

**Sixty-fifth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 3, 2017**

SENATE BILL NO. 2053  
(Government and Veterans Affairs Committee)  
(At the request of the Public Employees Retirement System)

AN ACT to amend and reenact subsection 4 of section 39-03.1-11.2, section 54-52-01, subsections 3 and 4 of section 54-52-17, subsection 4 of section 54-52-28, section 54-52.1-03, subsection 1 of section 54-52.1-03.3, section 54-52.1-03.4, subsection 2 of section 54-52.1-18, section 54-52.6-06, and subsection 2 of section 54-52.6-09 of the North Dakota Century Code, relating to the definitions of retirement and retirement board, eligibility for disability retirement and early retirement benefits under the public employees retirement system, employee enrollment, billing for the retiree health insurance credit, temporary employee participation in the uniform group insurance program failure to maintain a health savings account when the high-deductible health plan is elected, payment of administrative expenses of the defined contribution plan, penalties for employers failing to pay contributions under the defined contribution plan, to provide a contingent effective date; and to provide an expiration date.

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

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

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

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

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

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

1. "Account balance" means the total contributions made by the employee, vested employer contributions under section 54-52-11.1, the vested portion of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the board.
2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
3. "Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.
4. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement

to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. Eligible employee does not include state employees who elect to become members of the retirement plan established under chapter 54-52.6.

5. "Employee" means any person employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.
6. "Employer" means a governmental unit.
7. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution which the retirement board may select to hold and invest the employers' and members' contributions.
8. "Governmental unit" means the state of North Dakota, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision thereof.
9. "National guard security officer or firefighter" means a participating member who is:
  - a. A security police employee of the North Dakota national guard; or
  - b. A firefighter employee of the North Dakota national guard.
10. "Participating member" means all eligible employees who through payment into the plan have established a claim against the plan.
11. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the bureau of criminal investigation or by a political subdivision and, notwithstanding subsection 12, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. Participating members of the law enforcement retirement plan created by this chapter who begin employment after August 1, 2005, are ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.
12. "Permanent employee" means a governmental unit employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least twenty weeks each year of employment.
13. "Prior service" means service or employment prior to July 1, 1966.
14. "Prior service credit" means such credit toward a retirement benefit as the retirement board may determine under the provisions of this chapter.
15. "Public employees retirement system" means the retirement plan and program established by this chapter.
16. "Retirement" means the acceptance of a retirement allowance under this chapter upon either termination of employment or termination of participation in the retirement plan and meeting the normal retirement date.
17. "Retirement board" or "board" means the governing authority created under section 54-52-03.

18. "Seasonal employee" means a participating member who does not work twelve months a year.
19. "Service" means employment on or after July 1, 1966.
20. "Service benefit" means the credit toward retirement benefits as determined by the retirement board under the provisions of this chapter.
21. "Temporary employee" means a governmental unit employee who is not eligible to participate as a permanent employee, who is at least eighteen years old and not actively contributing to another employer-sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.
22. "Wages" and "salaries" means the member's earnings in eligible employment under this chapter reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between the member and participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the board.

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

1. "Account balance" means the total contributions made by the employee, vested employer contributions under section 54-52-11.1, the vested portion of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the board.
2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
3. "Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.
4. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. Eligible employee does not include nonclassified state employees who elect to become members of the retirement plan established under chapter 54-52.6 but does include employees of the judicial branch and employees of the board of higher education and state institutions under the jurisdiction of the board.
5. "Employee" means any person employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.
6. "Employer" means a governmental unit.

7. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution which the retirement board may select to hold and invest the employers' and members' contributions.
8. "Governmental unit" means the state of North Dakota, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision thereof.
9. "National guard security officer or firefighter" means a participating member who is:
  - a. A security police employee of the North Dakota national guard; or
  - b. A firefighter employee of the North Dakota national guard.
10. "Participating member" means all eligible employees who through payment into the plan have established a claim against the plan.
11. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the bureau of criminal investigation or by a political subdivision and, notwithstanding subsection 12, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. Participating members of the law enforcement retirement plan created by this chapter who begin employment after August 1, 2005, are ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.
12. "Permanent employee" means a governmental unit employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least twenty weeks each year of employment.
13. "Prior service" means service or employment prior to July 1, 1966.
14. "Prior service credit" means such credit toward a retirement benefit as the retirement board may determine under the provisions of this chapter.
15. "Public employees retirement system" means the retirement plan and program established by this chapter.
16. "Retirement" means the acceptance of a retirement allowance under this chapter upon either termination of employment or termination of participation in the retirement plan ~~and meeting the normal retirement date.~~
17. "Retirement board" or "board" means ~~the seven persons designated by this chapter as the governing authority for the retirement system created under section 54-52-03.~~
18. "Seasonal employee" means a participating member who does not work twelve months a year.
19. "Service" means employment on or after July 1, 1966.
20. "Service benefit" means the credit toward retirement benefits as determined by the retirement board under the provisions of this chapter.
21. "Temporary employee" means a governmental unit employee who is not eligible to participate as a permanent employee, who is at least eighteen years old and not actively contributing to another employer-sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.

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

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

3. Retirement dates are defined as follows:

- a. Normal retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is:
- (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
  - (2) When the member has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- b. Normal retirement date for members first enrolled after December 31, 2015, except for a national guard security officer or firefighter, a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, or a supreme court or district court judge, is:
- (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
  - (2) When the member has a combined total of years of service credit and years of age equal to ninety and the member attains a minimum age of sixty and has not received a retirement benefit under this chapter.
- c. Normal retirement date for a national guard security officer or firefighter is:
- (1) The first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty-five years and has completed at least three eligible years of employment; or
  - (2) When the national guard security officer or firefighter has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- d. Normal retirement date for a peace officer or correctional officer employed by a political subdivision is:
- (1) The first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty-five years and has completed at least three eligible years of employment; or
  - (2) When the peace officer or correctional officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.

- e. Normal retirement date for a peace officer employed by the bureau of criminal investigation is:
    - (1) The first day of the month next following the month in which the peace officer attains the age of fifty-five years and has completed at least three eligible years of employment; or
    - (2) When the peace officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
  - f. Postponed retirement date is the first day of the month next following the month in which the member, on or after July 1, 1977, actually severs or has severed the member's employment after reaching the normal retirement date.
  - g. Early retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed three years of eligible employment. For a national guard security officer or firefighter, early retirement date is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty years and has completed at least three years of eligible employment. For a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, early retirement date is the first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty years and has completed at least three years of eligible employment.
  - h. Disability retirement date is the first day of the month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules of the board, and has completed at least one hundred eighty days of eligible employment. For supreme and district court judges, permanent and total disability is based solely on a judge's inability to perform judicial duties arising out of physical or mental impairment, as determined pursuant to rules adopted by the board or as provided by subdivision a of subsection 3 of section 27-23-03.
    - (1) A member is eligible to receive disability retirement benefits only if the member:
      - (4) ~~Became~~ became disabled during the period of eligible employment; and
      - (2) ~~Applies~~ applies for disability retirement benefits within twelve months of the date the member terminates employment.
    - (2) A member is eligible to continue to receive disability benefits as long as the permanent and total disability continues and the member submits the necessary documentation and undergoes medical testing required by the board, or for as long as the member participates in a rehabilitation program required by the board, or both. If the board determines that a member no longer meets the eligibility definition, the board may discontinue the disability retirement benefit. The board may pay the cost of any medical testing or rehabilitation services ~~the board~~ deems necessary and these payments are appropriated from the retirement fund for those purposes. A member's receipt of disability benefits under this section is limited to receipt from the fund to which the member was actively contributing at the time the member became disabled.
4. The board shall calculate retirement benefits as follows:

