

**SECOND ENGROSSMENT  
with Senate Amendments  
REENGROSSED HOUSE BILL NO. 1040**

Introduced by

Legislative Management

(Retirement Committee)

1 A BILL for an Act to create and enact sections 54-52-02.15, 54-52.2-09, 54-52.6-02.1,  
2 54-52.6-02.2, 54-52.6-05.1, 54-52.6-09.5, 54-52.6-09.6, 54-52.6-22, and 54-52.6-23 of the  
3 North Dakota Century Code, relating to the closure of the public employees retirement system  
4 main plan, the deferred compensation program, and expansion of the defined contribution  
5 retirement plan; to amend and reenact paragraph 1 of subdivision a of subsection 1 of section  
6 15-39.1-10.3, sections 54-52-01, 54-52-02.5, 54-52-02.9, 54-52-02.11, and 54-52-02.12,  
7 subsection 2 of section 54-52-05, sections 54-52-06 and 54-52-14.3, subdivision b of  
8 subsection 1 of section 54-52-17.2, and sections 54-52.6-01, 54-52.6-02, 54-52.6-03,  
9 54-52.6-05, 54-52.6-08, 54-52.6-09, 54-52.6-10, 54-52.6-13, 54-52.6-15, 54-52.6-19, and  
10 57-51.1-07.5 of the North Dakota Century Code, relating to the public employees retirement  
11 system defined benefit and defined contribution retirement plans and the state share of oil and  
12 gas taxes; to repeal sections 54-52-06.5 and 54-52.6-03 of the North Dakota Century Code,  
13 relating to public employees retirement system retirement plan contribution rates upon reaching  
14 full funding and balance transfer when opting to participate in the defined contribution plan; to  
15 provide for a legislative management study; to provide for a transfer; to provide for application;  
16 and to provide an effective date.

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

18 **SECTION 1. AMENDMENT.** Paragraph 1 of subdivision a of subsection 1 of section  
19 15-39.1-10.3 of the North Dakota Century Code is amended and reenacted as follows:

20 (1) The public employees retirement system, except an "eligible employee" as  
21 that term is defined under section 54-52-02.15.

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

1       **54-52-01. Definition of terms.**

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

- 3       1. "Account balance" means the total contributions made by the employee, vested  
4            employer contributions under section 54-52-11.1, the vested portion of the vesting  
5            fund as of June 30, 1977, and interest credited thereon at the rate established by the  
6            board.
- 7       2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any  
8            person designated by a participating member to receive benefits.
- 9       3. "Correctional officer" means a participating member who is employed as a correctional  
10           officer by a political subdivision.
- 11       4. "Deferred member" means a participating member who is not actively participating in  
12           the main plan under this chapter and who has an account intact in the main plan under  
13           this chapter.
- 14       5. "Eligible employee", except as otherwise provided under section 54-52-02.15, means  
15           all a permanent employeesemployee who meetmeets all of the eligibility requirements  
16           set by this chapter and who areis eighteen years or more of age, and. The term  
17           includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and  
18           54-52-02.12, and nonteaching employees of the superintendent of public instruction,  
19           including the superintendent of public instruction, who elect to transfer from the  
20           teachers' fund for retirement to the public employees retirement system under section  
21           54-52-02.13, and employees of the state board for career and technical education who  
22           elect to transfer from the teachers' fund for retirement to the public employees  
23           retirement system under section 54-52-02.14. Eligible-employeeThe term does not  
24           include nonclassified state employees who electelected under section 54-52.6-02 to  
25           become members of the retirement plan established under chapter 54-52.6 but. The  
26           term does include employees of the judicial branch and employees of the board of  
27           higher education and state institutions under the jurisdiction of the board of higher  
28           education.
- 29       5-6. "Employee" means any individual employed by a governmental unit, whose  
30            compensation is paid out of the governmental unit's funds, or funds controlled or  
31            administered by a governmental unit, or paid by the federal government through any of

1 its executive or administrative officials; licensed employees of a school district means  
2 those employees eligible to participate in the teachers' fund for retirement who, except  
3 under subsection 2 of section 54-52-17.2, are not eligible employees under this  
4 chapter.

5 ~~6-7.~~ "Employer" means a governmental unit.

6 ~~7-8.~~ "Firefighter" means a participating member who is employed as a firefighter by a  
7 political subdivision and, notwithstanding subsection 13, for an individual employed  
8 after July 31, 2017, is employed at least thirty-two hours per week and at least twenty  
9 weeks each year of employment. A firefighter who is a participating member of the law  
10 enforcement retirement plan created by this chapter who begins employment after  
11 July 31, 2017, is ineligible to participate concurrently in any other retirement plan  
12 administered by the public employees retirement system. The term does not include a  
13 firefighter employee of the North Dakota national guard.

14 ~~8-9.~~ "Funding agent" or "agents" means an investment firm, trust bank, or other financial  
15 institution which the retirement board may select to hold and invest the employers' and  
16 members' contributions.

17 ~~9-10.~~ "Governmental unit" means the state of North Dakota, except the highway patrol for  
18 members of the retirement plan created under chapter 39-03.1, or a participating  
19 political subdivision ~~thereof~~ of the state.

20 ~~10-11.~~ "National guard security officer or firefighter" means a participating member who is:  
21 a. A security police employee of the North Dakota national guard; or  
22 b. A firefighter employee of the North Dakota national guard.

23 ~~11-12.~~ "Participating member" means an eligible employee who through payment into the  
24 plan has established a claim against the plan.

