

Sixty-fifth  
Legislative Assembly  
of North Dakota

**ENGROSSED SENATE BILL NO. 2053**

Introduced by

Government and Veterans Affairs Committee

(At the request of the Public Employees Retirement System)

1 A BILL for an Act to amend and reenact subsection 4 of section 39-03.1-11.2, sections 54-52-01  
 2 and 54-52-06.4, subsections 3 and 4 of section 54-52-17, subsection 4 of section 54-52-28,  
 3 section 54-52.1-03, subsection 1 of section 54-52.1-03.3, subsection 2 of section 54-52.1-18,  
 4 section 54-52.6-06, and subsection 2 of section 54-52.6-09 of the North Dakota Century Code,  
 5 relating to the definitions of retirement and retirement board, decreased employee contributions  
 6 under the public employees retirement system for peace officers employed by the bureau of  
 7 criminal investigation, eligibility for disability retirement and early retirement benefits under the  
 8 public employees retirement system, employee enrollment, billing for the retiree health  
 9 insurance credit, failure to maintain a health savings account when the high-deductible health  
 10 plan is elected, payment of administrative expenses of the defined contribution plan, and  
 11 penalties for employers failing to pay contributions under the defined contribution plan.

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

13 **SECTION 1. AMENDMENT.** Subsection 4 of section 39-03.1-11.2 of the North Dakota  
 14 Century Code is amended and reenacted as follows:

15 4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly,  
 16 a distributee may elect to have an eligible rollover distribution, as defined in  
 17 section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible  
 18 retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code,  
 19 specified by the distributee. For purposes of this section, "distributee" includes a  
 20 beneficiary, other than a spouse, of a deceased member, provided however, in the  
 21 case of a beneficiary other than a spouse, the direct rollover may be made only to an  
 22 individual retirement account or individual retirement annuity described in section 408  
 23 or 408A of the Internal Revenue Code which is established on behalf of the beneficiary

1           and will be treated as an inherited individual retirement account or individual  
2           retirement annuity under section 402(c)(11) of the Internal Revenue Code.

3           **SECTION 2. AMENDMENT.** Section 54-52-01 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **54-52-01. (Effective through July 31, 2017) Definition of terms.**

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

- 7           1. "Account balance" means the total contributions made by the employee, vested  
8           employer contributions under section 54-52-11.1, the vested portion of the vesting  
9           fund as of June 30, 1977, and interest credited thereon at the rate established by the  
10          board.
- 11          2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any  
12          person designated by a participating member to receive benefits.
- 13          3. "Correctional officer" means a participating member who is employed as a correctional  
14          officer by a political subdivision.
- 15          4. "Eligible employee" means all permanent employees who meet all of the eligibility  
16          requirements set by this chapter and who are eighteen years or more of age, and  
17          includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and  
18          54-52-02.12, and nonteaching employees of the superintendent of public instruction,  
19          including the superintendent of public instruction, who elect to transfer from the  
20          teachers' fund for retirement to the public employees retirement system under section  
21          54-52-02.13, and employees of the state board for career and technical education who  
22          elect to transfer from the teachers' fund for retirement to the public employees  
23          retirement system under section 54-52-02.14. Eligible employee does not include state  
24          employees who elect to become members of the retirement plan established under  
25          chapter 54-52.6.
- 26          5. "Employee" means any person employed by a governmental unit, whose  
27          compensation is paid out of the governmental unit's funds, or funds controlled or  
28          administered by a governmental unit, or paid by the federal government through any of  
29          its executive or administrative officials; licensed employees of a school district means  
30          those employees eligible to participate in the teachers' fund for retirement who, except

1 under subsection 2 of section 54-52-17.2, are not eligible employees under this  
2 chapter.

3 6. "Employer" means a governmental unit.

4 7. "Funding agent" or "agents" means an investment firm, trust bank, or other financial  
5 institution which the retirement board may select to hold and invest the employers' and  
6 members' contributions.

7 8. "Governmental unit" means the state of North Dakota, except the highway patrol for  
8 members of the retirement plan created under chapter 39-03.1, or a participating  
9 political subdivision thereof.

10 9. "National guard security officer or firefighter" means a participating member who is:

11 a. A security police employee of the North Dakota national guard; or

12 b. A firefighter employee of the North Dakota national guard.

