

**SENATE BILL NO. 2053**

Introduced by

(At the request of the Public Employees Retirement System)

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

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

13 **SECTION 1. AMENDMENT.** Section 54-52-01 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **54-52-01. (Effective through July 31, 2017) Definition of terms.**

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

- 17 1. "Account balance" means the total contributions made by the employee, vested  
18 employer contributions under section 54-52-11.1, the vested portion of the vesting  
19 fund as of June 30, 1977, and interest credited thereon at the rate established by the  
20 board.
- 21 2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any  
22 person designated by a participating member to receive benefits.
- 23 3. "Correctional officer" means a participating member who is employed as a correctional  
24 officer by a political subdivision.

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

- 1        11. "Peace officer" means a participating member who is a peace officer as defined in  
2            section 12-63-01 and is employed as a peace officer by the bureau of criminal  
3            investigation or by a political subdivision and, notwithstanding subsection 12, for  
4            persons employed after August 1, 2005, is employed thirty-two hours or more per  
5            week and at least twenty weeks each year of employment. Participating members of  
6            the law enforcement retirement plan created by this chapter who begin employment  
7            after August 1, 2005, are ineligible to participate concurrently in any other retirement  
8            plan administered by the public employees retirement system.
- 9        12. "Permanent employee" means a governmental unit employee whose services are not  
10           limited in duration and who is filling an approved and regularly funded position in an  
11           eligible governmental unit, and is employed twenty hours or more per week and at  
12           least twenty weeks each year of employment.
- 13       13. "Prior service" means service or employment prior to July 1, 1966.
- 14       14. "Prior service credit" means such credit toward a retirement benefit as the retirement  
15           board may determine under the provisions of this chapter.
- 16       15. "Public employees retirement system" means the retirement plan and program  
17           established by this chapter.
- 18       16. "Retirement" means the acceptance of a retirement allowance under this chapter upon  
19           either termination of employment or termination of participation in the retirement plan  
20           and meeting the normal retirement date.
- 21       17. "Retirement board" or "board" means the governing authority created under section  
22           54-52-03.
- 23       18. "Seasonal employee" means a participating member who does not work twelve  
24           months a year.
- 25       19. "Service" means employment on or after July 1, 1966.
- 26       20. "Service benefit" means the credit toward retirement benefits as determined by the  
27           retirement board under the provisions of this chapter.
- 28       21. "Temporary employee" means a governmental unit employee who is not eligible to  
29           participate as a permanent employee, who is at least eighteen years old and not  
30           actively contributing to another employer-sponsored pension fund, and, if employed by  
31           a school district, occupies a noncertified teacher's position.

1       22. "Wages" and "salaries" means the member's earnings in eligible employment under  
2       this chapter reported as salary on the member's federal income tax withholding  
3       statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125,  
4       401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as  
5       payments for unused sick leave, personal leave, vacation leave paid in a lump sum,  
6       overtime, housing allowances, transportation expenses, early retirement incentive pay,  
7       severance pay, medical insurance, workforce safety and insurance benefits, disability  
8       insurance premiums or benefits, or salary received by a member in lieu of previously  
9       employer-provided fringe benefits under an agreement between the member and  
10      participating employer. Bonuses may be considered as salary under this section if  
11      reported and annualized pursuant to rules adopted by the board.

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

- 14      1. "Account balance" means the total contributions made by the employee, vested  
15      employer contributions under section 54-52-11.1, the vested portion of the vesting  
16      fund as of June 30, 1977, and interest credited thereon at the rate established by the  
17      board.
- 18      2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any  
19      person designated by a participating member to receive benefits.
- 20      3. "Correctional officer" means a participating member who is employed as a correctional  
21      officer by a political subdivision.
- 22      4. "Eligible employee" means all permanent employees who meet all of the eligibility  
23      requirements set by this chapter and who are eighteen years or more of age, and  
24      includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and  
25      54-52-02.12, and nonteaching employees of the superintendent of public instruction,  
26      including the superintendent of public instruction, who elect to transfer from the  
27      teachers' fund for retirement to the public employees retirement system under section  
28      54-52-02.13, and employees of the state board for career and technical education who  
29      elect to transfer from the teachers' fund for retirement to the public employees  
30      retirement system under section 54-52-02.14. Eligible employee does not include  
31      nonclassified state employees who elect to become members of the retirement plan

1 established under chapter 54-52.6 but does include employees of the judicial branch  
2 and employees of the board of higher education and state institutions under the  
3 jurisdiction of the board.