25 ~~12-13.~~ "Peace officer" means a participating member who is a peace officer as defined in  
26 section 12-63-01 and is employed as a peace officer by the bureau of criminal  
27 investigation or by a political subdivision and, notwithstanding subsection 13, for  
28 persons employed after August 1, 2005, is employed thirty-two hours or more per  
29 week and at least twenty weeks each year of employment. A peace officer who is a  
30 participating member of the law enforcement retirement plan created by this chapter

- 1           who begins employment after August 1, 2005, is ineligible to participate concurrently in  
2           any other retirement plan administered by the public employees retirement system.
- 3 ~~13-14.~~ "Permanent employee" means a ~~governmental unit~~an employee whose services are  
4           not limited in duration and who is filling an approved and regularly funded position in  
5           an eligible governmental unit, and is employed twenty hours or more per week and at  
6           least twenty weeks each year of employment.
- 7 ~~14-15.~~ "Prior service" means service or employment before July 1, 1966.
- 8 ~~15-16.~~ "Prior service credit" means such credit toward a retirement benefit as the retirement  
9           board may determine under the provisions of this chapter.
- 10 ~~16-17.~~ "Public employees retirement system" means the retirement plan and program  
11           established by this chapter.
- 12 ~~17-18.~~ "Retirement" means the acceptance of a retirement allowance under this chapter upon  
13           either termination of employment or termination of participation in the retirement plan.
- 14 ~~18-19.~~ "Retirement board" or "board" means the governing authority created under section  
15           54-52-03.
- 16 ~~19-20.~~ "Seasonal employee" means a participating member who does not work twelve  
17           months a year.
- 18 ~~20-21.~~ "Service" means employment on or after July 1, 1966.
- 19 ~~21-22.~~ "Service benefit" means the credit toward retirement benefits as determined by the  
20           retirement board under the provisions of this chapter.
- 21 ~~22-23.~~ "Temporary employee" means a ~~governmental unit~~an employee who is not eligible to  
22           participate as a permanent employee, who is at least eighteen years old and not  
23           actively contributing to another employer-sponsored pension fund, and, if employed by  
24           a school district, occupies a noncertified teacher's position.
- 25 ~~23-24.~~ "Wages" and "salaries" means the member's earnings in eligible employment under  
26           this chapter reported as salary on the member's federal income tax withholding  
27           statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125,  
28           401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as  
29           payments for unused sick leave, personal leave, vacation leave paid in a lump sum,  
30           overtime, housing allowances, transportation expenses, early retirement incentive pay,  
31           severance pay, medical insurance, workforce safety and insurance benefits, disability

1 insurance premiums or benefits, or salary received by a member in lieu of previously  
2 employer-provided fringe benefits under an agreement between the member and  
3 participating employer. Bonuses may be considered as salary under this section if  
4 reported and annualized pursuant to rules adopted by the board.

5 **SECTION 3. AMENDMENT.** Section 54-52-02.5 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **54-52-02.5. Newly elected and appointed state officials.**

- 8 1. After December 31, 1999, a person but before January 1, 2025, an individual elected  
9 or appointed to a state office for the first time must, from and after the date that  
10 person individual qualifies and takes office, be a participating member of the public  
11 employees retirement system unless that person makes an election at any time during  
12 the first six months after the date the person takes office to participate in the defined  
13 contribution retirement plan established under chapter 54-52.6.
- 14 2. After December 31, 2024, an individual elected or appointed to a state office for the  
15 first time, from and after the date that individual qualifies and takes office, must be a  
16 participating member of the defined contribution retirement plan established under  
17 chapter 54-52.6, unless at the time of election or appointment the individual is a  
18 participating or deferred member under this chapter, in which case the official remains  
19 a participating member under this chapter.
- 20 3. As used in this section, the phrase "for the first time" means a person an individual  
21 appointed, who, after December 31, 1999, does not hold office as an appointed official  
22 at the time of that person's individual's appointment.

23 **SECTION 4. AMENDMENT.** Section 54-52-02.9 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25 **54-52-02.9. Participation by temporary employees.**

- 26 1. Within~~Before~~ January 1, 2025, within one hundred eighty days of beginning  
27 employment, a temporary employee may elect to participate in the public employees  
28 retirement system under this chapter and receive credit for service after enrollment.  
29 Monthly, the temporary employee shall pay to the fund an amount equal to  
30 ~~eight~~fourteen and twelve hundredths percent times the temporary employee's present  
31 monthly salary. The amount required to be paid by a temporary employee increases

1 by ~~two~~one percent times the temporary employee's present monthly salary beginning  
2 with the monthly reporting period of January 2012, ~~and with an additional two percent~~  
3 ~~increase, beginning with the reporting period of January 2013, and with an additional~~  
4 ~~increase of two percent, beginning with the monthly reporting period of January~~  
5 ~~2014~~2025.

6 2. If the temporary employee first enrolled:

7 a. Before January 1, 2020, in addition the temporary employee shall pay the  
8 required monthly contribution to the retiree health benefit fund established under  
9 section 54-52.1-03.2. This contribution must be recorded as a member  
10 contribution pursuant to section 54-52.1-03.2.

11 b. After December 31, 2019, the temporary employee shall pay to the fund an  
12 additional amount equal to one and fourteen hundredths percent times the  
13 temporary employee's present monthly salary.

14 3. A temporary employee who is a participating member under this chapter due to  
15 employment before January 1, 2025, who becomes a permanent employee after  
16 December 31, 2024, qualifies to participate in the defined benefit retirement plan  
17 under this chapter and receive credit for service after enrollment.

18 4. After December 31, 2024, and within one hundred eighty days of beginning  
19 employment, a temporary employee may elect to participate in the defined contribution  
20 retirement plan under chapter 54-52.6.

21 5. An employer may not pay the temporary employee's contributions. A temporary  
22 employee may continue to participate as a temporary employee in the public  
23 employees retirement system until termination of employment or reclassification of the  
24 temporary employee as a permanent employee. A temporary employee may not  
25 purchase any additional credit, including additional credit under section 54-52-17.4 or  
26 past service under section 54-52-02.6.

27 **SECTION 5. AMENDMENT.** Section 54-52-02.11 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29 **54-52-02.11. Participation requirements for nonstate elected officials.**

30 Elected

1       1. Before January 1, 2025, eligible elected officials of participating counties, at their  
2           individual option, may enroll in the defined benefit plan within the first six months of  
3           their term.

4       2. After December 31, 2024, eligible elected officials of participating counties, at their  
5           individual option, may enroll in the defined contribution retirement plan under chapter  
6           54-52.6 within the first six months of their term.

7       **SECTION 6. AMENDMENT.** Section 54-52-02.12 of the North Dakota Century Code is  
8       amended and reenacted as follows:

9       **54-52-02.12. Participation requirements for nonstate appointed officials.**

10      1. Nonstate appointed officials of participating employers appointed on or after August 1,  
11         1999, but before January 1, 2025, who meet the participation requirements of this  
12         chapter must be enrolled in the defined benefit plan effective within the first month of  
13         taking office.

14      2. After December 31, 2024, nonstate appointed officials of participating employers who  
15         meet the participation requirements must be enrolled in the defined contribution  
16         retirement plan under chapter 54-52.6 effective within the first month of taking office.

