

Introduced by

Government and Veterans Affairs Committee

(At the request of the Public Employees Retirement System)

1 A BILL for an Act to amend and reenact [subsection 4 of section 39-03.1-11.2](#), sections 54-52-01
2 and 54-52-06.4, subsections 3 and 4 of section 54-52-17, [subsection 4 of section 54-52-28](#),
3 section 54-52.1-03, subsection 1 of section 54-52.1-03.3, subsection 2 of section 54-52.1-18,
4 section 54-52.6-06, and subsection 2 of section 54-52.6-09 of the North Dakota Century Code,
5 relating to the definitions of retirement and retirement board, decreased employee contributions
6 under the public employees retirement system for peace officers employed by the bureau of
7 criminal investigation, eligibility for disability retirement and early retirement benefits under the
8 public employees retirement system, employee enrollment, billing for the retiree health
9 insurance credit, failure to maintain a health savings account when the high-deductible health
10 plan is elected, payment of administrative expenses of the defined contribution plan, and
11 penalties for employers failing to pay contributions under the defined contribution plan.

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

13 **SECTION 1. AMENDMENT.** Subsection 4 of section 39-03.1-11.2 of the North Dakota
14 Century Code is amended and reenacted as follows:

15 4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly,
16 a distributee may elect to have an eligible rollover distribution, as defined in
17 section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible
18 retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code,
19 specified by the distributee. [For purposes of this section, "distributee" includes a](#)
20 [beneficiary, other than a spouse, of a deceased member, provided however, in the](#)
21 [case of a beneficiary other than a spouse, the direct rollover may be made only to an](#)
22 [individual retirement account or individual retirement annuity described in section 408](#)
23 [or 408A of the Internal Revenue Code which is established on behalf of the beneficiary.](#)

and will be treated as an inherited individual retirement account or individual retirement annuity under section 402(c)(11) of the Internal Revenue Code.

SECTION 2. AMENDMENT. Section 54-52-01 of the North Dakota Century Code is amended and reenacted as follows:

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

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

1. "Account balance" means the total contributions made by the employee, vested employer contributions under section 54-52-11.1, the vested portion of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the board.
2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
3. "Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.
4. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. Eligible employee does not include state employees who elect to become members of the retirement plan established under chapter 54-52.6.
5. "Employee" means any person employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except

1 under subsection 2 of section 54-52-17.2, are not eligible employees under this
2 chapter.

3 6. "Employer" means a governmental unit.

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

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

10 9. "National guard security officer or firefighter" means a participating member who is:

11 a. A security police employee of the North Dakota national guard; or

12 b. A firefighter employee of the North Dakota national guard.

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

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

23 12. "Permanent employee" means a governmental unit employee whose services are not
24 limited in duration and who is filling an approved and regularly funded position in an
25 eligible governmental unit, and is employed twenty hours or more per week and at
26 least twenty weeks each year of employment.

27 13. "Prior service" means service or employment prior to July 1, 1966.

28 14. "Prior service credit" means such credit toward a retirement benefit as the retirement
29 board may determine under the provisions of this chapter.

30 15. "Public employees retirement system" means the retirement plan and program
31 established by this chapter.

- 1 16. "Retirement" means the acceptance of a retirement allowance under this chapter upon
2 either termination of employment or termination of participation in the retirement plan
3 and meeting the normal retirement date.
- 4 17. "Retirement board" or "board" means the governing authority created under section
5 54-52-03.
- 6 18. "Seasonal employee" means a participating member who does not work twelve
7 months a year.
- 8 19. "Service" means employment on or after July 1, 1966.
- 9 20. "Service benefit" means the credit toward retirement benefits as determined by the
10 retirement board under the provisions of this chapter.
- 11 21. "Temporary employee" means a governmental unit employee who is not eligible to
12 participate as a permanent employee, who is at least eighteen years old and not
13 actively contributing to another employer-sponsored pension fund, and, if employed by
14 a school district, occupies a noncertified teacher's position.
- 15 22. "Wages" and "salaries" means the member's earnings in eligible employment under
16 this chapter reported as salary on the member's federal income tax withholding
17 statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125,
18 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as
19 payments for unused sick leave, personal leave, vacation leave paid in a lump sum,
20 overtime, housing allowances, transportation expenses, early retirement incentive pay,
21 severance pay, medical insurance, workforce safety and insurance benefits, disability
22 insurance premiums or benefits, or salary received by a member in lieu of previously
23 employer-provided fringe benefits under an agreement between the member and
24 participating employer. Bonuses may be considered as salary under this section if
25 reported and annualized pursuant to rules adopted by the board.