4 5. "Employee" means any person employed by a governmental unit, whose  
5 compensation is paid out of the governmental unit's funds, or funds controlled or  
6 administered by a governmental unit, or paid by the federal government through any of  
7 its executive or administrative officials; licensed employees of a school district means  
8 those employees eligible to participate in the teachers' fund for retirement who, except  
9 under subsection 2 of section 54-52-17.2, are not eligible employees under this  
10 chapter.

11 6. "Employer" means a governmental unit.

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

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

18 9. "National guard security officer or firefighter" means a participating member who is:  
19 a. A security police employee of the North Dakota national guard; or  
20 b. A firefighter employee of the North Dakota national guard.

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

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

- 1       12. "Permanent employee" means a governmental unit employee whose services are not  
2           limited in duration and who is filling an approved and regularly funded position in an  
3           eligible governmental unit, and is employed twenty hours or more per week and at  
4           least twenty weeks each year of employment.
- 5       13. "Prior service" means service or employment prior to July 1, 1966.
- 6       14. "Prior service credit" means such credit toward a retirement benefit as the retirement  
7           board may determine under the provisions of this chapter.
- 8       15. "Public employees retirement system" means the retirement plan and program  
9           established by this chapter.
- 10      16. "Retirement" means the acceptance of a retirement allowance under this chapter upon  
11           either termination of employment or termination of participation in the retirement plan  
12           and meeting the normal retirement date.
- 13      17. "Retirement board" or "board" means ~~the seven persons designated by this chapter as~~  
14           the governing authority for the retirement system created under section 54-52-03.
- 15      18. "Seasonal employee" means a participating member who does not work twelve  
16           months a year.
- 17      19. "Service" means employment on or after July 1, 1966.
- 18      20. "Service benefit" means the credit toward retirement benefits as determined by the  
19           retirement board under the provisions of this chapter.
- 20      21. "Temporary employee" means a governmental unit employee who is not eligible to  
21           participate as a permanent employee, who is at least eighteen years old and not  
22           actively contributing to another employer-sponsored pension fund, and, if employed by  
23           a school district, occupies a noncertified teacher's position.
- 24      22. "Wages" and "salaries" means the member's earnings in eligible employment under  
25           this chapter reported as salary on the member's federal income tax withholding  
26           statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125,  
27           401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as  
28           payments for unused sick leave, personal leave, vacation leave paid in a lump sum,  
29           overtime, housing allowances, transportation expenses, early retirement incentive pay,  
30           severance pay, medical insurance, workforce safety and insurance benefits, disability  
31           insurance premiums or benefits, or salary received by a member in lieu of previously

1 employer-provided fringe benefits under an agreement between the member and  
2 participating employer. Bonuses may be considered as salary under this section if  
3 reported and annualized pursuant to rules adopted by the board.

4 **SECTION 2. AMENDMENT.** Section 54-52-06.4 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **54-52-06.4. Contribution by peace officers employed by the bureau of criminal**  
7 **investigation or security officers employed by the national guard - Employer**  
8 **contribution.**

9 Each peace officer employed by the bureau of criminal investigation who is a member of the  
10 public employees retirement system is assessed and shall pay monthly four percent of the  
11 employee's monthly salary. Peace officer contributions increase by one percent of the member's  
12 monthly salary beginning with the monthly reporting period of January 2012, ~~and~~ with an  
13 additional increase of one percent, beginning with the reporting period of January 2013; and  
14 thereafter peace officer contributions decrease by one-half of one percent of the member's  
15 monthly salary beginning with the monthly reporting period of January 2018. Effective August 1,  
16 2015, each national guard security officer who is a member of the public employee's retirement  
17 system is assessed and monthly shall pay six percent of the employee's monthly salary.  
18 National guard security officer contributions decrease by one-half of one percent of the  
19 member's monthly salary beginning with the monthly reporting period of January 2016. The  
20 assessment must be deducted and retained out of the employee's salary in equal monthly  
21 installments. The peace officer's or security officer's employer shall contribute an amount  
22 determined by the board to be actuarially required to support the level of benefits specified in  
23 section 54-52-17. The employer's contribution must be paid from funds appropriated for salary  
24 or from any other funds available for such purposes. If the peace officer's or security officer's  
25 assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall  
26 contribute, in addition, an amount equal to the required peace officer's or security officer's  
27 assessment.