- a. Normal retirement benefits for all retirees, except supreme and district court judges, reaching normal retirement date equal an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which is determined as follows:
  - (1) Service benefit equals two percent of final average salary multiplied by the number of years of service employment.
  - (2) Prior service benefit equals two percent of final average salary multiplied by the number of years of prior service employment.
- b. Normal retirement benefits for all supreme and district court judges under the public employees retirement system reaching normal retirement date equal an annual amount, payable monthly, comprised of a benefit as defined in this chapter, determined as follows:
  - (1) Benefits must be calculated from the time of appointment or election to the bench and must equal three and one-half percent of final average salary multiplied by the first ten years of judicial service, two and eighty hundredths percent of final average salary multiplied by the second ten years of judicial service, and one and one-fourth percent of final average salary multiplied by the number of years of judicial service exceeding twenty years.
  - (2) Service benefits must include, in addition, an amount equal to the percent specified in subdivision a of final average salary multiplied by the number of years of nonjudicial employee service and employment.
- c. Postponed retirement benefits are calculated as for single life benefits for those members who retired on or after July 1, 1977.
- d. Early retirement benefits are calculated as for single life benefits accrued to the date of termination of employment, but must be actuarially reduced to account for benefit payments beginning ~~prior to~~before the normal retirement date, ~~which is the earlier of age sixty-five or the age at which current service plus age equals eighty-five~~as determined under subsection 3. Except for a national guard security officer or firefighter, a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, or a supreme court or district court judge, early retirement benefits for members first enrolled after December 31, 2015, are calculated for single life benefits accrued to the date of termination of employment, but must be reduced by fixed rate of eight percent per year to account for benefit payments beginning before the normal retirement date. A retiree, other than a supreme or district court judge, is eligible for early retirement benefits only after having completed three years of eligible employment. A supreme or district court judge retiree is eligible for early retirement benefits only after having completed five years of eligible employment.
- e. Except for supreme and district court judges, disability retirement benefits are twenty-five percent of the member's final average salary. Disability retirement benefits for supreme and district court judges are seventy percent of final average salary reduced by the member's primary social security benefits and by any workforce safety and insurance benefits paid. The minimum monthly disability retirement benefit under this section is one hundred dollars.

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

4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee. For purposes

of this section, "distributee" includes a beneficiary, other than a spouse, of a deceased member, provided however, in the case of a beneficiary other than a spouse, the direct rollover may be made only to an individual retirement account or individual retirement annuity described in section 408 or 408A of the Internal Revenue Code which is established on behalf of the beneficiary and will be treated as an inherited individual retirement account or individual retirement annuity under section 402(c)(11) of the Internal Revenue Code.

**SECTION 5. AMENDMENT.** Section 54-52.1-03 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Any eligible employee may be enrolled in the uniform group insurance program created by this chapter by requesting enrollment with the employing department. If an eligible employee does not enroll in the uniform group insurance program at the time of beginning employment, in order to enroll at a later time the eligible employee must meet minimum requirements established by the board. An employing department may not require an active eligible employee to request coverage under the uniform group insurance program as a prerequisite to receive the minimum employer-paid life insurance benefits coverage or employee assistance program benefits coverage.
2. ~~Within five days after the expiration of the payroll period during which enrollment was requested, the employing department shall enroll the employee with the board. The employee's insurance coverage becomes effective on the date of enrollment.~~
3. A retiree who has accepted a periodic distribution from the defined contribution retirement plan pursuant to section 54-52.6-13 who the board determines is eligible for participation in the uniform group insurance program or has accepted a retirement allowance from the public employees retirement system, the highway patrolmen's retirement system, the teachers' insurance and annuity association of America - college retirement equities fund for service credit earned while employed by North Dakota institutions of higher education, the retirement system established by job service North Dakota under section 52-11-01, the judges' retirement system established under chapter 27-17, or the teachers' fund for retirement may elect to participate in the uniform group under this chapter without meeting minimum requirements at age sixty-five, when the member's spouse reaches age sixty-five, upon the receipt of a benefit, or when the spouse terminates employment. If a retiree or surviving spouse does not elect to participate at the times specified in this subsection, the retiree or surviving spouse must meet the minimum requirements established by the board. Subject to sections 54-52.1-03.2 and 54-52.1-03.3, each retiree or surviving spouse shall pay directly to the board the premiums in effect for the coverage then being provided. A retiree or surviving spouse who has met the initial eligibility requirements of this subsection to begin participation in the uniform group insurance program remains eligible as long as the retiree maintains the retiree's participation in the program by paying the required premium pursuant to rules adopted by the board.
- 4.3. Upon the termination of employment when the employee is not eligible to participate under subsection ~~3~~2 or ~~5~~4 or applicable federal law, that employee cannot continue as a member of the uniform group.
- 5.4. A member or former member of the legislative assembly or that ~~person's individual's~~ surviving spouse may elect to continue membership in the uniform group within the applicable time limitations after either termination of eligible employment as a member of the legislative assembly or termination of other eligible employment or, for a surviving spouse, upon the death of the member or former member of the legislative assembly. The member or former member of the legislative assembly or that ~~person's individual's~~ surviving spouse shall pay the premiums in effect for the coverage provided directly to the board.

