

**STATE OF NORTH DAKOTA JUDGES  
HEALTH CARE SAVINGS PLAN**

**EFFECTIVE \_\_\_\_\_**

**North Dakota Public Employees Retirement System**

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[www.nd.gov/ndpers](http://www.nd.gov/ndpers)

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## **GLOSSARY OF TERMS**

**Administrator:** Administrator means the Board or person(s) designated by the Board with the powers and duties described on page 6 to administer the Plan for the benefit of Participants.

**Board:** Board means the Public Employees Retirement System Board.

**Code:** Code means the Internal Revenue Code of 1986, as amended or replaced from time to time.

**Dependent:** Dependent means any person (including a spouse) who can be legally claimed as a dependent by the Participant for federal tax purposes. For such purpose, dependent is defined in Code section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B).

**Employer:** Employer means the State of North Dakota.

**Participant:** Participant means any current or former supreme court or district court judge for whom an individual account is maintained under the Plan.

**Plan:** Plan means the State of North Dakota Judges Health Care Savings Plan as set forth herein, and any modification, amendment or restatement thereof.

**Plan Year:** Plan Year means a calendar year. The initial Plan Year shall commence July 1, 20\_\_ and end December 31, 20\_\_.

**Trustee:** Trustee means Board or the person(s) designated by the Board to act as trustee of the Trust Fund, or any successor Trustee, in accordance with the Trust Fund document.

**Trust Fund:** The assets of the Plan held in trust under the State of North Dakota Judges Health Care Savings Plan Trust from contributions made by the Employer and from which benefit payments under the Plan are made.

The Trust Fund shall be established under Code section 115 and shall be an irrevocable trust under applicable law of the State of North Dakota. The Trust Fund established under this Plan and the assets held thereunder shall not be used for, or diverted to, purposes other than the exclusive benefit of Participants.

## **PARTICIPATION**

All supreme court and district court judges employed by the State of North Dakota and eligible to participate in a retirement plan under North Dakota Century Code Title 54, Chapter 52 shall participate in the Plan as of their date of hire, or the effective date of this Plan, if later.

## **CONTRIBUTIONS**

The Employer shall contribute a specified dollar amount or a percentage of the judges' salary into individual accounts established for each Participant in the Trust Fund. The current contribution level is \_\_\_\_\_, effective \_\_\_\_\_. No other types or amounts of contributions shall be permitted under the Plan.

The contribution level is determined in accordance with North Dakota Century Code §54-52-04 by vote of approval of at least 75% of active participating supreme and district court judges.

The Employer shall remit contributions to the Trust Fund within a period that is not longer than is reasonable for proper administration of the Plan. Contributions made on behalf of a Participant shall be separately accounted for within the Trust Fund. A Participant's individual account balance will be carried forward each plan year until the account balance is exhausted.

## **VESTING**

A Participant's individual account shall be immediately 100% vested to the extent of contributions made to the Trust Fund on behalf of such Participant.

## **INVESTMENT OF INDIVIDUAL ACCOUNTS**

Effective \_\_\_\_\_, the Board shall direct investment of the Trust Fund. The assets of the Trust Fund are currently invested with the \_\_\_\_\_ Money Market Account with the Bank of \_\_\_\_\_, the Plan's custodian. A money market account is [*Note: description to be completed by custodial bank*]. Interest shall accrue to an individual account.

The Board has the authority to permit Participants to direct the investment of their individual accounts from among investment options selected by the Board.

## **ELIGIBILITY FOR BENEFITS**

Participants are eligible to request payment of benefits from their individual account upon termination of employment from the Employer. Once a Participant terminates employment, he/she may request receipt of benefits at any time thereafter.

## **PAYMENT OF BENEFITS**

Benefits under the Plan are limited to reimbursement of medical care expenses (as defined in Code section 213(d)) incurred by a Participant or the Participant's spouse or Dependent upon attaining eligibility for benefits up to the amount in the Participant's individual account.

Medical care expenses include health insurance premiums, COBRA premiums, Medigap and Medicare premiums. Medical care expenses also include, but are not limited to diagnosis, cure, mitigation, treatment or prevention of disease, and for treatments affecting any part or function of the body, whether intended to alleviate or prevent a physical or mental defect or illness.

The Plan Administrator shall require evidence that medical care expenses have been incurred by a Participant, spouse or Dependent before a reimbursement is made under the Plan. All claims for reimbursement are verified in accordance with applicable IRS rules, including IRS Publication 502 to ensure compliance with Code section 213(d).

Medical care expenses can only be reimbursed under this Plan to the extent not reimbursed through insurance or any other accident or health plan. If medical care expenses of a Participant are covered by both this Plan and a health care flexible spending account, then this Plan is not available for reimbursement of such medical care expenses until after amounts for reimbursement under the health care flexible spending account have been exhausted.