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

30 3. Retirement dates are defined as follows:

- 1           a. Normal retirement date, except for a national guard security officer or firefighter  
2           or a peace officer or correctional officer employed by the bureau of criminal  
3           investigation or by a political subdivision, is:
- 4           (1) The first day of the month next following the month in which the member  
5           attains the age of sixty-five years; or
- 6           (2) When the member has a combined total of years of service credit and years  
7           of age equal to eighty-five and has not received a retirement benefit under  
8           this chapter.
- 9           b. Normal retirement date for members first enrolled after December 31, 2015,  
10          except for a national guard security officer or firefighter, a peace officer or  
11          correctional officer employed by the bureau of criminal investigation or by a  
12          political subdivision, or a supreme court or district court judge, is:
- 13          (1) The first day of the month next following the month in which the member  
14          attains the age of sixty-five years; or
- 15          (2) When the member has a combined total of years of service credit and years  
16          of age equal to ninety and the member attains a minimum age of sixty and  
17          has not received a retirement benefit under this chapter.
- 18          c. Normal retirement date for a national guard security officer or firefighter is:
- 19          (1) The first day of the month next following the month in which the national  
20          guard security officer or firefighter attains the age of fifty-five years and has  
21          completed at least three eligible years of employment; or
- 22          (2) When the national guard security officer or firefighter has a combined total  
23          of years of service credit and years of age equal to eighty-five and has not  
24          received a retirement benefit under this chapter.
- 25          d. Normal retirement date for a peace officer or correctional officer employed by a  
26          political subdivision is:
- 27          (1) The first day of the month next following the month in which the peace  
28          officer or correctional officer attains the age of fifty-five years and has  
29          completed at least three eligible years of employment; or



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

1 disability is based solely on a judge's inability to perform judicial duties arising out  
2 of physical or mental impairment, as determined pursuant to rules adopted by the  
3 board or as provided by subdivision a of subsection 3 of section 27-23-03.

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

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

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

9 (2) A member is eligible to continue to receive disability benefits as long as the  
10 permanent and total disability continues and the member submits the  
11 necessary documentation and undergoes medical testing required by the  
12 board, or for as long as the member participates in a rehabilitation program  
13 required by the board, or both. If the board determines that a member no  
14 longer meets the eligibility definition, the board may discontinue the  
15 disability retirement benefit. The board may pay the cost of any medical  
16 testing or rehabilitation services ~~if the board~~ deems necessary and these  
17 payments are appropriated from the retirement fund for those purposes. A  
18 member's receipt of disability benefits under this section is limited to receipt  
19 from the fund to which the member was actively contributing at the time the  
20 member became disabled.

21 4. The board shall calculate retirement benefits as follows:

22 a. Normal retirement benefits for all retirees, except supreme and district court  
23 judges, reaching normal retirement date equal an annual amount, payable  
24 monthly, comprised of a service benefit and a prior service benefit, as defined in  
25 this chapter, which is determined as follows:

26 (1) Service benefit equals two percent of final average salary multiplied by the  
27 number of years of service employment.

28 (2) Prior service benefit equals two percent of final average salary multiplied by  
29 the number of years of prior service employment.

30 b. Normal retirement benefits for all supreme and district court judges under the  
31 public employees retirement system reaching normal retirement date equal an

1 annual amount, payable monthly, comprised of a benefit as defined in this  
2 chapter, determined as follows:

3 (1) Benefits must be calculated from the time of appointment or election to the  
4 bench and must equal three and one-half percent of final average salary  
5 multiplied by the first ten years of judicial service, two and eighty hundredths  
6 percent of final average salary multiplied by the second ten years of judicial  
7 service, and one and one-fourth percent of final average salary multiplied by  
8 the number of years of judicial service exceeding twenty years.

9 (2) Service benefits must include, in addition, an amount equal to the percent  
10 specified in subdivision a of final average salary multiplied by the number of  
11 years of nonjudicial employee service and employment.

12 c. Postponed retirement benefits are calculated as for single life benefits for those  
13 members who retired on or after July 1, 1977.

14 d. Early retirement benefits are calculated as for single life benefits accrued to the  
15 date of termination of employment, but must be actuarially reduced to account for  
16 benefit payments beginning ~~prior to~~before the normal retirement date, ~~which is~~  
17 ~~the earlier of age sixty-five or the age at which current service plus age equals~~  
18 ~~eighty-five~~as determined under subsection 3. Except for a national guard security  
19 officer or firefighter, a peace officer or correctional officer employed by the bureau  
20 of criminal investigation or by a political subdivision, or a supreme court or district  
21 court judge, early retirement benefits for members first enrolled after December  
22 31, 2015, are calculated for single life benefits accrued to the date of termination  
23 of employment, but must be reduced by fixed rate of eight percent per year to  
24 account for benefit payments beginning before the normal retirement date. A  
25 retiree, other than a supreme or district court judge, is eligible for early retirement  
26 benefits only after having completed three years of eligible employment. A  
27 supreme or district court judge retiree is eligible for early retirement benefits only  
28 after having completed five years of eligible employment.

