

Introduced by

(North Dakota Public Employees Retirement System)

1 A BILL for an Act to amend and reenact subsections 5 and 7 of section 28-22-03.1, section  
2 28-22-19, subsection 2 of section 39-03.1-11.2, subsection 15 of section 54-52-01,  
3 subsections 7 and 11 of section 54-52-04, subsection 3 of section 54-52-05, subsection 1 of  
4 section 54-52.1-03.2, subsection 3 of section 54-52.1-03.3, sections 54-52.2-04, 54-52.2-09,  
5 and 54-52.6-01, subsection 3 of section 54-52.6-09, section 54-52.6-14, and subsection 2 of  
6 section 54-52.6-21 of the North Dakota Century Code, relating to the exemption of retirement  
7 benefits from legal process and administering the public employees retirement system.

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

9 **SECTION 1. AMENDMENT.** Subsection 5 of section 28-22-03.1 of the North Dakota  
10 Century Code is amended and reenacted as follows:

11 5. The debtor's aggregate interest, not to exceed in value one hundred thousand dollars  
12 less any amount of property transferred in the manner specified in 11 U.S.C. 542(d), in  
13 any accrued dividend or interest under, or loan value of, any unexpired life insurance  
14 contract owned by the debtor under which the insured is the debtor or an individual of  
15 whom the debtor is a dependent. Any cash deposit not previously scheduled to be  
16 made into a life insurance policy or nonqualified annuity over the previous twelve  
17 months is not exempt. Benefits are not exempt from enforcement of any order to pay  
18 spousal support, child support, or a qualified domestic order under sections  
19 15-39.1-12.2, ~~39-03-14.2~~39-03.1-14.2, and 54-52-17.6, 54-52.2-03.3, and 54-52.6-12.

20 **SECTION 2. AMENDMENT.** Subsection 7 of section 28-22-03.1 of the North Dakota  
21 Century Code is amended and reenacted as follows:

22 7. Retirement funds that have been in effect for at least one year, to the extent those  
23 funds are in a fund or account that is exempt from taxation under section 401, 403,  
24 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986. The value of

1 those assets exempted may not exceed two hundred thousand dollars for any one  
2 account or four hundred thousand dollars in aggregate for all accounts. The dollar limit  
3 does not apply to the extent this property is reasonably necessary for the support of  
4 the resident and that resident's dependents. Retirement funds are not exempt from  
5 enforcement of any order to pay spousal support or child support, or a qualified  
6 domestic relations order under sections 15-39.1-12.2, 39-03.1-14.2, and 54-52-17.6,  
7 54-52.2-03.3, and 54-52.6-12. As used in this subsection, "reasonably necessary for  
8 the support" means required to meet present and future needs, as determined by the  
9 court after consideration of the resident's responsibilities and all the present and  
10 anticipated property and income of the resident, including that which is exempt.

11 **SECTION 3. AMENDMENT.** Section 28-22-19 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 **28-22-19. Exemptions from legal process - Public pensions, assistance, and awards.**

14 The following amounts are exempt from liability for debts of the person to or on account of  
15 whom the amounts are paid, and are not subject to seizure upon execution or other process:

- 16 1. All pensions or annuities or retirement, disability, death, or other benefits paid or  
17 payable by, or amounts received as a return of contributions and interest from, a  
18 retirement system established pursuant to state law by the state except as provided by  
19 sections 15-39.1-12.2, 39-03.1-14.2, 54-52-17.6, and 54-52.2-03.3, and 54-52.6-12, a  
20 state agency, a political subdivision of the state, or a firefighters relief association for  
21 retirement, annuity, pension, disability benefit, or death benefit purposes. The  
22 exemption in this subsection does not apply to the collection of child support unless  
23 federal law requires an exemption or if complying with an execution or other process  
24 would require an actuarial analysis to determine the current value of the amounts that  
25 are payable to the debtor.
- 26 2. All awards made pursuant to chapter 54-23.4 as compensation for victims of crimes.
- 27 3. All payments of assistance as aid to dependent children pursuant to chapter 50-09.