## **DIRECT DEPOSIT**

All payments for reimbursement under the Plan will be directly deposited into a personal account designated by the Participant. The Board shall establish procedures necessary to process reimbursements under the Plan.

## **DEATH BENEFITS**

If a Participant dies with a balance in his/her individual account, the Participant's surviving spouse and any Dependents shall be eligible to request reimbursements for medical care expenses from the Participant's individual account until the account balance is exhausted. At which time there is no surviving spouse or Dependents, then the remaining individual account balance of the Participant is forfeited. Forfeited amounts shall be used to offset administrative expenses under the Plan.

## **PLAN ADMINISTRATION**

The Board shall be the Plan Administrator. However, the Board shall have the authority to appoint any other person(s) or entity as Administrator for any or all duties of the Administrator. The Board shall have the authority to remove Plan Administrator authority from any person or entity so appointed and name a successor administrator for such duties.

The Administrator's primary duty is to administer the Plan for the exclusive benefit of Participants, in accordance with the terms of the Plan. The Administrator shall have all discretionary authority to accomplish duties under the Plan, including the authority to determine all questions arising in connection with administration, interpretation and application of the Plan, and full and exclusive discretionary authority to determine eligibility for contributions and/or benefits under the Plan. The Plan Administrator will review and determine all appeals relating to benefits under the Plan.

The Administrator may appoint counsel, advisors, consultants, a custodian and the Trustee as the Administrator deems necessary or desirable to administer the Plan. The Administrator may rely on information provided by the Employer and shall have no duty to verify such information. The Administrator may rely on information provided by Participants and has the right to maintain an action to recover any amounts improperly paid to any person.

## **PLAN RECORDKEEPING**

The Plan Administrator shall appoint a recordkeeper to be responsible for the administration of investments held in the Plan. The Plan's recordkeeping duties include receiving contributions under the terms of the Plan and Trust Fund, paying reimbursements from individual accounts within the Trust Fund as directed by the Plan Administrator, and maintaining accurate records of the Trust Fund assets, which must be made available to the Plan Administrator. The Plan's recordkeeper shall also provide benefit statements to Participants of their individual accounts on a quarterly basis, which shall include the total balance of the individual account, contributions made to the account, investment income or losses, and reimbursements and expenses paid from the account.

## **ADMINISTRATIVE FEES AND EXPENSES**

The Employer shall pay the costs of establishing and setting up the Plan. All on-going administrative and investment fees or expenses shall be paid from the individual accounts of Participants on a prorated basis.

## **OTHER PLAN RULES**

**Compliance with Federal Laws.** Benefits under this Plan shall be provided in compliance with the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Family and Medical Leave Act of 1993 (FMLA), the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) and other federal laws applicable to group health plans as such are amended and to the extent required by such laws.

**Protected Health Information.** The Plan will use and disclose “Protected Health Information” (PHI), including electronic PHI, as defined in HIPAA regulations to the extent of and in accordance with the uses and disclosures permitted by the privacy and security regulations under HIPAA. Specifically, the Plan will use and disclose PHI only for purposes related to payment for health care and health care operations as defined in the Plan’s HIPAA privacy notice.

For purposes of HIPAA compliance, the Employer is the Plan sponsor. The Plan sponsor shall maintain adequate separation from the Plan’s PHI. The Plan Sponsor will not use or disclose PHI other than as permitted or required under HIPAA privacy regulations. The Plan sponsor will appoint a privacy official to carry out duties of such person(s) defined in HIPAA privacy regulations. The Plan sponsor will also implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of electronic PHI that it creates, receives, maintains or transmits on behalf of the Plan.

In addition to HIPAA privacy and security regulations, the Plan and Plan sponsor shall comply with the laws of the State of North Dakota with respect to the protection, disclosure and accounting of personal data, to the extent applicable.

**Amendment and Termination.** The Employer has the right to discontinue contributions to the Plan and Trust fund at any time subject to the provisions of North Dakota Century Code §54-52-04. The Board has the authority to amend or terminate the Plan at any time, in whole or in part. Participants shall be notified of any material changes to the Plan. Upon termination of the Plan, the Administrator shall distribute the Participants’ individual accounts in accordance with the terms of this Plan, subject to applicable laws. In the event of Plan termination, any assets remaining in the Trust Fund after individual accounts are paid to Participants or not otherwise used to pay reasonable fees or expenses of the Trust Fund may revert to the Employer.

**Nonassignability.** No assets of the Plan or Trust Fund are assignable in law or in equity or subject to estate tax or execution levy, attachment, garnishment or other legal processes, except as required under applicable State and/or federal law.

**No Employment Contract.** This Plan is not in any way deemed to be a contract between the Employer and any Participant, spouse or Dependent, and it in no way affects the employment relationship between the Employer and Participant. Participation in the Plan shall not give Participants the right or claim to any post-retirement health insurance or any other benefits other than as specifically provided for in this Plan.