

Introduced by

Representatives Porter, Maragos, Toman

Senator Cook

1 A BILL for an Act to amend and reenact sections 54-52-01, 54-52-02.1, and 54-52-06.3 and  
2 subsections 3 and 4 of section 54-52-17 of the North Dakota Century Code, relating to a public  
3 employee retirement plan for firefighters.

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

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

7 **54-52-01. (Effective through July 31, 2017) Definition of terms.**

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

- 9 1. "Account balance" means the total contributions made by the employee, vested  
10 employer contributions under section 54-52-11.1, the vested portion of the vesting  
11 fund as of June 30, 1977, and interest credited thereon at the rate established by the  
12 board.
- 13 2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any  
14 person designated by a participating member to receive benefits.
- 15 3. "Correctional officer" means a participating member who is employed as a correctional  
16 officer by a political subdivision.
- 17 4. "Eligible employee" means all permanent employees who meet all of the eligibility  
18 requirements set by this chapter and who are eighteen years or more of age, and  
19 includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and  
20 54-52-02.12, and nonteaching employees of the superintendent of public instruction,  
21 including the superintendent of public instruction, who elect to transfer from the  
22 teachers' fund for retirement to the public employees retirement system under section  
23 54-52-02.13, and employees of the state board for career and technical education who  
24 elect to transfer from the teachers' fund for retirement to the public employees

- 1 retirement system under section 54-52-02.14. Eligible employee does not include state  
2 employees who elect to become members of the retirement plan established under  
3 chapter 54-52.6.
- 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 governing authority created under section  
14           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 **(Effective after July 31, 2017) Definition of terms.** As used in this chapter, unless the  
5 context otherwise requires:

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

10 2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any  
11 person designated by a participating member to receive benefits.

12 3. "Correctional officer" means a participating member who is employed as a correctional  
13 officer by a political subdivision.

14 4. "Eligible employee" means all permanent employees who meet all of the eligibility  
15 requirements set by this chapter and who are eighteen years or more of age, and  
16 includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and  
17 54-52-02.12, and nonteaching employees of the superintendent of public instruction,  
18 including the superintendent of public instruction, who elect to transfer from the  
19 teachers' fund for retirement to the public employees retirement system under section  
20 54-52-02.13, and employees of the state board for career and technical education who  
21 elect to transfer from the teachers' fund for retirement to the public employees  
22 retirement system under section 54-52-02.14. Eligible employee does not include  
23 nonclassified state employees who elect to become members of the retirement plan  
24 established under chapter 54-52.6 but does include employees of the judicial branch  
25 and employees of the board of higher education and state institutions under the  
26 jurisdiction of the board.

27 5. "Employee" means any ~~person~~individual employed by a governmental unit, whose  
28 compensation is paid out of the governmental unit's funds, or funds controlled or  
29 administered by a governmental unit, or paid by the federal government through any of  
30 its executive or administrative officials; licensed employees of a school district means  
31 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. "Firefighter" means a participating member who is employed as a firefighter by a  
5 political subdivision and, notwithstanding subsection 13, for an individual employed  
6 after July 31, 2017, is employed at least thirty-two hours per week and at least twenty  
7 weeks each year of employment. A firefighter who is a participating member of the law  
8 enforcement retirement plan created by this chapter who begins employment after  
9 July 31, 2017, is ineligible to participate concurrently in any other retirement plan  
10 administered by the public employees retirement system. The term does not include a  
11 firefighter employee of the North Dakota national guard.

12 8. "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 8-9. "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 9-10. "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 40-11. "Participating member" means ~~an~~ an eligible employees ~~employee~~ who through  
22 payment into the plan ~~have~~ has established a claim against the plan.

23 41-12. "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~~ 13, 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~~ A  
28 peace officer who is a participating member of the law enforcement retirement plan  
29 created by this chapter who ~~begin~~ begins employment after August 1, 2005, ~~are~~ is  
30 ineligible to participate concurrently in any other retirement plan administered by the  
31 public employees retirement system.

Sixty-fifth  
Legislative Assembly

- 1 ~~12-13.~~ "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 ~~13-14.~~ "Prior service" means service or employment ~~prior to~~before July 1, 1966.
- 6 ~~14-15.~~ "Prior service credit" means such credit toward a retirement benefit as the retirement  
7 board may determine under the provisions of this chapter.
- 8 ~~15-16.~~ "Public employees retirement system" means the retirement plan and program  
9 established by this chapter.
- 10 ~~16-17.~~ "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 ~~17-18.~~ "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 ~~18-19.~~ "Seasonal employee" means a participating member who does not work twelve  
16 months a year.
- 17 ~~19-20.~~ "Service" means employment on or after July 1, 1966.
- 18 ~~20-21.~~ "Service benefit" means the credit toward retirement benefits as determined by the  
19 retirement board under the provisions of this chapter.
- 20 ~~21-22.~~ "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 ~~22-23.~~ "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 54-52-02.1 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **54-52-02.1. Political subdivisions authorized to join public employees retirement**  
7 **system.**

