

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 ~~its~~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, ~~it~~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.