13 10. "Participating member" means all eligible employees who through payment into the  
14 plan have established a claim against the plan.

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

23 12. "Permanent employee" means a governmental unit employee whose services are not  
24 limited in duration and who is filling an approved and regularly funded position in an  
25 eligible governmental unit, and is employed twenty hours or more per week and at  
26 least twenty weeks each year of employment.

27 13. "Prior service" means service or employment prior to July 1, 1966.

28 14. "Prior service credit" means such credit toward a retirement benefit as the retirement  
29 board may determine under the provisions of this chapter.

30 15. "Public employees retirement system" means the retirement plan and program  
31 established by this chapter.

1       16. "Retirement" means the acceptance of a retirement allowance under this chapter upon  
2           either termination of employment or termination of participation in the retirement plan  
3           and meeting the normal retirement date.

4       17. "Retirement board" or "board" means the governing authority created under section  
5           54-52-03.

6       18. "Seasonal employee" means a participating member who does not work twelve  
7           months a year.

8       19. "Service" means employment on or after July 1, 1966.

9       20. "Service benefit" means the credit toward retirement benefits as determined by the  
10          retirement board under the provisions of this chapter.

11      21. "Temporary employee" means a governmental unit employee who is not eligible to  
12          participate as a permanent employee, who is at least eighteen years old and not  
13          actively contributing to another employer-sponsored pension fund, and, if employed by  
14          a school district, occupies a noncertified teacher's position.

15      22. "Wages" and "salaries" means the member's earnings in eligible employment under  
16          this chapter reported as salary on the member's federal income tax withholding  
17          statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125,  
18          401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as  
19          payments for unused sick leave, personal leave, vacation leave paid in a lump sum,  
20          overtime, housing allowances, transportation expenses, early retirement incentive pay,  
21          severance pay, medical insurance, workforce safety and insurance benefits, disability  
22          insurance premiums or benefits, or salary received by a member in lieu of previously  
23          employer-provided fringe benefits under an agreement between the member and  
24          participating employer. Bonuses may be considered as salary under this section if  
25          reported and annualized pursuant to rules adopted by the board.

26           **(Effective after July 31, 2017) Definition of terms.** As used in this chapter, unless the  
27          context otherwise requires:

28      1. "Account balance" means the total contributions made by the employee, vested  
29          employer contributions under section 54-52-11.1, the vested portion of the vesting  
30          fund as of June 30, 1977, and interest credited thereon at the rate established by the  
31          board.

- 1        2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any  
2            person designated by a participating member to receive benefits.
- 3        3. "Correctional officer" means a participating member who is employed as a correctional  
4            officer by a political subdivision.
- 5        4. "Eligible employee" means all permanent employees who meet all of the eligibility  
6            requirements set by this chapter and who are eighteen years or more of age, and  
7            includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and  
8            54-52-02.12, and nonteaching employees of the superintendent of public instruction,  
9            including the superintendent of public instruction, who elect to transfer from the  
10           teachers' fund for retirement to the public employees retirement system under section  
11           54-52-02.13, and employees of the state board for career and technical education who  
12           elect to transfer from the teachers' fund for retirement to the public employees  
13           retirement system under section 54-52-02.14. Eligible employee does not include  
14           nonclassified state employees who elect to become members of the retirement plan  
15           established under chapter 54-52.6 but does include employees of the judicial branch  
16           and employees of the board of higher education and state institutions under the  
17           jurisdiction of the board.
- 18       5. "Employee" means any person employed by a governmental unit, whose  
19           compensation is paid out of the governmental unit's funds, or funds controlled or  
20           administered by a governmental unit, or paid by the federal government through any of  
21           its executive or administrative officials; licensed employees of a school district means  
22           those employees eligible to participate in the teachers' fund for retirement who, except  
23           under subsection 2 of section 54-52-17.2, are not eligible employees under this  
24           chapter.
- 25       6. "Employer" means a governmental unit.
- 26       7. "Funding agent" or "agents" means an investment firm, trust bank, or other financial  
27           institution which the retirement board may select to hold and invest the employers' and  
28           members' contributions.
- 29       8. "Governmental unit" means the state of North Dakota, except the highway patrol for  
30           members of the retirement plan created under chapter 39-03.1, or a participating  
31           political subdivision thereof.