17      **SECTION 7.** Section 54-52-02.15 of the North Dakota Century Code is created and enacted  
18      as follows:

19      **54-52-02.15. Public employees retirement system main plan - Closure to new hires -**  
20      **Multiple plan membership.**

21      1. Under this section "eligible employee" means a permanent employee who:

22         a. Meets all the eligibility requirements set by this chapter;

23         b. Is at least eighteen years of age;

24         c. Becomes a participating member after December 31, 2024; and

25         d. Is not eligible to participate in the law enforcement plan, judges' plan, highway  
26           patrol plan, teachers' fund for retirement plan, or alternative retirement program  
27           established under section 15-10-17 for university system employees.

28      2. Effective January 1, 2025, the public employees retirement system defined benefit  
29         main plan maintained for employees is closed to new eligible employees. However, an  
30         employee who becomes a participating or deferred member under this chapter before

1           January 1, 2025, remains in the defined benefit retirement plan under this chapter,  
2           regardless of being rehired after December 31, 2024.

3           3. Except as otherwise provided under this section, effective January 1, 2025, an eligible  
4           employee who begins employment with an employer shall participate in the defined  
5           contribution retirement plan under chapter 54-52.6 as provided under section  
6           54-52.6-02.1.

7           4. This section does not impact an employee to the extent the employee is a participating  
8           member in one or more of the following enumerated plans: law enforcement plan,  
9           judges' plan, highway patrol plan, teachers' fund for retirement plan, or alternative  
10           retirement program established under section 15-10-17 for university system  
11           employees.

12           a. A participating or deferred member in the defined contribution retirement plan  
13           under chapter 54-52.6 who becomes eligible to participate in a plan enumerated  
14           under this subsection is eligible to participate in the retirement plan enumerated  
15           under this subsection.

16           b. A participating member of a retirement plan enumerated under this subsection  
17           who becomes an eligible employee is not eligible to participate in the defined  
18           benefit retirement plan under this chapter but instead participates in the defined  
19           contribution retirement plan under chapter 54-52.6. However, this subdivision  
20           does not apply to an individual who before January 1, 2025, is a participating or a  
21           deferred member under this chapter, as that individual continues to participate in  
22           the defined benefit retirement plan under this chapter.

23           5. The board shall adopt rules to implement this section.

24           **SECTION 8. AMENDMENT.** Subsection 2 of section 54-52-05 of the North Dakota Century  
25 Code is amended and reenacted as follows:

26           2. Each member must be assessed and required to pay monthly ~~four~~seven percent of the  
27           monthly salary or wage paid to the member, and such assessment must be deducted  
28           and retained out of such salary in equal monthly installments commencing with the  
29           first month of employment. ~~Member contributions increase by one percent of the~~  
30           ~~monthly salary or wage paid to the member beginning with the monthly reporting~~  
31           ~~period of January 2012, and with an additional increase of one percent, beginning with~~



1           the monthly reporting period of January 2013, and with an additional increase of one-  
2           percent, beginning with the monthly reporting period of January 2014.

3           **SECTION 9. AMENDMENT.** Section 54-52-06 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **54-52-06. Employer's contribution to retirement plan - Report to the legislative-**  
6 **assemblyemployee benefits programs committee.**

7           1. Each governmental unit shall contribute an amount equal to four and  
8           twelve-hundredths percent of the monthly salary or wage of a participating member.  
9           Governmental unit contributions increase by one percent of the monthly salary or  
10          wage of a participating member beginning with the monthly reporting period of  
11          January 2012; with an additional increase of one percent, beginning with the reporting  
12          period of January 2013; and with an additional increase of one percent, beginning with  
13          the monthly reporting period of January 2014; and with an additional increase of  
14          one percent, beginning with the monthly reporting period of January 2024. For a  
15          participating member who first enrolls after December 31, 2019, the governmental unit  
16          shall contribute an additional amount equal to one and fourteen-hundredths percent of  
17          the monthly salary or wage of the participating member.

18          2. For those members who elect to exercise their rights under section 54-52-17.14, the  
19          employing governmental unit, or in the case of a member not presently under covered  
20          employment the most recent employing governmental unit, shall pay the associated  
21          employer contribution. If the employee's contribution is paid by the governmental unit  
22          under subsection 3 of section 54-52-05, the employer unit shall contribute, in addition,  
23          an amount equal to the required employee's contribution. Each governmental unit  
24          shall pay the contribution monthly, or in the case of an election made pursuant to  
25          section 54-52-17.14 a lump sum, into the retirement fund from the governmental unit's  
26          funds appropriated for payroll and salary or any other funds available for these  
27          purposes. Any governmental unit failing to pay the contributions monthly, or in the  
28          case of an election made pursuant to section 54-52-17.14 a lump sum, or failing to  
29          otherwise comply with the board's established wage reporting or payroll reporting  
30          process requirements, is subject to a civil penalty of fifty dollars and, as interest, one  
31          percent of the amount due for each month of delay or fraction of a month after the

1 payment became due. In lieu of assessing a civil penalty or one percent per month, or  
2 both, interest at the actuarial rate of return may be assessed for each month the  
3 contributions are delinquent. If contributions are paid within ninety days of the date the  
4 contributions became due, penalty and interest to be paid on delinquent contributions  
5 may be waived.

6 3. An employer is required to submit contributions for any past eligible employee who  
7 was employed after July 1, 1977, for which contributions were not made if the  
8 employee would have been eligible to become vested had the employee participated  
9 and if the employee elects to join the public employees retirement system. Employer  
10 contributions may not be assessed for eligible service that an employee has waived  
11 pursuant to subsection 1 of section 54-52-05.

12 4. ~~The~~Annually, the board shall report to each session of the legislative assembly ~~the~~  
13 employee benefits programs committee the contributions necessary, as determined by  
14 the actuarial study, to maintain the fund's actuarial soundness.

