
AGENCY	FUND	FUNDS
Office of management and budget	\$0	\$3,343
Judicial branch	3,144	0
Retirement and investment office	0	1,803
State department of health	5,920	10,738
Department of human services	7,614	0
Job service North Dakota	0	3,780
Highway patrol	3,824	0
Department of corrections and rehabilitation	29,778	3,053
Adjutant general	7,027	18,249
Game and fish department	0	1,932
Parks and recreation department	2,201	207
State water commission	0	2,512
Department of transportation	<u>0</u>	<u>50,854</u>
Total	\$59,508	\$96,471

21 **SECTION 22. EFFECTIVE DATE.** Sections 3 through 7, 10, 13 through 16, 18, and 19
22 become effective on August 1, 2005.