- 1       9. "National guard security officer or firefighter" means a participating member who is:
  - 2           a. A security police employee of the North Dakota national guard; or
  - 3           b. A firefighter employee of the North Dakota national guard.
- 4       10. "Participating member" means all eligible employees who through payment into the  
5       plan have established a claim against the plan.
- 6       11. "Peace officer" means a participating member who is a peace officer as defined in  
7       section 12-63-01 and is employed as a peace officer by the bureau of criminal  
8       investigation or by a political subdivision and, notwithstanding subsection 12, for  
9       persons employed after August 1, 2005, is employed thirty-two hours or more per  
10      week and at least twenty weeks each year of employment. Participating members of  
11      the law enforcement retirement plan created by this chapter who begin employment  
12      after August 1, 2005, are ineligible to participate concurrently in any other retirement  
13      plan administered by the public employees retirement system.
- 14      12. "Permanent employee" means a governmental unit employee whose services are not  
15      limited in duration and who is filling an approved and regularly funded position in an  
16      eligible governmental unit, and is employed twenty hours or more per week and at  
17      least twenty weeks each year of employment.
- 18      13. "Prior service" means service or employment prior to July 1, 1966.
- 19      14. "Prior service credit" means such credit toward a retirement benefit as the retirement  
20      board may determine under the provisions of this chapter.
- 21      15. "Public employees retirement system" means the retirement plan and program  
22      established by this chapter.
- 23      16. "Retirement" means the acceptance of a retirement allowance under this chapter upon  
24      either termination of employment or termination of participation in the retirement plan  
25      and meeting the normal retirement date.
- 26      17. "Retirement board" or "board" means the ~~seven persons designated by this chapter as~~  
27      the governing authority for the retirement system created under section 54-52-03.
- 28      18. "Seasonal employee" means a participating member who does not work twelve  
29      months a year.
- 30      19. "Service" means employment on or after July 1, 1966.

- 1       20. "Service benefit" means the credit toward retirement benefits as determined by the  
2           retirement board under the provisions of this chapter.
- 3       21. "Temporary employee" means a governmental unit employee who is not eligible to  
4           participate as a permanent employee, who is at least eighteen years old and not  
5           actively contributing to another employer-sponsored pension fund, and, if employed by  
6           a school district, occupies a noncertified teacher's position.
- 7       22. "Wages" and "salaries" means the member's earnings in eligible employment under  
8           this chapter reported as salary on the member's federal income tax withholding  
9           statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125,  
10          401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as  
11          payments for unused sick leave, personal leave, vacation leave paid in a lump sum,  
12          overtime, housing allowances, transportation expenses, early retirement incentive pay,  
13          severance pay, medical insurance, workforce safety and insurance benefits, disability  
14          insurance premiums or benefits, or salary received by a member in lieu of previously  
15          employer-provided fringe benefits under an agreement between the member and  
16          participating employer. Bonuses may be considered as salary under this section if  
17          reported and annualized pursuant to rules adopted by the board.

18       **SECTION 3. AMENDMENT.** Section 54-52-06.4 of the North Dakota Century Code is  
19   amended and reenacted as follows:

20       **54-52-06.4. Contribution by peace officers employed by the bureau of criminal**  
21 **investigation or security officers employed by the national guard - Employer**  
22 **contribution.**

23       Each peace officer employed by the bureau of criminal investigation who is a member of the  
24   public employees retirement system is assessed and shall pay monthly four percent of the  
25   employee's monthly salary. Peace officer contributions increase by one percent of the member's  
26   monthly salary beginning with the monthly reporting period of January 2012, ~~and~~; with an  
27   additional increase of one percent, beginning with the reporting period of January 2013; and  
28   thereafter peace officer contributions decrease by one-half of one percent of the member's  
29   monthly salary beginning with the monthly reporting period of January 2018. Effective August 1,  
30   2015, each national guard security officer who is a member of the public employee's retirement  
31   system is assessed and monthly shall pay six percent of the employee's monthly salary.