15 **SECTION 10. AMENDMENT.** Section 54-52-06 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **54-52-06. Employer's contribution to retirement plan - Report to the employee**  
18 **benefits programs committee.**

19 4. Each

20 1. a. As determined by actuarial valuations, each state governmental unit shall  
21 contribute to the defined benefit plan an amount equal to four and  
22 twelve-hundredths percent of the monthly salary or wage of a participating  
23 member. Governmental unit contributions increase by one percent of the monthly  
24 salary or wage of a participating member beginning with the monthly reporting  
25 period of January 2012; with an additional increase of one percent, beginning  
26 with the reporting period of January 2013; with an additional increase of one  
27 percent, beginning with the monthly reporting period of January 2014; and with  
28 an additional increase of one percent, beginning with the monthly reporting  
29 period of January 2024 on a level percent of compensation basis for all main  
30 system defined benefit retirement plan employees and all defined contribution  
31 retirement plan employees sufficient under the actuarial valuation to meet both

1           the normal cost plus the actuarially determined amount required to amortize the  
2           unfunded accrued liability of the main plan over a closed period of thirty and one-  
3           half years, beginning January 1, 2026, and continuing through June 30, 2056. By  
4           November fifteenth of each even-numbered year the board shall publish the  
5           contribution rate required under this subsection. The board shall calculate this  
6           rate based on the July first actuarial report of that year.

7           b. Each participating political subdivision shall contribute an amount equal to eight  
8           and twelve-hundredths percent of the monthly salary or wage of a participating  
9           member.

10          c. For a participating member who first enrolls after December 31, 2019, the-  
11          governmental unit a participating political subdivision shall contribute an additional  
12          amount equal to one and fourteen-hundredths percent of the monthly salary or  
13          wage of the participating member.

14          2. For those members who elect to exercise their rights under section 54-52-17.14, the  
15          employing governmental unit, or in the case of a member not presently under covered  
16          employment the most recent employing governmental unit, shall pay the associated  
17          employer contribution. If the employee's contribution is paid by the governmental unit  
18          under subsection 3 of section 54-52-05, the employer unit shall contribute, in addition,  
19          an amount equal to the required employee's contribution. Each governmental unit  
20          shall pay the contribution monthly, or in the case of an election made pursuant to  
21          section 54-52-17.14 a lump sum, into the retirement fund from the governmental unit's  
22          funds appropriated for payroll and salary or any other funds available for these  
23          purposes. Any governmental unit failing to pay the contributions monthly, or in the  
24          case of an election made pursuant to section 54-52-17.14 a lump sum, or failing to  
25          otherwise comply with the board's established wage reporting or payroll reporting  
26          process requirements, is subject to a civil penalty of fifty dollars and, as interest, one  
27          percent of the amount due for each month of delay or fraction of a month after the  
28          payment became due. In lieu of assessing a civil penalty or one percent per month, or  
29          both, interest at the actuarial rate of return may be assessed for each month the  
30          contributions are delinquent. If contributions are paid within ninety days of the date the

1 contributions became due, penalty and interest to be paid on delinquent contributions  
2 may be waived.

3 3. An employer is required to submit contributions for any past eligible employee who  
4 was employed after July 1, 1977, for which contributions were not made if the  
5 employee would have been eligible to become vested had the employee participated  
6 and if the employee elects to join the public employees retirement system. Employer  
7 contributions may not be assessed for eligible service that an employee has waived  
8 pursuant to subsection 1 of section 54-52-05.

9 4. Annually, the board shall report to the employee benefits programs committee the  
10 contributions necessary, as determined by the actuarial study, to maintain the fund's  
11 actuarial soundness.

12 **SECTION 11. AMENDMENT.** Section 54-52-14.3 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **54-52-14.3. Public employee retirement funds - Use and investment.**

15 Any provision of law relating to the use and investment of public employee retirement funds  
16 must be deemed a part of the employment contracts of the employees participating in any  
17 public employee retirement system. All moneys from any source paid into any public employee  
18 retirement system fund created by the laws of this state must be used and invested only for the  
19 exclusive benefit of the members, retirees, and beneficiaries of ~~that~~the retirement system,  
20 including the payment of system administrative costs.

21 **SECTION 12. AMENDMENT.** Subdivision b of subsection 1 of section 54-52-17.2 of the  
22 North Dakota Century Code is amended and reenacted as follows:

23 b. ~~Pursuant~~Subject to section 54-52-02.15 and pursuant to rules adopted by the  
24 board, an employee who has service credit in the system and in any of the plans  
25 described in paragraphs 1 and 2 of subdivision a is entitled to benefits under this  
26 chapter. The benefits of a temporary employee employed after July 31, 2015,  
27 must be calculated using the benefit formula in section 54-52-17. A permanent  
28 employee or a temporary employee employed before August 1, 2015, may elect  
29 to have benefits calculated using the benefit formula in section 54-52-17 under  
30 either of the following methods:

1           (1) The final average salary as calculated in section 54-52-17. If the  
2           participating member has worked for less than thirty-six months at  
3           retirement, the final average salary is the average salary for the total months  
4           of employment.

5           (2) The final average salary as calculated in section 54-52-17 for employment  
6           with any of the three eligible employers under this subdivision, with service  
7           credit not to exceed one month in any month when combined with the  
8           service credit earned in the alternate retirement system.

9           **SECTION 13.** Section 54-52.2-09 of the North Dakota Century Code is created and enacted  
10 as follows:

11           **54-52.2-09. Employer match for members of defined contribution retirement plan.**

12           An employee who first participated in the defined contribution retirement plan under chapter  
13 54-52.6 after December 31, 2024, who elects to contribute less than the optional three percent  
14 of wages or salary under subdivision b of subsection 1 of section 54-52.6-09, who participates  
15 in the deferred compensation program under this chapter, qualifies for employer matching of  
16 contributions made under this section. The employee may elect to contribute an amount of  
17 wages or salary which does not exceed any remaining balance of the optional three percent  
18 contribution and the employer shall match this contribution. This section does not limit the ability  
19 of an employee to contribute unmatched wages or salary under this chapter, subject to federal  
20 contribution limitations.

21           **SECTION 14. AMENDMENT.** Section 54-52.6-01 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23           **54-52.6-01. Definition of terms.**

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

- 25           1. "Board" means the public employees retirement system board.
- 26           2. "Deferred member" means ~~a person who elected to receive deferred vested retirement~~  
27 ~~benefits~~ an individual who is not actively participating in the main plan under chapter  
28 54-52 who has an account intact in the main plan under chapter 54-52.
- 29           3. "Eligible employee" means ~~a permanent state employee, except an employee of the~~  
30 ~~judicial branch or an employee of the board of higher education and state institutions~~  
31 ~~under the jurisdiction of the board, who is eighteen years or more of age and who is in~~

1 a position not classified by North Dakota human resource management services. If a  
2 participating member loses permanent employee status and becomes a temporary  
3 employee, the member may still participate in the defined contribution retirement plan,  
4 for employees who become participating members after December 31, 2024, has the  
5 same meaning as provided under section 54-52-02.15. For employees who elected to  
6 join the defined contribution retirement plan under this chapter before January 1, 2025,  
7 the term includes a permanent state employee, except an employee of the judicial  
8 branch or an employee of the board of higher education and state institutions under  
9 the jurisdiction of the board of higher education, who is at least eighteen years of age  
10 and who is in a position not classified by the North Dakota human resource  
11 management services.

