

**HOUSE BILL NO. 1200**

Introduced by

Representatives Keiser, Beadle, Boschee

Senators Klein, Murphy, Sorvaag

1 A BILL for an Act to create and enact chapter 54-11.1 and a new subdivision to subsection 2 of  
2 section 57-38-30.3 of the North Dakota Century Code, relating to creation of a state-facilitated  
3 retirement program for the private sector; to provide an appropriation; and to provide an  
4 effective date.

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

6 **SECTION 1.** Chapter 54-11.1 of the North Dakota Century Code is created and enacted as  
7 follows:

8 **54-11.1-01. Definitions.**

9 As used in this chapter:

- 10 1. "Investment product" means a fixed or variable rate annuity, savings account,  
11 certificate of deposit, money market account, bond, mutual fund, or any other form of  
12 investment authorized under the program and not prohibited under the federal Internal  
13 Revenue Code of 1986 [26 U.S.C. 5001 et seq.], as amended.
- 14 2. "Nonparticipating employer" means a nongovernmental employer in the state with no  
15 more than one hundred employees in the state which does not offer a retirement plan  
16 for employees and which is not a participating employer.
- 17 3. "Participating employee" means an individual employed in this state by a participating  
18 employer or nonparticipating employer who has chosen to have a part of the  
19 employee's wages or salary contributed to an account through the program and who  
20 has at least one dollar in an account in the program.
- 21 4. "Participating employer" means a nongovernmental employer in the state with no more  
22 than one hundred employees in this state which has entered an agreement with the  
23 state treasurer to participate in the program and at the time of entering such  
24 agreement did not offer an active retirement plan for employees.

1       5. "Program" means the save toward a retirement today program established under this  
2           chapter.

3       **54-11.1-02. Save toward a retirement today - Voluntary retirement investment**  
4 **program.**

5       1. The state treasurer shall establish the save toward a retirement today program to  
6           provide a cost-effective retirement plan for small, nongovernmental employers and  
7           their employees.

8       2. The state treasurer shall administer the program, shall develop standards and  
9           requirements for the operation of the program, and has all powers necessary to  
10          effectuate the purposes of this chapter and to operate the program. Under the  
11          program, the treasurer may enter contracts and execute and deliver instruments;  
12          contract with third parties, which may include consultants, auditors, counsel,  
13          managers, advisors, investment professionals, trustees, and any other contractors or  
14          professionals; and share confidential information with third parties with which the state  
15          treasurer contracts.

16       3. The state treasurer may adopt rules as necessary to implement this chapter.

17       **54-11.1-03. Participation.**

18       1. A nongovernmental employer that employs no more than one hundred employees in  
19          this state and which does not offer a currently active retirement program for  
20          employees may voluntarily elect to participate in the program and to provide  
21          employees with the opportunity to become participating employees. Except as  
22          provided in subsection 3, an employer is not required to participate in the program. A  
23          participating employer shall comply with all program requirements, including making  
24          payroll deductions and remittances as required under the program. A participating  
25          employer may elect to discontinue participation in accordance with program  
26          requirements.

27       2. A participating employer, in that employer's sole discretion, may, in accordance with  
28          program requirements and federal and state law, elect to make a contribution to the  
29          account of an employee on whatever basis the employer elects.

30       3. An employee of a nonparticipating employer may elect to participate in the program  
31          and defer a portion of the employee's wages under the program to an account in the

1            employee's name. The only requirement of the nonparticipating employer is to make  
2            payroll deductions and remittances as provided under the program.

3            4. In accordance with program requirements and subject to any limitations established by  
4            a participating employer which comply with state and federal law, upon notice to the  
5            employer and the state treasurer, a participating employee may increase or decrease  
6            the amount of the employee's contribution or may cease to participate in the program.

7            5. To participate in the program:

8            a. A participating employer may not have an active retirement plan for employees at  
9            the time of entering the agreement with the state treasurer to participate in the  
10           program and the participating employer must meet program requirements  
11           designed to prevent an employer from terminating a retirement program in order  
12           to qualify to participate in the program.