1 National guard security officer contributions decrease by one-half of one percent of the  
2 member's monthly salary beginning with the monthly reporting period of January 2016. The  
3 assessment must be deducted and retained out of the employee's salary in equal monthly  
4 installments. The peace officer's or security officer's employer shall contribute an amount  
5 determined by the board to be actuarially required to support the level of benefits specified in  
6 section 54-52-17. The employer's contribution must be paid from funds appropriated for salary  
7 or from any other funds available for such purposes. If the peace officer's or security officer's  
8 assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall  
9 contribute, in addition, an amount equal to the required peace officer's or security officer's  
10 assessment.

11 **SECTION 4. AMENDMENT.** Subsections 3 and 4 of section 54-52-17 of the North Dakota  
12 Century Code are amended and reenacted as follows:

13 3. Retirement dates are defined as follows:

14 a. Normal retirement date, except for a national guard security officer or firefighter  
15 or a peace officer or correctional officer employed by the bureau of criminal  
16 investigation or by a political subdivision, is:

17 (1) The first day of the month next following the month in which the member  
18 attains the age of sixty-five years; or

19 (2) When the member has a combined total of years of service credit and years  
20 of age equal to eighty-five and has not received a retirement benefit under  
21 this chapter.

22 b. Normal retirement date for members first enrolled after December 31, 2015,  
23 except for a national guard security officer or firefighter, a peace officer or  
24 correctional officer employed by the bureau of criminal investigation or by a  
25 political subdivision, or a supreme court or district court judge, is:

26 (1) The first day of the month next following the month in which the member  
27 attains the age of sixty-five years; or

28 (2) When the member has a combined total of years of service credit and years  
29 of age equal to ninety and the member attains a minimum age of sixty and  
30 has not received a retirement benefit under this chapter.

31 c. Normal retirement date for a national guard security officer or firefighter is:



- 1                   (1) The first day of the month next following the month in which the national  
2                   guard security officer or firefighter attains the age of fifty-five years and has  
3                   completed at least three eligible years of employment; or  
4                   (2) When the national guard security officer or firefighter has a combined total  
5                   of years of service credit and years of age equal to eighty-five and has not  
6                   received a retirement benefit under this chapter.
- 7                   d. Normal retirement date for a peace officer or correctional officer employed by a  
8                   political subdivision is:  
9                   (1) The first day of the month next following the month in which the peace  
10                  officer or correctional officer attains the age of fifty-five years and has  
11                  completed at least three eligible years of employment; or  
12                  (2) When the peace officer or correctional officer has a combined total of years  
13                  of service credit and years of age equal to eighty-five and has not received  
14                  a retirement benefit under this chapter.
- 15                  e. Normal retirement date for a peace officer employed by the bureau of criminal  
16                  investigation is:  
17                  (1) The first day of the month next following the month in which the peace  
18                  officer attains the age of fifty-five years and has completed at least three  
19                  eligible years of employment; or  
20                  (2) When the peace officer has a combined total of years of service credit and  
21                  years of age equal to eighty-five and has not received a retirement benefit  
22                  under this chapter.
- 23                  f. Postponed retirement date is the first day of the month next following the month  
24                  in which the member, on or after July 1, 1977, actually severs or has severed the  
25                  member's employment after reaching the normal retirement date.
- 26                  g. Early retirement date, except for a national guard security officer or firefighter or a  
27                  peace officer or correctional officer employed by the bureau of criminal  
28                  investigation or by a political subdivision, is the first day of the month next  
29                  following the month in which the member attains the age of fifty-five years and  
30                  has completed three years of eligible employment. For a national guard security  
31                  officer or firefighter, early retirement date is the first day of the month next

1 following the month in which the national guard security officer or firefighter  
2 attains the age of fifty years and has completed at least three years of eligible  
3 employment. For a peace officer or correctional officer employed by the bureau of  
4 criminal investigation or by a political subdivision, early retirement date is the first  
5 day of the month next following the month in which the peace officer or  
6 correctional officer attains the age of fifty years and has completed at least three  
7 years of eligible employment.

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

15 (1) A member is eligible to receive disability retirement benefits only if the  
16 member:

17 ~~(1)~~ Became ~~became~~ disabled during the period of eligible employment; and

18 ~~(2)~~ Applies ~~applies~~ for disability retirement benefits within twelve months of the  
19 date the member terminates employment.