8 1. A political subdivision may, on behalf of its permanent employees, on behalf of its  
9 peace officers, firefighters, and correctional officers separately from its other  
10 employees, and permanent noncertified employees only in the case of school districts,  
11 enter into agreements with the retirement board for the purpose of extending the  
12 benefits of the public employees retirement system, as provided in this chapter, to  
13 those employees. The agreement may, in accordance with this chapter, contain  
14 provisions relating to benefits, contributions, effective date, modification,  
15 administration, and other appropriate provisions as the retirement board and the  
16 political subdivision agree upon, but the agreement must provide that:

17 a. The political subdivision will contribute on behalf of each eligible employee an  
18 amount equal to that provided in section 54-52-06 or 54-52-06.3 for peace  
19 officers, firefighters, and correctional officers participating separately from other  
20 political subdivision employees.

21 b. A portion of the moneys paid by the political subdivision may be used to pay  
22 administrative expenses of the retirement board.

23 2. Notwithstanding any other provision of law, a political subdivision having an existing  
24 police or firefighter pension plan may merge that plan into the public employees  
25 retirement system under rules adopted by and in a manner determined by the board.

26 3. Notwithstanding any other provision of this chapter, a political subdivision of this state  
27 not currently participating in the public employees retirement system may not become  
28 a participant in the retirement system until an actuarial study is performed under the  
29 direction of the board to calculate the required employer contribution for any past  
30 service liability and the required employer contribution must be an amount determined  
31 sufficient to amortize and fund any past service liability over a period not to exceed

1           thirty years as determined by the board. Any fees incurred in performing the actuarial  
2           study must be paid for by the political subdivision in a manner determined by the  
3           board.

4           **SECTION 3. AMENDMENT.** Section 54-52-06.3 of the North Dakota Century Code is  
5           amended and reenacted as follows:

6           **54-52-06.3. Contribution by peace officers, firefighters, and correctional officers**  
7           **employed by political subdivisions - Employer contribution.**

8           Each peace officer, firefighter, or correctional officer employed by a political subdivision that  
9           enters ~~into~~ an agreement with the retirement board on behalf of its peace officers, firefighters,  
10          and correctional officers separately from its other employees and who is a member of the public  
11          employees retirement system is assessed and shall pay monthly four percent of the employee's  
12          monthly salary. Peace officer, firefighter, or correctional officer contributions increase by  
13          one-half of one percent of the member's monthly salary beginning with the monthly reporting  
14          period of January 2012, and with an additional increase of one-half of one percent, beginning  
15          with the monthly reporting period of January 2013, and with an additional increase of one-half of  
16          one percent, beginning with the monthly reporting period of January 2014. The assessment  
17          must be deducted and retained out of the employee's salary in equal monthly installments. The  
18          peace officer's, firefighter's, or correctional officer's employer shall contribute an amount  
19          determined by the board to be actuarially required to support the level of benefits specified in  
20          section 54-52-17. If the peace officer's, firefighter's, or correctional officer's assessment is paid  
21          by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in  
22          addition, an amount equal to the required peace officer's, firefighter's, or correctional officer's  
23          assessment.

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

- 26          3. Retirement dates are defined as follows:
- 27               a. Normal retirement date, except for a national guard security officer or firefighter, a  
28               firefighter employed by a political subdivision, or a peace officer or correctional  
29               officer employed by the bureau of criminal investigation or by a political  
30               subdivision, is:

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

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

1 board or as provided by subdivision a of subsection 3 of section 27-23-03. A  
2 member is eligible to receive disability retirement benefits only if the member:  
3 (1) ~~Became~~ became disabled during the period of eligible employment; and  
4 (2) ~~Applies~~ applies for disability retirement benefits within twelve months of the  
5 date the member terminates employment.

6 A member is eligible to continue to receive disability benefits as long as the  
7 permanent and total disability continues and the member submits the necessary  
8 documentation and undergoes medical testing required by the board, or for as  
9 long as the member participates in a rehabilitation program required by the  
10 board, or both. If the board determines ~~that~~ a member no longer meets the  
11 eligibility definition, the board may discontinue the disability retirement benefit.  
12 The board may pay the cost of any medical testing or rehabilitation services it  
13 deems necessary and these payments are appropriated from the retirement fund  
14 for those purposes.

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

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

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

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

24 b. Normal retirement benefits for all supreme and district court judges under the  
25 public employees retirement system reaching normal retirement date equal an  
26 annual amount, payable monthly, comprised of a benefit as defined in this  
27 chapter, determined as follows:

28 (1) Benefits must be calculated from the time of appointment or election to the  
29 bench and must equal three and one-half percent of final average salary  
30 multiplied by the first ten years of judicial service, two and eighty hundredths  
31 percent of final average salary multiplied by the second ten years of judicial

1 service, and one and one-fourth percent of final average salary multiplied by  
2 the number of years of judicial service exceeding twenty years.

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

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

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

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