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

- 28 1. "Account balance" means the total contributions made by the employee, vested
29 employer contributions under section 54-52-11.1, the vested portion of the vesting
30 fund as of June 30, 1977, and interest credited thereon at the rate established by the
31 board.

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

- 1 9. "National guard security officer or firefighter" means a participating member who is:
 - 2 a. A security police employee of the North Dakota national guard; or
 - 3 b. A firefighter employee of the North Dakota national guard.
- 4 10. "Participating member" means all eligible employees who through payment into the
5 plan have established a claim against the plan.
- 6 11. "Peace officer" means a participating member who is a peace officer as defined in
7 section 12-63-01 and is employed as a peace officer by the bureau of criminal
8 investigation or by a political subdivision and, notwithstanding subsection 12, for
9 persons employed after August 1, 2005, is employed thirty-two hours or more per
10 week and at least twenty weeks each year of employment. Participating members of
11 the law enforcement retirement plan created by this chapter who begin employment
12 after August 1, 2005, are ineligible to participate concurrently in any other retirement
13 plan administered by the public employees retirement system.
- 14 12. "Permanent employee" means a governmental unit employee whose services are not
15 limited in duration and who is filling an approved and regularly funded position in an
16 eligible governmental unit, and is employed twenty hours or more per week and at
17 least twenty weeks each year of employment.
- 18 13. "Prior service" means service or employment prior to July 1, 1966.
- 19 14. "Prior service credit" means such credit toward a retirement benefit as the retirement
20 board may determine under the provisions of this chapter.
- 21 15. "Public employees retirement system" means the retirement plan and program
22 established by this chapter.
- 23 16. "Retirement" means the acceptance of a retirement allowance under this chapter upon
24 either termination of employment or termination of participation in the retirement plan
25 and meeting the normal retirement date.
- 26 17. "Retirement board" or "board" means the ~~seven persons designated by this chapter as~~
27 the governing authority for the retirement system created under section 54-52-03.
- 28 18. "Seasonal employee" means a participating member who does not work twelve
29 months a year.
- 30 19. "Service" means employment on or after July 1, 1966.

- 1 20. "Service benefit" means the credit toward retirement benefits as determined by the
2 retirement board under the provisions of this chapter.
- 3 21. "Temporary employee" means a governmental unit employee who is not eligible to
4 participate as a permanent employee, who is at least eighteen years old and not
5 actively contributing to another employer-sponsored pension fund, and, if employed by
6 a school district, occupies a noncertified teacher's position.
- 7 22. "Wages" and "salaries" means the member's earnings in eligible employment under
8 this chapter reported as salary on the member's federal income tax withholding
9 statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125,
10 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as
11 payments for unused sick leave, personal leave, vacation leave paid in a lump sum,
12 overtime, housing allowances, transportation expenses, early retirement incentive pay,
13 severance pay, medical insurance, workforce safety and insurance benefits, disability
14 insurance premiums or benefits, or salary received by a member in lieu of previously
15 employer-provided fringe benefits under an agreement between the member and
16 participating employer. Bonuses may be considered as salary under this section if
17 reported and annualized pursuant to rules adopted by the board.

18 **SECTION 3. AMENDMENT.** Section 54-52-06.4 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **54-52-06.4. Contribution by peace officers employed by the bureau of criminal**
21 **investigation or security officers employed by the national guard - Employer**
22 **contribution.**

23 Each peace officer employed by the bureau of criminal investigation who is a member of the
24 public employees retirement system is assessed and shall pay monthly four percent of the
25 employee's monthly salary. Peace officer contributions increase by one percent of the member's
26 monthly salary beginning with the monthly reporting period of January 2012, ~~and~~; with an
27 additional increase of one percent, beginning with the reporting period of January 2013; and
28 thereafter peace officer contributions decrease by one-half of one percent of the member's
29 monthly salary beginning with the monthly reporting period of January 2018. Effective August 1,
30 2015, each national guard security officer who is a member of the public employee's retirement
31 system is assessed and monthly shall pay six percent of the employee's monthly salary.