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

- 1           4.    The board shall calculate retirement benefits as follows:
- 2           a.    Normal retirement benefits for all retirees, except supreme and district court  
3                 judges, reaching normal retirement date equal an annual amount, payable  
4                 monthly, comprised of a service benefit and a prior service benefit, as defined in  
5                 this chapter, which is determined as follows:
- 6                 (1)   Service benefit equals two percent of final average salary multiplied by the  
7                         number of years of service employment.
- 8                 (2)   Prior service benefit equals two percent of final average salary multiplied by  
9                         the number of years of prior service employment.
- 10          b.    Normal retirement benefits for all supreme and district court judges under the  
11                 public employees retirement system reaching normal retirement date equal an  
12                 annual amount, payable monthly, comprised of a benefit as defined in this  
13                 chapter, determined as follows:
- 14                 (1)   Benefits must be calculated from the time of appointment or election to the  
15                         bench and must equal three and one-half percent of final average salary  
16                         multiplied by the first ten years of judicial service, two and eighty hundredths  
17                         percent of final average salary multiplied by the second ten years of judicial  
18                         service, and one and one-fourth percent of final average salary multiplied by  
19                         the number of years of judicial service exceeding twenty years.
- 20                 (2)   Service benefits must include, in addition, an amount equal to the percent  
21                         specified in subdivision a of final average salary multiplied by the number of  
22                         years of nonjudicial employee service and employment.
- 23          c.    Postponed retirement benefits are calculated as for single life benefits for those  
24                 members who retired on or after July 1, 1977.
- 25          d.    Early retirement benefits are calculated as for single life benefits accrued to the  
26                 date of termination of employment, but must be actuarially reduced to account for  
27                 benefit payments beginning ~~prior to~~before the normal retirement date, ~~which is~~  
28                 ~~the earlier of age sixty-five or the age at which current service plus age equals~~  
29                 ~~eighty-five~~as determined under subsection 3. Except for a national guard security  
30                 officer or firefighter, a peace officer or correctional officer employed by the bureau  
31                 of criminal investigation or by a political subdivision, or a supreme court or district

1 court judge, early retirement benefits for members first enrolled after December  
2 31, 2015, are calculated for single life benefits accrued to the date of termination  
3 of employment, but must be reduced by fixed rate of eight percent per year to  
4 account for benefit payments beginning before the normal retirement date. A  
5 retiree, other than a supreme or district court judge, is eligible for early retirement  
6 benefits only after having completed three years of eligible employment. A  
7 supreme or district court judge retiree is eligible for early retirement benefits only  
8 after having completed five years of eligible employment.

- 9 e. Except for supreme and district court judges, disability retirement benefits are  
10 twenty-five percent of the member's final average salary. Disability retirement  
11 benefits for supreme and district court judges are seventy percent of final  
12 average salary reduced by the member's primary social security benefits and by  
13 any workforce safety and insurance benefits paid. The minimum monthly  
14 disability retirement benefit under this section is one hundred dollars.

15 **SECTION 5. AMENDMENT.** Subsection 4 of section 54-52-28 of the North Dakota Century  
16 Code is amended and reenacted as follows:

- 17 4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly,  
18 a distributee may elect to have an eligible rollover distribution, as defined in  
19 section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible  
20 retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code,  
21 specified by the distributee. For purposes of this section, "distributee" includes a  
22 beneficiary, other than a spouse, of a deceased member, provided however, in the  
23 case of a beneficiary other than a spouse, the direct rollover may be made only to an  
24 individual retirement account or individual retirement annuity described in section 408  
25 or 408A of the Internal Revenue Code which is established on behalf of the beneficiary  
26 and will be treated as an inherited individual retirement account or individual  
27 retirement annuity under section 402(c)(11) of the Internal Revenue Code.

