

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.