28 **SECTION 4. AMENDMENT.** Subsection 2 of section 39-03.1-11.2 of the North Dakota  
29 Century Code is amended and reenacted as follows:

- 30 2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code,  
31 including the incidental death benefit requirements under section 401(a)(9)(G), and the

1 regulations issued under that provision to the extent applicable to governmental plans,  
2 as amended. Accordingly, benefits must be distributed or begin to be distributed no  
3 later than a member's required beginning date, and the required minimum distribution  
4 rules override any inconsistent provision of this chapter. ~~For a member who attains~~  
5 ~~age seventy and one-half before January 1, 2020, the member's required beginning~~  
6 ~~date is April first of the calendar year following the later of the calendar year in which~~  
7 ~~the member attains age seventy and one-half or terminates employment. For a~~  
8 ~~member who attains age seventy and one-half after December 31, 2019, the~~  
9 ~~member's required beginning date is April first of the calendar year following the later~~  
10 ~~of the calendar year in which the member attains age seventy-two or terminates~~  
11 ~~employment.~~

12 **SECTION 5. AMENDMENT.** Subsection 15 of section 54-52-01 of the North Dakota  
13 Century Code is amended and reenacted as follows:

- 14 15. "Peace officer" means a participating member who is a peace officer as defined in  
15 section 12-63-01 and is employed as a peace officer by the state, except by the  
16 highway patrol for members of the retirement plan created under chapter 39-03.1, or is  
17 employed by a political subdivision and, notwithstanding subsection ~~44~~16, for persons  
18 employed after August 1, 2005, is employed thirty-two hours or more per week and at  
19 least twenty weeks each year of employment. A peace officer who is a participating  
20 member of the public safety retirement plan created by this chapter who begins  
21 employment after August 1, 2005, is ineligible to participate concurrently in any other  
22 retirement plan administered by the public employees retirement system.

23 **SECTION 6. AMENDMENT.** Subsection 7 of section 54-52-04 of the North Dakota Century  
24 Code is amended and reenacted as follows:

- 25 7. The board shall administer chapters 39-03.1, 54-52.1, ~~and 54-52.2, and~~ 54-52.6, and  
26 may administer other optional employee benefit programs, including a flexible benefits  
27 plan, an optional employee short-term disability plan, a long-term care plan, or other  
28 optional employee benefit programs as the board deems appropriate. The board shall  
29 also administer the retirement plan established in 1961 and frozen to new entrants in  
30 1980 for employees of job service North Dakota under chapter 52-11.

1       **SECTION 7. AMENDMENT.** Subsection 11 of section 54-52-04 of the North Dakota Century  
2 Code is amended and reenacted as follows:

3       11.    The board shall fund the administrative expenses of chapter 54-52.2 from funds  
4            collected under chapters 54-52, 54-52.1, and 54-52.3, or any combination thereof, and  
5            from fines and fees collected from deferred compensation services providers,  
6            including any fees paid for by participant funds, subject to appropriation by the  
7            legislative assembly.

8       **SECTION 8. AMENDMENT.** Subsection 3 of section 54-52-05 of the North Dakota Century  
9 Code is amended and reenacted as follows:

10       3.    Each employer, at its option, may pay all or a portion of the employee contributions  
11            required by subsection 2 and sections 54-52-06.1, 54-52-06.2, 54-52-06.3, and  
12            54-52-06.4 or the employee contributions required to purchase service credit on a  
13            pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not  
14            receive the contributed amounts directly once the employer has elected to pay the  
15            employee contributions. The amount paid must be paid by the employer in lieu of  
16            contributions by the employee. If the ~~state~~employer determines not to pay the  
17            contributions, the amount that would have been paid must continue to be deducted  
18            from the employee's compensation. If contributions are paid by the employer, they  
19            must be treated as employer contributions in determining tax treatment under this  
20            code and the federal Internal Revenue Code. If contributions are paid by the employer,  
21            they may not be included as gross income of the employee in determining tax  
22            treatment under this code and the Internal Revenue Code until they are distributed or  
23            made available. The employer shall pay these employee contributions from the same  
24            source of funds used in paying compensation to the employee. The employer shall  
25            pay these contributions by effecting an equal cash reduction in the gross salary of the  
26            employee or by an offset against future salary increases or by a  
27            ~~contribution~~combination of a reduction in gross salary and offset against future salary  
28            increases. If employee contributions are paid by the employer, they must be treated for  
29            the purposes of this chapter in the same manner and to the same extent as employee  
30            contributions made prior to the date on which employee contributions were assumed

1 by the employer. An employer exercising its option under this subsection shall report  
2 its choice to the board in writing.