- ~~6-5.~~ Each eligible employee requesting enrollment shall furnish the appropriate ~~person~~individual in the employing department, board, or agency with such information and in such form as prescribed by the board to enable the enrollment of the employee, or employee and dependents, in the uniform group insurance program created by this chapter.
- ~~7-6.~~ If the participating employee is a faculty member in a state charitable, penal, or educational institution who receives a salary or wages on less than a twelve-month basis and has signed a contract to teach for the next ensuing school year, the agency shall make arrangements to include that employee in the insurance program on a twelve-month basis and make the contribution authorized by this section for each month of the twelve-month period.

**SECTION 6. AMENDMENT.** Subsection 1 of section 54-52.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

1. The following ~~persons~~individuals are entitled to receive credit for hospital and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program under subsection 2:
  - a. A member or surviving spouse of the highway patrolmen's retirement system is eligible for the credit beginning on the date retirement benefits are effective ~~unless the premium is billed to the employer.~~
  - b. A member or surviving spouse of the public employees retirement system is eligible for the credit beginning on the date retirement benefits are effective ~~unless the premium is billed to the employer.~~
  - c. A member or surviving spouse of the retirement program established by job service North Dakota under section 52-11-01 receiving retirement benefits is eligible for the credit beginning on the date retirement benefits are effective ~~unless the premium is billed to the employer.~~
  - d. A retired judge or surviving spouse receiving retirement benefits under the retirement program established under chapter 27-17 is eligible for the credit beginning on the date retirement benefits are effective ~~unless the premium is billed to the employer.~~
  - e. A former participating member of the defined contribution retirement plan receiving retirement benefits, or the surviving spouse of a former participating member of that retirement plan who was eligible to receive or was receiving benefits, under section 54-52.6-13, is eligible as determined by the board pursuant to its rules.

**SECTION 7. AMENDMENT.** Section 54-52.1-03.4 of the North Dakota Century Code is amended and reenacted as follows:

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

1. A temporary employee employed before August 1, 2007, may elect to participate in the uniform group insurance program by completing the necessary enrollment forms and qualifying under the medical underwriting requirements of the program if such election is made before January 1, 2015, and if the temporary employee is participating in the uniform group insurance program on January 1, 2015.
2. In order for a temporary employee employed after July 31, 2007, to qualify to participate in the uniform group insurance program, the employee must be employed at least twenty hours per week; must be employed at least twenty weeks each year of employment; must make the election to participate before January 1, 2015; and must be participating in the uniform group insurance program as of January 1, 2015. ~~To be eligible to participate in the uniform group insurance program,~~