28 **SECTION 6. AMENDMENT.** Section 54-52.1-03 of the North Dakota Century Code is  
29 amended and reenacted as follows:

1           **54-52.1-03. Employee participation in plan - Employee to furnish information -**  
2 **Benefits to continue upon retirement or termination.**

- 3           1. Any eligible employee may be enrolled in the uniform group insurance program  
4           created by this chapter by requesting enrollment with the employing department. If an  
5           eligible employee does not enroll in the uniform group insurance program at the time  
6           of beginning employment, in order to enroll at a later time the eligible employee must  
7           meet minimum requirements established by the board. An employing department may  
8           not require an active eligible employee to request coverage under the uniform group  
9           insurance program as a prerequisite to receive the minimum employer-paid life  
10          insurance benefits coverage or employee assistance program benefits coverage.
- 11          2. ~~Within five days after the expiration of the payroll period during which enrollment was~~  
12          ~~requested, the employing department shall enroll the employee with the board. The~~  
13          ~~employee's insurance coverage becomes effective on the date of enrollment.~~
- 14          3. A retiree who has accepted a periodic distribution from the defined contribution  
15          retirement plan pursuant to section 54-52.6-13 who the board determines is eligible for  
16          participation in the uniform group insurance program or has accepted a retirement  
17          allowance from the public employees retirement system, the highway patrolmen's  
18          retirement system, the teachers' insurance and annuity association of America -  
19          college retirement equities fund for service credit earned while employed by North  
20          Dakota institutions of higher education, the retirement system established by job  
21          service North Dakota under section 52-11-01, the judges' retirement system  
22          established under chapter 27-17, or the teachers' fund for retirement may elect to  
23          participate in the uniform group under this chapter without meeting minimum  
24          requirements at age sixty-five, when the member's spouse reaches age sixty-five,  
25          upon the receipt of a benefit, or when the spouse terminates employment. If a retiree  
26          or surviving spouse does not elect to participate at the times specified in this  
27          subsection, the retiree or surviving spouse must meet the minimum requirements  
28          established by the board. Subject to sections 54-52.1-03.2 and 54-52.1-03.3, each  
29          retiree or surviving spouse shall pay directly to the board the premiums in effect for the  
30          coverage then being provided. A retiree or surviving spouse who has met the initial  
31          eligibility requirements of this subsection to begin participation in the uniform group

1 insurance program remains eligible as long as the retiree maintains the retiree's  
2 participation in the program by paying the required premium pursuant to rules adopted  
3 by the board.

4 4.3. Upon the termination of employment when the employee is not eligible to participate  
5 under subsection 32 or 54 or applicable federal law, that employee cannot continue as  
6 a member of the uniform group.

7 5.4. A member or former member of the legislative assembly or that ~~person's~~individual's  
8 surviving spouse may elect to continue membership in the uniform group within the  
9 applicable time limitations after either termination of eligible employment as a member  
10 of the legislative assembly or termination of other eligible employment or, for a  
11 surviving spouse, upon the death of the member or former member of the legislative  
12 assembly. The member or former member of the legislative assembly or that  
13 ~~person's~~individual's surviving spouse shall pay the premiums in effect for the coverage  
14 provided directly to the board.

15 6.5. Each eligible employee requesting enrollment shall furnish the appropriate  
16 ~~person~~individual in the employing department, board, or agency with such information  
17 and in such form as prescribed by the board to enable the enrollment of the employee,  
18 or employee and dependents, in the uniform group insurance program created by this  
19 chapter.

20 7.6. If the participating employee is a faculty member in a state charitable, penal, or  
21 educational institution who receives a salary or wages on less than a twelve-month  
22 basis and has signed a contract to teach for the next ensuing school year, the agency  
23 shall make arrangements to include that employee in the insurance program on a  
24 twelve-month basis and make the contribution authorized by this section for each  
25 month of the twelve-month period.

26 **SECTION 7. AMENDMENT.** Subsection 1 of section 54-52.1-03.3 of the North Dakota  
27 Century Code is amended and reenacted as follows:

28 1. The following ~~persons~~individuals are entitled to receive credit for hospital and medical  
29 benefits coverage and prescription drug coverage under any health insurance program  
30 and dental, vision, and long-term care benefits coverage under the uniform group  
31 insurance program under subsection 2:

- 1           a. A member or surviving spouse of the highway patrolmen's retirement system is  
2           eligible for the credit beginning on the date retirement benefits are effective  
3           unless the premium is billed to the employer.
- 4           b. A member or surviving spouse of the public employees retirement system is  
5           eligible for the credit beginning on the date retirement benefits are effective  
6           unless the premium is billed to the employer.
- 7           c. A member or surviving spouse of the retirement program established by job  
8           service North Dakota under section 52-11-01 receiving retirement benefits is  
9           eligible for the credit beginning on the date retirement benefits are effective  
10          unless the premium is billed to the employer.
- 11          d. A retired judge or surviving spouse receiving retirement benefits under the  
12          retirement program established under chapter 27-17 is eligible for the credit  
13          beginning on the date retirement benefits are effective unless the premium is  
14          billed to the employer.
- 15          e. A former participating member of the defined contribution retirement plan  
16          receiving retirement benefits, or the surviving spouse of a former participating  
17          member of that retirement plan who was eligible to receive or was receiving  
18          benefits, under section 54-52.6-13, is eligible as determined by the board  
19          pursuant to its rules.