3 **SECTION 9. AMENDMENT.** Subsection 1 of section 54-52.1-03.2 of the North Dakota  
4 Century Code is amended and reenacted as follows:

- 5 1. a. The board shall establish a retiree health benefits fund account with the Bank of  
6 North Dakota for the purpose of prefunding and providing hospital benefits  
7 coverage, medical benefits coverage, and prescription drug coverage under any  
8 health insurance program and dental, vision, and long-term care benefits  
9 coverage under ~~the uniform group insurance program for retired eligible~~  
10 ~~employees or surviving spouses of retired eligible employees and their~~  
11 ~~dependents as provided in this chapter~~any insurance program.
- 12 b. The state shall contribute monthly to the retiree health benefits fund an amount  
13 equal to one and fourteen hundredths percent of the monthly salaries and wages  
14 of all participating members of the highway patrol troopers' retirement system  
15 under chapter 39-03.1, and one and fourteen hundredths percent of the monthly  
16 salaries of all supreme or district court judges who are participating members of  
17 the public employees retirement system under chapter 54-52.
- 18 c. Each governmental unit that contributes to the public employees retirement  
19 system fund under section 54-52-06 or the retirement plan under chapter 54-52.6  
20 shall contribute monthly to the retiree health benefits fund an amount equal to  
21 one and fourteen-hundredths percent of the monthly salaries or wages of all  
22 participating members of the public employees retirement system under chapter  
23 54-52 or chapter 54-52.6, except for:
- 24 (1) Members first enrolled after December 31, 2019, for which a governmental  
25 unit contributes to the public employees retirement system fund under  
26 section 54-52-06 or the retirement plan under chapter 54-52.6; and
- 27 (2) Nonteaching employees of the superintendent of public instruction who elect  
28 to participate in the public employees retirement system pursuant to section  
29 54-52-02.13 and employees of the state board for career and technical  
30 education who elect to participate in the public employees retirement  
31 system pursuant to section 54-52-02.14.

- 1           d. For nonteaching employees of the superintendent of public instruction who elect  
2           to participate in the public employees retirement system pursuant to section  
3           54-52-02.13, the superintendent of public instruction shall contribute monthly to  
4           the retiree health benefits fund an amount equal to three and twenty-four  
5           hundredths percent of the monthly salaries or wages of those nonteaching  
6           employee members, beginning on the first of the month following the transfer  
7           under section 54-52-02.13 and continuing thereafter for a period of eight years,  
8           after which time the superintendent of public instruction shall contribute one and  
9           fourteen-hundredths percent of the monthly salary or wages of those nonteaching  
10          employee members.
- 11          e. For employees of the state board for career and technical education who elect to  
12          participate in the public employees retirement system pursuant to section  
13          54-52-02.14, the state board for career and technical education shall contribute  
14          monthly to the retiree health benefits fund an amount equal to two and  
15          ninety-nine hundredths percent of the monthly salary or wages of those  
16          employee members, beginning on the first of the month following the transfer  
17          under section 54-52-02.14 and continuing thereafter for a period of eight years,  
18          after which time the state board for career and technical education shall  
19          contribute one and fourteen-hundredths percent of the monthly salary or wages  
20          of those employee members.
- 21          f. The employer of a national guard security officer or firefighter shall contribute  
22          monthly to the retiree health benefits fund an amount equal to one and fourteen-  
23          hundredths percent of the monthly salaries or wages of all national guard security  
24          officers or firefighters participating in the public employees retirement system  
25          under chapter 54-52.
- 26          g. Job service North Dakota shall reimburse monthly the retiree health benefits fund  
27          for credit received under section 54-52.1-03.3 by members of the retirement  
28          program established by job service North Dakota under section 52-11-01.
- 29          h. The board, as trustee of the fund and in exclusive control of its administration,  
30          shall:

1           (1) Provide for the investment and disbursement of moneys of the retiree health  
2           benefits fund and administrative expenditures in the same manner as  
3           moneys of the public employees retirement system are invested, disbursed,  
4           or expended.