12 4. "Employee" means ~~any person~~ an individual employed by the ~~state~~ governmental  
13 unit, whose compensation is paid out of ~~state~~ the governmental unit's funds, or funds  
14 controlled or administered by the ~~state~~ governmental unit or paid by the federal  
15 government through any of its executive or administrative officials.

16 5. "Employer" means ~~the state of North Dakota~~ a governmental unit.

17 6. "Governmental unit" means the state of North Dakota or a participating political  
18 subdivision of the state.

19 7. "Normal retirement date" is determined based on subsection 3 of section 54-52-17.

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

23 7.9. "Permanent employee" means a state ~~an~~ employee whose services are not limited in  
24 duration and who is filling an approved and regularly funded position and is employed  
25 twenty hours or more per week and at least five months each year.

26 8.10. "Temporary employee" means a governmental unit employee who is not an eligible  
27 employee due to not meeting the qualification of being a permanent employee, and  
28 who is not actively contributing to another employer-sponsored pension fund, and, if  
29 employed by a school district, occupies a noncertified teacher's position.

30 11. "Wages" and "salaries" means earnings in eligible employment under this chapter  
31 reported as salary on a federal income tax withholding statement plus any salary

1 reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or  
2 457. "Salary" does not include fringe benefits such as payments for unused sick leave,  
3 personal leave, vacation leave paid in a lump sum, overtime, housing allowances,  
4 transportation expenses, early retirement, incentive pay, severance pay, medical  
5 insurance, workforce safety and insurance benefits, disability insurance premiums or  
6 benefits, or salary received by a member in lieu of previously employer-provided fringe  
7 benefits under an agreement between an employee and a participating employer.  
8 Bonuses may be considered as salary under this section if reported and annualized  
9 pursuant to rules adopted by the board.

10 **SECTION 15. AMENDMENT.** Section 54-52.6-02 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **54-52.6-02. Election through December 31, 2024.**

13 1. The board shall provide an opportunity for each eligible employee who is a member of  
14 the public employees retirement system on September 30, 2001, and who has not  
15 made a written election under this section to transfer to the defined contribution  
16 retirement plan before October 1, 2001, to elect in writing to terminate membership in  
17 the public employees retirement system and elect to become a participating member  
18 under this chapter. Except as provided in section 54-52.6-03, an election made by an  
19 eligible employee under this section is irrevocable. The board shall accept written  
20 elections under this section from eligible employees during the period beginning on  
21 July 1, 1999, and ending 12:01 a.m. December 14, 2001. An eligible employee who  
22 does not make a written election or who does not file the election during the period  
23 specified in this section continues to be a member of the public employees retirement  
24 system. An eligible employee who makes and files a written election under this section  
25 ceases to be a member of the public employees retirement system effective twelve  
26 midnight December 31, 2001; becomes a participating member in the defined  
27 contribution retirement plan under this chapter effective 12:01 a.m. January 1, 2002;  
28 and waives all of that person's rights to a pension, annuity, retirement allowance,  
29 insurance benefit, or any other benefit under the public employees retirement system  
30 effective December 31, 2001. This section does not affect a person's an individual's  
31 right to health benefits or retiree health benefits under chapter 54-52.1. An eligible

1 employee who is first employed and entered upon the payroll of that person's  
2 employer after September 30, 2001, and before January 1, 2025, may make an  
3 election to participate in the defined contribution retirement plan established under this  
4 chapter at any time during the first six months after the date of employment. If the  
5 board, in its sole discretion, determines that the employee was not adequately notified  
6 of the employee's option to participate in the defined contribution retirement plan, the  
7 board may provide the employee a reasonable time within which to make that election,  
8 which may extend beyond the original six-month decision window.

- 9 2. If an individual who is a deferred member of the public employees retirement system  
10 on September 30, 2001, is re-employed before January 1, 2025, and by virtue of that  
11 employment is again eligible for membership in the public employees retirement  
12 system under chapter 54-52, the individual may elect in writing to remain a member of  
13 the public employees retirement system or if eligible to participate in the defined  
14 contribution retirement plan established under this chapter to terminate membership in  
15 the public employees retirement system and become a participating member in the  
16 defined contribution retirement plan established under this chapter. An election made  
17 by a deferred member under this section is irrevocable. The board shall accept written  
18 elections under this section from a deferred member during the period beginning on  
19 the date of the individual's re-employment and ending upon the expiration of six  
20 months after the date of that re-employment. If the board, in its sole discretion,  
21 determines that the employee was not adequately notified of the employee's option to  
22 participate in the defined contribution retirement plan, the board may provide the  
23 employee a reasonable time within which to make that election, which may extend  
24 beyond the original six-month decision window. A deferred member who makes and  
25 files a written election to remain a member of the public employees retirement system  
26 retains all rights and is subject to all conditions as a member of that retirement system.  
27 A deferred member who does not make a written election or who does not file the  
28 election during the period specified in this section continues to be a member of the  
29 public employees retirement system. A deferred member who makes and files a  
30 written election to terminate membership in the public employees retirement system  
31 ceases to be a member of the public employees retirement system effective on the



1 last day of the payroll period that includes the date of the election; becomes a  
2 participating member in the defined contribution retirement plan under this chapter  
3 effective the first day of the payroll immediately following the date of the election; and  
4 waives all of that person's rights to a pension, an annuity, a retirement allowance,  
5 insurance benefit, or any other benefit under the public employees retirement system  
6 effective the last day of the payroll that includes the date of the election. This section  
7 does not affect any right to health benefits or retiree health benefits to which the  
8 deferred member may otherwise be entitled.