1 National guard security officer contributions decrease by one-half of one percent of the
2 member's monthly salary beginning with the monthly reporting period of January 2016. The
3 assessment must be deducted and retained out of the employee's salary in equal monthly
4 installments. The peace officer's or security officer's employer shall contribute an amount
5 determined by the board to be actuarially required to support the level of benefits specified in
6 section 54-52-17. The employer's contribution must be paid from funds appropriated for salary
7 or from any other funds available for such purposes. If the peace officer's or security officer's
8 assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall
9 contribute, in addition, an amount equal to the required peace officer's or security officer's
10 assessment.

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

13 3. Retirement dates are defined as follows:

14 a. Normal retirement date, except for a national guard security officer or firefighter
15 or a peace officer or correctional officer employed by the bureau of criminal
16 investigation or by a political subdivision, is:

17 (1) The first day of the month next following the month in which the member
18 attains the age of sixty-five years; or

19 (2) When the member has a combined total of years of service credit and years
20 of age equal to eighty-five and has not received a retirement benefit under
21 this chapter.

22 b. Normal retirement date for members first enrolled after December 31, 2015,
23 except for a national guard security officer or firefighter, a peace officer or
24 correctional officer employed by the bureau of criminal investigation or by a
25 political subdivision, or a supreme court or district court judge, is:

26 (1) The first day of the month next following the month in which the member
27 attains the age of sixty-five years; or

28 (2) When the member has a combined total of years of service credit and years
29 of age equal to ninety and the member attains a minimum age of sixty and
30 has not received a retirement benefit under this chapter.

31 c. Normal retirement date for a national guard security officer or firefighter is:

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

1 following the month in which the national guard security officer or firefighter
2 attains the age of fifty years and has completed at least three years of eligible
3 employment. For a peace officer or correctional officer employed by the bureau of
4 criminal investigation or by a political subdivision, early retirement date is the first
5 day of the month next following the month in which the peace officer or
6 correctional officer attains the age of fifty years and has completed at least three
7 years of eligible employment.

8 h. Disability retirement date is the first day of the month after a member becomes
9 permanently and totally disabled, according to medical evidence called for under
10 the rules of the board, and has completed at least one hundred eighty days of
11 eligible employment. For supreme and district court judges, permanent and total
12 disability is based solely on a judge's inability to perform judicial duties arising out
13 of physical or mental impairment, as determined pursuant to rules adopted by the
14 board or as provided by subdivision a of subsection 3 of section 27-23-03.

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

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

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

20 (2) A member is eligible to continue to receive disability benefits as long as the
21 permanent and total disability continues and the member submits the
22 necessary documentation and undergoes medical testing required by the
23 board, or for as long as the member participates in a rehabilitation program
24 required by the board, or both. If the board determines that a member no
25 longer meets the eligibility definition, the board may discontinue the
26 disability retirement benefit. The board may pay the cost of any medical
27 testing or rehabilitation services ~~if the board~~ deems necessary and these
28 payments are appropriated from the retirement fund for those purposes. A
29 member's receipt of disability benefits under this section is limited to receipt
30 from the fund to which the member was actively contributing at the time the
31 member became disabled.