20           **SECTION 8. AMENDMENT.** Subsection 2 of section 54-52.1-18 of the North Dakota  
21 Century Code is amended and reenacted as follows:

- 22          2. Health savings account fees for participating state employees must be paid by the  
23          employer.
- 24           a. Except as provided in subdivision b, subject to the limits of section 223(b) of the  
25           Internal Revenue Code [26 U.S.C. 233(b)], the difference between the cost of the  
26           single and family premium for eligible state employees under section 54-52.1-06  
27           and the premium for those employees electing to participate under the  
28           high-deductible health plan under this section must be deposited in a health  
29           savings account for the benefit of each participating employee.
- 30           b. If the public employees retirement system is unable to establish a health savings  
31           account due to the employee's ineligibility under federal or state law or due to

1 failure of the employee to provide necessary information in order to establish the  
2 account, the system is not responsible for depositing the health savings account  
3 contribution. The member will remain a participant in the high-deductible health  
4 plan regardless of whether a health savings account is established.

5 c. If a member closes the health savings account established for that member  
6 under this section, the system is not responsible for depositing the health savings  
7 account contribution after that closure.

8 **SECTION 9. AMENDMENT.** Section 54-52.6-06 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **54-52.6-06. Administrative expenses - Continuing appropriation.**

11 ~~The participating members shall pay the administrative expenses of the plan must be paid~~  
12 ~~by the participating members in a manner determined by the board. The board, or vendors~~  
13 ~~contracted for by the board, may charge reasonable administrative expenses and deduct those~~  
14 ~~expenses from a participating member's account in the defined contribution retirement plan~~  
15 ~~established under this chapter. The board may also pay the administrative expenses of the plan~~  
16 ~~from fines and fees collected from vendors in a manner determined by the board.~~ The board  
17 shall place vendor fines and fees and any money deducted from participating members'  
18 accounts in an administrative expenses account with the state treasurer. The board may ~~also~~  
19 use funds from the payroll clearing account established pursuant to section 54-52.3-03 to pay  
20 for consulting expenses. All moneys in the payroll clearing account, not otherwise appropriated,  
21 or so much of the moneys as may be necessary, are appropriated to the board on a continuing  
22 basis for the purpose of retaining a consultant as required for the administration of this chapter.

23 **SECTION 10. AMENDMENT.** Subsection 2 of section 54-52.6-09 of the North Dakota  
24 Century Code is amended and reenacted as follows:

25 2. The employer shall contribute an amount equal to four and twelve-hundredths percent  
26 of the monthly salary or wage of a participating member. Employer contributions  
27 increase by one percent of the monthly salary or wage of a participating member  
28 beginning with the monthly reporting period of January 2012, and with an additional  
29 increase of one percent, beginning with the monthly reporting period of January 2013,  
30 and with an additional increase of one percent, beginning with the monthly reporting  
31 period of January 2014. If the employee's contribution is paid by the employer under



1 subsection 3, the employer shall contribute, in addition, an amount equal to the  
2 required employee's contribution. ~~The~~Monthly, the employer shall pay monthly such  
3 contribution into the participating member's account from ~~its~~the employer's funds  
4 appropriated for payroll and salary or any other funds available for such purposes. If  
5 the employer fails to pay the contributions monthly, ~~it~~the employer is subject to a civil  
6 penalty of fifty dollars and, as interest, one percent of the amount due for each month  
7 of delay or fraction thereof after the payment became due. In lieu of assessing a civil  
8 penalty or one percent per month, or both, interest at the actuarial rate of return may  
9 be assessed for each month the contributions are delinquent. If contributions are paid  
10 within ninety days of the date the contributions became due, penalty and interest to be  
11 paid on delinquent contributions may be waived.