- 9 3. An eligible employee who elects under this section to participate in the retirement plan  
10 established under this chapter must remain a participant even if that employee returns  
11 to the classified service or becomes employed by a political subdivision that  
12 participates in the public employees retirement system. The contribution amount must  
13 be as provided in this chapter, regardless of the position in which the employee is  
14 employed. Notwithstanding the irrevocability provisions of this chapter, if a member  
15 who elects to participate in the retirement plan established under this chapter  
16 becomes a supreme or district court judge, becomes a member of the highway patrol,  
17 becomes employed in a position subject to teachers' fund for retirement membership,  
18 or becomes an employee of the board of higher education or state institution under the  
19 jurisdiction of the board of higher education who is eligible to participate in an  
20 alternative retirement program established under subsection 6 of section 15-10-17, the  
21 member's status as a member of the defined contribution retirement plan is  
22 suspended, and the member becomes a new member of the retirement plan for which  
23 that member's new position is eligible. The member's account balance remains in the  
24 defined contribution retirement plan, but no new contributions may be made to that  
25 account. The member's service credit and salary history that were forfeited as a result  
26 of the member's transfer to the defined contribution retirement plan remain forfeited,  
27 and service credit accumulation in the new retirement plan begins from the first day of  
28 employment in the new position. If the member later returns to employment that is  
29 eligible for the defined contribution retirement plan, the member's suspension must be  
30 terminated, the member again becomes a member of the defined contribution  
31 retirement plan, and the member's account resumes accepting contributions. At the

1 member's option, and pursuant to rules adopted by the board, the member may  
2 transfer any available balance as determined by the provisions of the alternate  
3 retirement plan into the member's account under this chapter.

4 4. After consultation with its actuary, the board shall determine the method by which a  
5 participating member or deferred member may make a written election under this  
6 section. If the participating member or deferred member is married at the time of the  
7 election, the election is not effective unless the election is signed by the individual's  
8 spouse. However, the board may waive this requirement if the spouse's signature  
9 cannot be obtained because of extenuating circumstances.

10 5. If the board receives notification from the internal revenue service that this section or  
11 any portion of this section will cause the public employees retirement system or the  
12 retirement plan established under this chapter to be disqualified for tax purposes  
13 under the Internal Revenue Code, then the portion that will cause the disqualification  
14 does not apply.

15 6. A participating member under this section who becomes a temporary employee may  
16 still participate in the defined contribution retirement plan upon filing an election with  
17 the board within one hundred eighty days of transferring to temporary employee  
18 status. The participating member may not become a member of the defined benefit  
19 plan as a temporary employee.

20 a. The temporary employee electing to participate in the defined contribution  
21 retirement plan shall pay monthly to the fund an amount equal to eight and twelve-  
22 hundredths percent times the temporary employee's present monthly salary. The  
23 amount required to be paid by a temporary employee increases by two percent  
24 times the temporary employee's present monthly salary beginning with the  
25 monthly reporting period of January 2012, and with an additional increase of two  
26 percent, beginning with the monthly reporting period of January 2013, and with  
27 an additional increase of two percent, beginning with the monthly reporting period  
28 of January 2014. The temporary employee shall also pay the required monthly  
29 contribution to the retiree health benefit fund established under section  
30 54-52.1-03.2. This contribution must be recorded as a member contribution

1                    ~~pursuant to section 54-52.1-03.2~~ into the plan as provided under section  
2                    54-52.6-09.6.

3                    b. An employer may not pay the temporary employee's contributions.

4                    c. A temporary employee may continue to participate as a temporary employee until  
5                    termination of employment or reclassification of the temporary employee as a  
6                    permanent employee.

7                    7. A former participating member under this section who has accepted a retirement  
8                    distribution pursuant to section 54-52.6-13 and who subsequently becomes employed  
9                    by an entity different from the employer with which the member was employed at the  
10                    time the member retired but which does participate in any state-sponsored retirement  
11                    plan may, before re-enrolling in the defined contribution retirement plan, elect to  
12                    permanently waive future participation in the defined contribution retirement plan,  
13                    whatever plan in which the new employing entity participates, and the retiree health  
14                    program and maintain that member's retirement status. Neither the member nor the  
15                    employer are required to make any future retirement contributions on behalf of that  
16                    employee.

17                    8. After December 31, 2024, an eligible employee is no longer allowed to elect  
18                    participation under this section.

19                    **SECTION 16.** Section 54-52.6-02.1 of the North Dakota Century Code is created and  
20                    enacted as follows:

21                    **54-52.6-02.1. Participation in defined contribution retirement plan.**

22                    1. Except as otherwise provided under section 54-52-02.5 or 54-52-02.15 or this chapter,  
23                    effective January 1, 2025, an eligible employee who is first enrolled shall participate in  
24                    the defined contribution retirement plan under this chapter.

25                    2. A temporary employee may elect to participate in the defined contribution retirement  
26                    plan as provided under section 54-52.6-09.6.

27                    3. A county elected official may elect to participate in the defined contribution retirement  
28                    plan as provided under section 54-52-02.11.

29                    4. A nonstate appointed official shall participate in the defined contribution retirement  
30                    plan as provided under section 54-52-02.12.

1       **SECTION 17.** Section 54-52.6-02.2 of the North Dakota Century Code is created and  
2 enacted as follows:

3       **54-52.6-02.2. Election after December 31, 2024 - Additional employer contribution.**

- 4       1. As used in this section, "eligible employee" means a permanent state employee who  
5 on December 31, 2024, is a participating member of the public employees retirement  
6 system main system plan under chapter 54-42, who has been a participating member  
7 under chapter 54-52 for no more than five years, and who is at least eighteen years of  
8 age.
- 9       2. The board shall provide a three-month election period, from January 1, 2025, through  
10 March 31, 2025, for an eligible employee to transfer to the defined contribution plan  
11 under this chapter pursuant to the rules and policies adopted by the board.
- 12       a. An election under this section made by a member of the public employees  
13 retirement system under chapter 54-52 to transfer to the defined contribution  
14 retirement plan under this chapter is irrevocable.
- 15       b. For an eligible employee who elects to transfer from the public employees  
16 retirement system under chapter 54-52 to the defined contribution retirement plan  
17 under this chapter, the board shall transfer a lump sum amount from the public  
18 employees retirement system fund to the member's account in the defined  
19 contribution retirement plan under this chapter. However, if the eligible employee  
20 terminates employment before receiving the lump sum transfer under this  
21 section, the election made is ineffective and the eligible employee remains a  
22 member of the public employees retirement system under chapter 54-52 and  
23 retains all the rights and privileges under that chapter.
- 24       c. The board shall calculate the lump sum amount to be transferred based on the  
25 actuarial present value of the eligible employee's accumulated benefit obligation  
26 under the public employees retirement system based on the assumption the  
27 eligible employee will retire under the earlier applicable normal retirement age,  
28 plus interest from January 1, 2025, to the date of transfer, at the rate of one-half  
29 of one percent less than the actuarial interest assumption at the time of the  
30 election.