5           (2) Adopt rules necessary for the proper administration of the retiree health  
6           benefits fund, including enrollment procedures.

7           **SECTION 10. AMENDMENT.** Subsection 3 of section 54-52.1-03.3 of the North Dakota  
8 Century Code is amended and reenacted as follows:

9           3. The board shall apply the credit allowable under subsection 2 as elected by the  
10           eligible participant to the payment of monthly premiums required of each individual  
11           eligible under subsection 1 for hospital benefits coverage, medical benefits coverage,  
12           and prescription drug coverage under any health insurance program and for dental,  
13           vision, and long-term care benefits coverage under any insurance program. ~~The~~if one  
14           spouse takes a family health plan under the uniform group health insurance program,  
15           the board shall allow spouses who each have credit under subsection 2 to combine  
16           the spouses' credits ~~and shall apply the combined credit to the required for~~  
17           reimbursement of the family health plan monthly premiums as elected pursuant to this  
18           subsection. However, if the allowable credit under any circumstance exceeds the  
19           monthly premium in effect for selected coverage, that amount of the credit which  
20           exceeds the premium is forfeited and may not be used for any other purpose.

21           **SECTION 11. AMENDMENT.** Section 54-52.2-04 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23           **54-52.2-04. Definition - Employee.**

24           For the purpose of this chapter, "employee" means any person, whether appointed, elected,  
25           or under contract, employed by the state or a political subdivision, who is at least eighteen  
26           years of age and employed in an approved and regularly funded position of unlimited duration  
27           for twenty hours or more per week and at least ~~five months~~twenty weeks each year. For  
28           purposes of this chapter, "employee" also means a member of the legislative assembly.

29           **SECTION 12. AMENDMENT.** Section 54-52.2-09 of the North Dakota Century Code is  
30 amended and reenacted as follows:

1           **54-52.2-09. Employer match for members of defined contribution retirement plan.**

2           An employee who first participated in the defined contribution retirement plan under chapter  
3 54-52.6 after December 31, 2024, who elects to contribute less than the optional three percent  
4 of wages or salary under subdivision b of subsection 1 of section 54-52.6-09, who participates  
5 in the deferred compensation program under this chapter, qualifies for employer matching of  
6 contributions made under this section, subject to federal contribution limitations. The employee  
7 may elect to contribute an amount of wages or salary which does not exceed any remaining  
8 balance of the optional three percent contribution and the employer shall match this  
9 contribution, subject to federal contribution limitations. This section does not limit the ability of  
10 an employee to contribute unmatched wages or salary under this chapter, subject to federal  
11 contribution limitations.

12           **SECTION 13. AMENDMENT.** Section 54-52.6-01 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14           **54-52.6-01. Definition of terms.**

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

- 16           1. "Board" means the public employees retirement system board.
- 17           2. "Deferred member" means an individual who elected to receive deferred vested  
18 retirement benefits under chapter 54-52.
- 19           3. "Eligible employee", for employees who become participating members after  
20 December 31, 2024, has the same meaning as provided under section 54-52-02.15.  
21 For employees who elected to join the defined contribution retirement plan under this  
22 chapter before January 1, 2025, the term includes a permanent state employee,  
23 except an employee of the judicial branch or an employee of the board of higher  
24 education and state institutions under the jurisdiction of the board of higher education,  
25 who is at least eighteen years of age and who is in a position not classified by the  
26 North Dakota human resource management services.
- 27           4. "Employee" means an individual employed by ~~the state~~ a governmental unit, whose  
28 compensation is paid out of ~~state~~ the governmental unit's funds, or funds controlled or  
29 administered by ~~the state~~ a governmental unit or paid by the federal government  
30 through any of its executive or administrative officials.

1       5. "Employer" means ~~the state of North Dakota, except the highway patrol for members-~~  
2       of the retirement plan created under chapter 39-03.1, or a participating political-  
3       subdivision of the state a governmental unit.

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

7       7. "Participating member" means an eligible employee who ~~elects to-~~  
8       participate participates in the defined contribution retirement plan established under  
9       this chapter.