3. A temporary employee first employed after December 31, 2014, or any temporary employee employed before the effective date of this section of this Act but not participating in the uniform group insurance program as of January 1, 2015, must meet the definition of a full-time employee under section 4980H(c)(4) of the Internal Revenue Code [26 U.S.C. 4980H(c)(4)] on the effective date of this section of this Act, does not qualify to participate in the uniform group insurance program, unless the employee is employed at least thirty hours per week for at least twenty weeks each year of employment. Notwithstanding contrary provisions of this subsection, a temporary employee participating in the uniform group insurance program on the effective date of this section of this Act remains eligible through the end of the calendar year during which the effective date of this section of this Act occurs and after that calendar year the temporary employee is subject to the eligibility provisions of subsection 1, 2, or 3, as applicable.
4. Monthly, the temporary employee or the temporary employee's employer shall pay to the board the premiums in effect for the coverage being provided. ~~In the case of a temporary employee who is an applicable taxpayer as defined in section 36B(c)(1)(A) of the Internal Revenue Code [26 U.S.C. 36B(c)(1)(A)], the temporary employee's required contribution for medical and hospital benefits self-only coverage may not exceed the maximum employee required contribution specified under section 36B(c)(2)(C) of the Internal Revenue Code [26 U.S.C. 36B(c)(2)(C)], and the employer shall pay any difference between the maximum employee required contribution for medical and hospital benefits self-only coverage and the cost of the premiums in effect for this coverage. An employer may pay health or life insurance premiums for a permanent employee on an unpaid leave of absence. A political subdivision, department, board, or agency may make a contribution for coverage under this section.~~

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

2. Health savings account fees for participating state employees must be paid by the employer.
  - a. Except as provided in subdivision b, subject to the limits of section 223(b) of the Internal Revenue Code [26 U.S.C. 223(b)], the difference between the cost of the single and family premium for eligible state employees under section 54-52.1-06 and the premium for those employees electing to participate under the high-deductible health plan under this section must be deposited in a health savings account for the benefit of each participating employee.
  - b. If the public employees retirement system is unable to establish a health savings account due to the employee's ineligibility under federal or state law or due to failure of the employee to provide necessary information in order to establish the account, the system is not responsible for depositing the health savings account contribution. The member will remain a participant in the high-deductible health plan regardless of whether a health savings account is established.
  - c. If a member closes the health savings account established for that member under this section, the system is not responsible for depositing the health savings account contribution after that closure.

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

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

The participating members shall pay the administrative expenses of the plan must be paid by the participating members in a manner determined by the board. The board, or vendors contracted for by the board, may charge reasonable administrative expenses and deduct those expenses from a participating member's account in the defined contribution retirement plan established under this chapter. The board may also pay the administrative expenses of the plan from fines and fees collected

from vendors in a manner determined by the board. The board shall place vendor fines and fees and any money deducted from participating members' accounts in an administrative expenses account with the state treasurer. The board may also use funds from the payroll clearing account established pursuant to section 54-52.3-03 to pay for consulting expenses. All moneys in the payroll clearing account, not otherwise appropriated, or so much of the moneys as may be necessary, are appropriated to the board on a continuing basis for the purpose of retaining a consultant as required for the administration of this chapter.

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

2. The employer shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Employer contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. If the employee's contribution is paid by the employer under subsection 3, the employer shall contribute, in addition, an amount equal to the required employee's contribution. The Monthly, the employer shall pay monthly such contribution into the participating member's account from its the employer's funds appropriated for payroll and salary or any other funds available for such purposes. If the employer fails to pay the contributions monthly, the employer is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due. In lieu of assessing a civil penalty or one percent per month, or both, interest at the actuarial rate of return may be assessed for each month the contributions are delinquent. If contributions are paid within ninety days of the date the contributions became due, penalty and interest to be paid on delinquent contributions may be waived.

**SECTION 11. CONTINGENT EFFECTIVE DATE - EXPIRATION DATE.** Section 7 of this Act becomes effective on the date identified by the executive director of the public employees retirement system in a certification to the legislative council as the effective date of a repeal of sections 4980H(a) and 4980H(b) of the Internal Revenue Code [26 U.S.C. 4980H(a) and 490H(b)] or the effective date of an amendment of sections 4980H(a) and 4980H(b) of the Internal Revenue Code [26 U.S.C. 4980H(a) and 490H(b)] resulting in the assessable payments under sections 4980H(a) and 4980H(b) [26 U.S.C. 4980H(a) and 490H(b)] becoming zero dollars. If this certification does not occur before August 1, 2019, Section 7 of this Act expires and is ineffective.

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President of the Senate

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2053.

Senate Vote:    Yeas 46            Nays 0            Absent 1

House Vote:    Yeas 92            Nays 0            Absent 2

\_\_\_\_\_  
Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2017.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2017.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2017,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State