- 1           d. This section does not affect an eligible individual's right to health benefits under  
2           chapter 54-52.1.
- 3           3. The state employer of an eligible employee who elects under this section to participate  
4           in the defined contribution retirement plan under this chapter shall pay an additional  
5           annual contribution of three thousand three hundred and thirty-three dollars for up to  
6           three years. Under this subsection, the employer shall pay the additional contribution  
7           each year the eligible employee continues permanent employment with the state,  
8           beginning January 2026, and extending no further than January 2028.
- 9           4. If the board receives notification from the internal revenue service that this section or  
10           any portion of this section will cause the public employees retirement system or the  
11           retirement plan established under this chapter to be disqualified for tax purposes  
12           under the Internal Revenue Code, that portion that will cause the disqualification does  
13           not apply.

14           **SECTION 18. AMENDMENT.** Section 54-52.6-03 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16           **54-52.6-03. Transfer of accumulated fund balances.**

- 17           1. For an individual who elects under section 54-52.6-02 to terminate membership in the  
18           public employees retirement system under chapter 54-52, the board shall transfer a  
19           lump sum amount from the retirement fund to the participating member's account in  
20           the defined contribution retirement plan under this chapter. However, if the individual  
21           terminates employment ~~prior to~~before receiving the lump sum transfer under this  
22           section, the election made under section 54-52.6-02 is ineffective and the individual  
23           remains a member of the public employees retirement system under chapter 54-52  
24           and retains all the rights and benefits provided under that chapter. The board shall  
25           calculate the amount to be transferred for persons employed before October 1, 2001,  
26           using the two following formulas, and shall transfer the greater of the two amounts  
27           obtained:
- 28           4.a. The actuarial present value of the individual's accumulated benefit obligation  
29           under the public employees retirement system based on the assumption that the  
30           individual will retire under the earliest applicable normal retirement age, plus  
31           interest from January 1, 2001, to the date of transfer, at the rate of one-half of

1                   one percent less than the actuarial interest assumption at the time of the election;  
2                   or

3           2.b.   The actual employer contribution made, less vested employer contributions made  
4                   pursuant to section 54-52-11.1, plus compound interest at the rate of one-half of  
5                   one percent less than the actuarial interest assumption at the time of the election  
6                   plus the employee account balance.

7           2.   The board shall calculate the amount to be transferred for persons employed after  
8                   September 30, 2001, and before January 1, 2025, using only the formula contained in  
9                   subdivision b of subsection 21.

10           **SECTION 19. AMENDMENT.** Section 54-52.6-05 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12           **54-52.6-05. Direction of investments.**

13           1.   Each participating member shall direct the investment of the individual's accumulated  
14                   employer and employee contributions and earnings to one or more investment choices  
15                   within available categories of investment provided by the board.

16           2.   The board shall provide an investment menu of investment options. In establishing the  
17                   investment options, the board shall:

18                   a.   Include predetermined investment portfolio options constructed to reflect different  
19                           risk profiles that automatically reallocate and rebalance contributions as a  
20                           participating member ages.

21                   b.   Allow a participating member to construct an investment portfolio using some or  
22                           all of the investment options.

23           3.   The board shall provide a diversified menu of mutual funds and in-plan lifetime annuity  
24                   options, either fixed, variable, or a combination of both. In selecting an annuity  
25                   provider the board shall comply with section 54-52.6-05.1.

26           **SECTION 20.** Section 54-52.6-05.1 of the North Dakota Century Code is created and  
27 enacted as follows:

28           **54-52.6-05.1. Annuity provider - Qualifications.**

29           1.   The board shall select one or more annuity providers to provide the annuity options  
30                   under this chapter.

31           2.   In selecting an annuity provider under this section, the board shall:

- 1           a. Determine whether the annuity provider and the provider's subsidiaries and  
2           affiliates have appropriate financial strength and stability at the time of selection  
3           and during the term of contract with the board.
- 4           (1) The board may require the provider to provide the board with written  
5           representation:
- 6           (a) The provider is in compliance with title 26.1.
- 7           (b) The provider at the time of selection is and for each of the preceding  
8           seven years was in compliance and good standing with the insurance  
9           commissioner of the provider's domiciliary state and the provider is  
10          not operating under an order of rehabilitation or liquidation.
- 11          (c) The provider maintains and has maintained reserves that satisfy the  
12          statutory requirements of each state in which the provider does  
13          business.
- 14          (2) The board may require a provider selected by the board to provide annuities  
15          under this chapter to notify the board of a change of circumstances resulting  
16          in the provider failing to meet any of the requirements under paragraph 1.
- 17          (3) The board must have determined the provider has a claims paying ability  
18          rating that meets standards adopted by the board.
- 19          b. Determine whether the annuity provider is able to provide contracted rights and  
20          benefits to a participating member.
- 21          c. Determine whether the costs, including fees and commissions, of the annuity  
22          options in relation to the benefits and product features of the annuity options are  
23          reasonable.
- 24          d. Determine whether the administrative services to be provided under the annuity  
25          option are appropriate. At a minimum the administrative services must include  
26          periodic reports to the board.
- 27          e. Determine whether the annuity provider is experienced in paying lifetime  
28          retirement income through annuities offered to public employee defined  
29          contribution retirement plans.
- 30          f. Determine whether the annuity provider offers a menu of annuity options that  
31          meet the following conditions:

- 1           (1) The annuity options are suitable for participating members and  
2           beneficiaries.
- 3           (2) The contract terms and income benefits are clearly stated, based on  
4           reasonable assumptions.
- 5           (3) The menu of annuity options offers a range of lifetime income options.
- 6           (4) If an annuity is a variable annuity, the annuity offers a fixed account option  
7           along with a variable option.
- 8           g. Determine whether the annuity provider offers objective and participant-specific  
9           education and tools to help a participating member understand the appropriate  
10          use of annuities as a long-term retirement savings vehicle.