- 1 4. The board shall calculate retirement benefits as follows:
- 2 a. Normal retirement benefits for all retirees, except supreme and district court
3 judges, reaching normal retirement date equal an annual amount, payable
4 monthly, comprised of a service benefit and a prior service benefit, as defined in
5 this chapter, which is determined as follows:
- 6 (1) Service benefit equals two percent of final average salary multiplied by the
7 number of years of service employment.
- 8 (2) Prior service benefit equals two percent of final average salary multiplied by
9 the number of years of prior service employment.
- 10 b. Normal retirement benefits for all supreme and district court judges under the
11 public employees retirement system reaching normal retirement date equal an
12 annual amount, payable monthly, comprised of a benefit as defined in this
13 chapter, determined as follows:
- 14 (1) Benefits must be calculated from the time of appointment or election to the
15 bench and must equal three and one-half percent of final average salary
16 multiplied by the first ten years of judicial service, two and eighty hundredths
17 percent of final average salary multiplied by the second ten years of judicial
18 service, and one and one-fourth percent of final average salary multiplied by
19 the number of years of judicial service exceeding twenty years.
- 20 (2) Service benefits must include, in addition, an amount equal to the percent
21 specified in subdivision a of final average salary multiplied by the number of
22 years of nonjudicial employee service and employment.
- 23 c. Postponed retirement benefits are calculated as for single life benefits for those
24 members who retired on or after July 1, 1977.
- 25 d. Early retirement benefits are calculated as for single life benefits accrued to the
26 date of termination of employment, but must be actuarially reduced to account for
27 benefit payments beginning ~~prior to~~before the normal retirement date, ~~which is~~
28 ~~the earlier of age sixty-five or the age at which current service plus age equals~~
29 ~~eighty-five~~as determined under subsection 3. Except for a national guard security
30 officer or firefighter, a peace officer or correctional officer employed by the bureau
31 of criminal investigation or by a political subdivision, or a supreme court or district

1 court judge, early retirement benefits for members first enrolled after December
2 31, 2015, are calculated for single life benefits accrued to the date of termination
3 of employment, but must be reduced by fixed rate of eight percent per year to
4 account for benefit payments beginning before the normal retirement date. A
5 retiree, other than a supreme or district court judge, is eligible for early retirement
6 benefits only after having completed three years of eligible employment. A
7 supreme or district court judge retiree is eligible for early retirement benefits only
8 after having completed five years of eligible employment.

- 9 e. Except for supreme and district court judges, disability retirement benefits are
10 twenty-five percent of the member's final average salary. Disability retirement
11 benefits for supreme and district court judges are seventy percent of final
12 average salary reduced by the member's primary social security benefits and by
13 any workforce safety and insurance benefits paid. The minimum monthly
14 disability retirement benefit under this section is one hundred dollars.

15 **SECTION 5. AMENDMENT.** Subsection 4 of section 54-52-28 of the North Dakota Century
16 Code is amended and reenacted as follows:

- 17 4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly,
18 a distributee may elect to have an eligible rollover distribution, as defined in
19 section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible
20 retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code,
21 specified by the distributee. For purposes of this section, "distributee" includes a
22 beneficiary, other than a spouse, of a deceased member, provided however, in the
23 case of a beneficiary other than a spouse, the direct rollover may be made only to an
24 individual retirement account or individual retirement annuity described in section 408
25 or 408A of the Internal Revenue Code which is established on behalf of the beneficiary
26 and will be treated as an inherited individual retirement account or individual
27 retirement annuity under section 402(c)(11) of the Internal Revenue Code.

28 **SECTION 6. AMENDMENT.** Section 54-52.1-03 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 insurance program remains eligible as long as the retiree maintains the retiree's
2 participation in the program by paying the required premium pursuant to rules adopted
3 by the board.

4 4.3. Upon the termination of employment when the employee is not eligible to participate
5 under subsection 32 or 54 or applicable federal law, that employee cannot continue as
6 a member of the uniform group.

7 5.4. A member or former member of the legislative assembly or that ~~person's~~individual's
8 surviving spouse may elect to continue membership in the uniform group within the
9 applicable time limitations after either termination of eligible employment as a member
10 of the legislative assembly or termination of other eligible employment or, for a
11 surviving spouse, upon the death of the member or former member of the legislative
12 assembly. The member or former member of the legislative assembly or that
13 ~~person's~~individual's surviving spouse shall pay the premiums in effect for the coverage
14 provided directly to the board.

15 6.5. Each eligible employee requesting enrollment shall furnish the appropriate
16 ~~person~~individual in the employing department, board, or agency with such information
17 and in such form as prescribed by the board to enable the enrollment of the employee,
18 or employee and dependents, in the uniform group insurance program created by this
19 chapter.