13           b. A participating employee may not have an active retirement plan as an employee  
14           of a participating or nonparticipating employer at the time of entering the  
15           agreement with the state treasurer to participate in the program.

16           **54-11.1-04. Income tax - Assignment - Liability.**

17           1. Compensation deferred under the program is exempt from state income tax and any  
18           amount of compensation deferred under the program may not be included for the  
19           purposes of computation of any state income tax withheld on behalf of a participating  
20           employee. The state treasurer shall work with the federal internal revenue service to  
21           design the program so compensation deferred under the program is tax deferred from  
22           federal income tax and is not included for the purposes of computation of any federal  
23           income tax withheld on behalf of a participating employee.

24           2. Neither a participating employee, the participating employee's beneficiary, nor any  
25           other designee may commute, sell, assign, transfer, or otherwise convey the right to  
26           receive any principal or payments under the program. However, in the case of divorce  
27           or legal separation and pursuant to a qualified domestic relations order, as defined by  
28           the federal internal revenue service, duly entered by a court, the payments and rights  
29           to payments under this program may be subject to division and may be transferred,  
30           but following such transfer are thereafter nonassignable and nontransferable. Account  
31           balances, principal, payments, or distributions of any kind under the program are not

1           subject to attachment, garnishment, or execution and are exempt from bankruptcy  
2           proceedings as retirement funds under section 28-22-03.1.

3           3. Neither the state, state treasurer, nor employer are liable individually or collectively for  
4           any loss suffered or for any change in value of an investment product under the  
5           program.

6           **54-11.1-05. Confidentiality.**

7           1. As used in this section "personal information" means an individual's home address;  
8           home telephone number or personal cell phone number; email address; photograph;  
9           medical information and disability information; motor vehicle operator's identification  
10           number; employee identification number; payroll deduction information; credit, debit, or  
11           electronic fund transfer card number; and account number or investment information,  
12           including the amount invested, selected investments, and investment returns; or any  
13           other information that would tend to disclose the identity of a participating employee or  
14           beneficiary.

15           2. Personal information in a record maintained by the state treasurer, the state  
16           treasurer's designee, or a third party contracting with the state treasurer pursuant to  
17           this chapter is confidential and not subject to section 44-04-18. If the state treasurer  
18           discloses personal information to a third party under the program, that personal  
19           information continues to be confidential and the recipient of the personal information  
20           may not disclose that personal information to any other person.

21           3. This section does not prohibit a participating employee or a person authorized by a  
22           participating employee from accessing the participating employee's own personal  
23           information.

24           4. For purposes of this chapter, an employer with a participating employee shall disclose  
25           to the state treasurer payroll-related and employee-related information the state  
26           treasurer determines is necessary for the operation of the program. Information  
27           disclosed to the state treasurer under this section may be used by the state treasurer  
28           for the limited purpose of operation of the program.

1        **54-11.1-06. Audit - Copies.**

2        The state treasurer shall provide for biennial audits of the program and biennially shall  
3 provide a copy of the biennial audit to the governor and to the legislative audit and fiscal review  
4 committee.

5        **SECTION 2.** A new subdivision to subsection 2 of section 57-38-30.3 of the North Dakota  
6 Century Code is created and enacted as follows:

7                Reduced by income exempt from state income tax under section 54-11.1-04.

8        **SECTION 3. APPROPRIATION.** There is appropriated out of any moneys in the general  
9 fund in the state treasury, not otherwise appropriated, the sum of \$100,000, or so much of the  
10 sum as may be necessary, to the state treasurer for the purpose of designing and implementing  
11 the save toward a retirement today program, for the biennium beginning July 1, 2015, and  
12 ending June 30, 2017.

13        **SECTION 4. EFFECTIVE DATE.** Section 2 of this Act is effective for taxable years  
14 beginning after December 31, 2014.