10      ~~7.8.~~ "Permanent employee" means ~~a statean~~ employee whose services are not limited in  
11      duration and who is filling an approved and regularly funded position in an eligible  
12      governmental unit, and is employed twenty hours or more per week and at least five-  
13      ~~months each year~~ twenty weeks each year of employment.

14      9. "Temporary employee" means an employee who is not eligible to participate as a  
15      permanent employee, who is at least eighteen years old and not actively contributing  
16      to another employer-sponsored retirement fund, and, if employed by a school district,  
17      occupies a noncertified teacher's position.

18      ~~8-10.~~ "Wages" and "salaries" means earnings in eligible employment under this chapter  
19      reported as salary on a federal income tax withholding statement plus any salary  
20      reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or  
21      457. "Salary" does not include fringe benefits such as payments for unused sick leave,  
22      personal leave, vacation leave paid in a lump sum, overtime, housing allowances,  
23      transportation expenses, early retirement, incentive pay, severance pay, medical  
24      insurance, workforce safety and insurance benefits, disability insurance premiums or  
25      benefits, or salary received by a member in lieu of previously employer-provided fringe  
26      benefits under an agreement between an employee and a participating employer.  
27      Bonuses may be considered as salary under this section if reported pursuant to rules  
28      adopted by the board.

29      **SECTION 14. AMENDMENT.** Subsection 3 of section 54-52.6-09 of the North Dakota  
30      Century Code is amended and reenacted as follows:

1           3. Each employer, at its option, may pay all or a portion of the employee contributions  
2           required by this section for all compensation earned after December 31, 1999. The  
3           amount paid must be paid by the employer in lieu of contributions by the employee. If  
4           the employer decides not to pay the contributions, the amount that would have been  
5           paid will continue to be deducted from the employee's compensation. If contributions  
6           are paid by the employer, they must be treated as employer contributions in  
7           determining tax treatment under this code and the federal Internal Revenue Code.  
8           Contributions paid by the employer may not be included as gross income of the  
9           employee in determining tax treatment under this code and the federal Internal  
10          Revenue Code until they are distributed or made available. The employer shall pay  
11          these employee contributions from the same source of funds used in paying  
12          compensation to the employee. The employer shall pay these contributions by  
13          effecting an equal cash reduction in the gross salary of the employee or by an offset  
14          against future salary increases or by a combination of a reduction in gross salary and  
15          offset against future salary increases. Employee contributions paid by the employer  
16          must be treated for the purposes of this chapter in the same manner and to the same  
17          extent as employee contributions made before the date on which employee  
18          contributions were assumed by the employer. An employer shall exercise its option  
19          under this subsection by reporting its choice to the board in writing.

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

22          **54-52.6-14. Disability benefits.**

23          The board shall allow distribution of the participating member's vested account balance if  
24          the board determines that the participating member has become totally and permanently  
25          disabled. If approved, the disabled member has the same distribution options as provided in  
26          ~~subdivisions a and e~~ paragraphs 1 and 3 of subdivision a of subsection 3 of section 54-52.6-13.  
27          However, if the member chooses the periodic distribution option, the member may only receive  
28          distributions for as long as the disability continues and the member submits the necessary  
29          documentation and undergoes medical testing required by the board, or for as long as the  
30          member participates in a rehabilitation program required by the board, or both. If the board

1 determines that a member no longer meets the eligibility definition, the board shall discontinue  
2 the disability retirement benefit.

3 **SECTION 16. AMENDMENT.** Subsection 2 of section 54-52.6-21 of the North Dakota  
4 Century Code is amended and reenacted as follows:

5 2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code  
6 and the regulations issued under that provision to the extent applicable to  
7 governmental plans, as amended. Accordingly, benefits must be distributed or begin to  
8 be distributed no later than a member's required beginning date, and the required  
9 minimum distribution rules override any inconsistent provision of this chapter. ~~For a~~  
10 ~~member who attains age seventy and one-half before January 1, 2020, the member's~~  
11 ~~required beginning date is April first of the calendar year following the later of the~~  
12 ~~calendar year in which the member attains age seventy and one-half or terminates~~  
13 ~~employment. For a member who attains age seventy and one-half after December 31,~~  
14 ~~2019, the member's required beginning date is April first of the calendar year following~~  
15 ~~the later of the calendar year in which the member attains age seventy-two or~~  
16 ~~terminates employment.~~