20 7.6. If the participating employee is a faculty member in a state charitable, penal, or
21 educational institution who receives a salary or wages on less than a twelve-month
22 basis and has signed a contract to teach for the next ensuing school year, the agency
23 shall make arrangements to include that employee in the insurance program on a
24 twelve-month basis and make the contribution authorized by this section for each
25 month of the twelve-month period.

26 **SECTION 7. AMENDMENT.** Subsection 1 of section 54-52.1-03.3 of the North Dakota
27 Century Code is amended and reenacted as follows:

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

- 1 a. A member or surviving spouse of the highway patrolmen's retirement system is
2 eligible for the credit beginning on the date retirement benefits are effective
3 ~~unless the premium is billed to the employer.~~
- 4 b. A member or surviving spouse of the public employees retirement system is
5 eligible for the credit beginning on the date retirement benefits are effective
6 ~~unless the premium is billed to the employer.~~
- 7 c. A member or surviving spouse of the retirement program established by job
8 service North Dakota under section 52-11-01 receiving retirement benefits is
9 eligible for the credit beginning on the date retirement benefits are effective
10 ~~unless the premium is billed to the employer.~~
- 11 d. A retired judge or surviving spouse receiving retirement benefits under the
12 retirement program established under chapter 27-17 is eligible for the credit
13 beginning on the date retirement benefits are effective ~~unless the premium is~~
14 ~~billed to the employer.~~
- 15 e. A former participating member of the defined contribution retirement plan
16 receiving retirement benefits, or the surviving spouse of a former participating
17 member of that retirement plan who was eligible to receive or was receiving
18 benefits, under section 54-52.6-13, is eligible as determined by the board
19 pursuant to its rules.

20 **SECTION 8. AMENDMENT.** Subsection 2 of section 54-52.1-18 of the North Dakota
21 Century Code is amended and reenacted as follows:

- 22 2. Health savings account fees for participating state employees must be paid by the
23 employer.
- 24 a. Except as provided in subdivision b, subject to the limits of section 223(b) of the
25 Internal Revenue Code [26 U.S.C. 233(b)], the difference between the cost of the
26 single and family premium for eligible state employees under section 54-52.1-06
27 and the premium for those employees electing to participate under the
28 high-deductible health plan under this section must be deposited in a health
29 savings account for the benefit of each participating employee.
- 30 b. If the public employees retirement system is unable to establish a health savings
31 account due to the employee's ineligibility under federal or state law or due to

1 failure of the employee to provide necessary information in order to establish the
2 account, the system is not responsible for depositing the health savings account
3 contribution. The member will remain a participant in the high-deductible health
4 plan regardless of whether a health savings account is established.

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

8 **SECTION 9. AMENDMENT.** Section 54-52.6-06 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **54-52.6-06. Administrative expenses - Continuing appropriation.**

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

23 **SECTION 10. AMENDMENT.** Subsection 2 of section 54-52.6-09 of the North Dakota
24 Century Code is amended and reenacted as follows:

25 2. The employer shall contribute an amount equal to four and twelve-hundredths percent
26 of the monthly salary or wage of a participating member. Employer contributions
27 increase by one percent of the monthly salary or wage of a participating member
28 beginning with the monthly reporting period of January 2012, and with an additional
29 increase of one percent, beginning with the monthly reporting period of January 2013,
30 and with an additional increase of one percent, beginning with the monthly reporting
31 period of January 2014. If the employee's contribution is paid by the employer under

1 subsection 3, the employer shall contribute, in addition, an amount equal to the
2 required employee's contribution. ~~The~~Monthly, the employer shall pay monthly such
3 contribution into the participating member's account from ~~its~~the employer's funds
4 appropriated for payroll and salary or any other funds available for such purposes. If
5 the employer fails to pay the contributions monthly, ~~it~~the employer is subject to a civil
6 penalty of fifty dollars and, as interest, one percent of the amount due for each month
7 of delay or fraction thereof after the payment became due. In lieu of assessing a civil
8 penalty or one percent per month, or both, interest at the actuarial rate of return may
9 be assessed for each month the contributions are delinquent. If contributions are paid
10 within ninety days of the date the contributions became due, penalty and interest to be
11 paid on delinquent contributions may be waived.