29 e. Except for supreme and district court judges, disability retirement benefits are  
30 twenty-five percent of the member's final average salary. Disability retirement  
31 benefits for supreme and district court judges are seventy percent of final

1 average salary reduced by the member's primary social security benefits and by  
2 any workforce safety and insurance benefits paid. The minimum monthly  
3 disability retirement benefit under this section is one hundred dollars.

4 **SECTION 4. AMENDMENT.** Section 54-52.1-03 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **54-52.1-03. Employee participation in plan - Employee to furnish information -**  
7 **Benefits to continue upon retirement or termination.**

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

1 subsection, the retiree or surviving spouse must meet the minimum requirements  
2 established by the board. Subject to sections 54-52.1-03.2 and 54-52.1-03.3, each  
3 retiree or surviving spouse shall pay directly to the board the premiums in effect for the  
4 coverage then being provided. A retiree or surviving spouse who has met the initial  
5 eligibility requirements of this subsection to begin participation in the uniform group  
6 insurance program remains eligible as long as the retiree maintains the retiree's  
7 participation in the program by paying the required premium pursuant to rules adopted  
8 by the board.

9 4.3. Upon the termination of employment when the employee is not eligible to participate  
10 under subsection ~~32~~ or ~~54~~ or applicable federal law, that employee cannot continue as  
11 a member of the uniform group.

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

20 6.5. Each eligible employee requesting enrollment shall furnish the appropriate  
21 ~~person~~individual in the employing department, board, or agency with such information  
22 and in such form as prescribed by the board to enable the enrollment of the employee,  
23 or employee and dependents, in the uniform group insurance program created by this  
24 chapter.

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

1           **SECTION 5. AMENDMENT.** Subsection 1 of section 54-52.1-03.3 of the North Dakota  
2 Century Code is amended and reenacted as follows:

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

7           a. A member or surviving spouse of the highway patrolmen's retirement system is  
8 eligible for the credit beginning on the date retirement benefits are effective  
9 ~~unless the premium is billed to the employer.~~

10           b. A member or surviving spouse of the public employees retirement system is  
11 eligible for the credit beginning on the date retirement benefits are effective  
12 ~~unless the premium is billed to the employer.~~

13           c. A member or surviving spouse of the retirement program established by job  
14 service North Dakota under section 52-11-01 receiving retirement benefits is  
15 eligible for the credit beginning on the date retirement benefits are effective  
16 ~~unless the premium is billed to the employer.~~

17           d. A retired judge or surviving spouse receiving retirement benefits under the  
18 retirement program established under chapter 27-17 is eligible for the credit  
19 beginning on the date retirement benefits are effective ~~unless the premium is~~  
20 ~~billed to the employer.~~

21           e. A former participating member of the defined contribution retirement plan  
22 receiving retirement benefits, or the surviving spouse of a former participating  
23 member of that retirement plan who was eligible to receive or was receiving  
24 benefits, under section 54-52.6-13, is eligible as determined by the board  
25 pursuant to its rules.

26           **SECTION 6. AMENDMENT.** Subsection 2 of section 54-52.1-18 of the North Dakota  
27 Century Code is amended and reenacted as follows:

28           2. Health savings account fees for participating state employees must be paid by the  
29 employer.

30           a. Except as provided in subdivision b, subject to the limits of section 223(b) of the  
31 Internal Revenue Code [26 U.S.C. 233(b)], the difference between the cost of the

1 single and family premium for eligible state employees under section 54-52.1-06  
2 and the premium for those employees electing to participate under the  
3 high-deductible health plan under this section must be deposited in a health  
4 savings account for the benefit of each participating employee.

5 b. If the public employees retirement system is unable to establish a health savings  
6 account due to the employee's ineligibility under federal or state law or due to  
7 failure of the employee to provide necessary information in order to establish the  
8 account, the system is not responsible for depositing the health savings account  
9 contribution. The member will remain a participant in the high-deductible health  
10 plan regardless of whether a health savings account is established.

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

14 **SECTION 7. AMENDMENT.** Section 54-52.6-06 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **54-52.6-06. Administrative expenses - Continuing appropriation.**

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

29 **SECTION 8. AMENDMENT.** Subsection 2 of section 54-52.6-09 of the North Dakota  
30 Century Code is amended and reenacted as follows:

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