11          **SECTION 21. AMENDMENT.** Section 54-52.6-08 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13          **54-52.6-08. Credit of transfers.**

14          The board shall promptly ~~shall~~ credit the plan account of a participating member who makes  
15 an election under ~~this chapter~~section 54-52.6-02 to terminate membership in the public  
16 employees retirement system under chapter 54-52 with any amount transferred from the public  
17 employees retirement system.

18          **SECTION 22. AMENDMENT.** Section 54-52.6-09 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20          **54-52.6-09. Contributions - Penalty.**

21          1. Each

- 22           a. A participating member who first joined the defined contribution retirement plan  
23           before January 1, 2025, and an employee who elects to participate in the defined  
24           contribution plan under section 54-52.6-02.2, shall contribute monthly seven  
25           percent of the monthly salary or wage paid to the participant.
- 26           b. A participating member who first joined the defined contribution retirement plan  
27           after December 31, 2024, except for an employee who elects to participate in the  
28           defined contribution plan under section 54-52.6-02.2, shall contribute monthly  
29           four percent of the monthly salary or wage paid to the participant, and this. In  
30           addition, the participating member may elect to contribute monthly up to an  
31           additional three percent of the monthly salary or wage paid to the participant.



1           c. This assessment must be deducted from the participant's salary in equal monthly  
2           installments commencing with the first month of participation in the defined  
3           contribution retirement plan established under this chapter. ~~Participating member~~  
4           ~~contributions increase by one percent of the monthly salary or wage paid to the~~  
5           ~~participant beginning with the monthly reporting period of January 2012; with an~~  
6           ~~additional increase of one percent, beginning with the reporting period of~~  
7           ~~January 2013; and with an additional increase of one percent, beginning with the~~  
8           ~~monthly reporting period of January 2014.~~

9           2. The

10          a. For a participating member who first joined the defined contribution retirement  
11          plan before January 1, 2025, and for an employee who elects to participate in the  
12          defined contribution plan under section 54-52.6-02.2, the employer shall  
13          contribute an amount equal to seven and twelve-hundredths percent of the  
14          monthly salary or wage of the participating member.

15          b. For a participating member who first joined the defined contribution retirement  
16          plan after December 31, 2024, except for an employee who elects to participate  
17          in the defined contribution plan under section 54-52.6-02.2, the employer shall  
18          contribute an amount equal to four and twelve-hundredths percent of the monthly  
19          salary or wage of a participating member, plus up to an additional three percent  
20          as an employer matching contribution calculated based on the participating  
21          member's election under subdivision b of subsection 1. ~~Employer contributions~~  
22          ~~increase by one percent of the monthly salary or wage of a participating member~~  
23          ~~beginning with the monthly reporting period of January 2012; with an additional~~  
24          ~~increase of one percent, beginning with the monthly reporting period of~~  
25          ~~January 2013; and with an additional increase of one percent, beginning with the~~  
26          ~~monthly reporting period of January 2014.~~

27          c. For members a participating member first enrolled after December 31, 2019, the  
28          employer contribution includes an additional increase of one and fourteen-  
29          hundredths percent.

30          d. If the employee's contribution is paid by the employer under subsection 3, the  
31          employer shall contribute, in addition, an amount equal to the required

1 employee's contribution. Monthly, the employer shall pay such contribution into  
2 the participating member's account from the employer's funds appropriated for  
3 payroll and salary or any other funds available for such purposes.

4 e. If the employer fails to pay the contributions monthly, or fails to otherwise comply  
5 with the board's established wage reporting or payroll reporting process  
6 requirements, the employer is subject to a civil penalty of fifty dollars and, as  
7 interest, one percent of the amount due for each month of delay or fraction of a  
8 month after the payment became due. In lieu of assessing a civil penalty or one  
9 percent per month, or both, interest at the actuarial rate of return may be  
10 assessed for each month the contributions are delinquent. If contributions are  
11 paid within ninety days of the date the contributions became due, penalty and  
12 interest to be paid on delinquent contributions may be waived.

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

1       **SECTION 23.** Section 54-52.6-09.5 of the North Dakota Century Code is created and  
2 enacted as follows:

3       **54-52.6-09.5. Employer contribution for defined benefit plan.**

4       In addition to the employer contribution under section 54-52.6-09, a state employer shall  
5 contribute to the defined benefit retirement plan under chapter 54-52, an amount equal to the  
6 contribution rate calculated under section 54-52-06 less the amount of the required employer  
7 contribution under sections 54-52.2-09 and 54-52.6-09. If a state employer uses federal funds  
8 to pay any or all of an employee's wages, the employer shall use state funds to pay this  
9 additional contribution.

10       **SECTION 24.** Section 54-52.6-09.6 of the North Dakota Century Code is created and  
11 enacted as follows:

12       **54-52.6-09.6. Participation by temporary employees.**

13       A temporary employee may elect, within one hundred eighty days of beginning employment,  
14 to participate in the defined contribution retirement plan under this chapter. Monthly, the  
15 temporary employee shall contribute an amount equal to nine and twenty-six hundredths  
16 percent times the temporary employee's present monthly salary, and may elect to contribute up  
17 to an additional six percent. An employer may not pay the temporary employee's contribution. A  
18 temporary employee may continue to participate as a temporary employee until termination of  
19 employment or reclassification of the temporary employee as a permanent employee.

20       **SECTION 25. AMENDMENT.** Section 54-52.6-10 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22       **54-52.6-10. Vesting.**

23       1. A participating member is immediately one hundred percent vested in that member's  
24 contributions made to that member's account under this chapter. A participating  
25 member vests in the employer contributions made on that member's behalf to an  
26 account under this chapter according to the following schedule:

27       1-a. Upon completion of two years of service, fifty percent.

28       2-b. Upon completion of three years of service, seventy-five percent.

29       3-c. Upon completion of four years of service, one hundred percent.

30       2. A participating member also becomes one hundred percent vested in the employer  
31 contributions upon reaching age sixty-five. A participating member who was a member

1 or deferred member of the public employees retirement system under chapter 54-52  
2 who makes an election to participate in the defined contribution retirement plan  
3 ~~pursuant to this chapter~~ under section 54-52.6-02 or 54-52.6-02.2 must be credited  
4 with the years of service accrued under the public employees retirement system on  
5 the effective date of participation in the defined contribution retirement plan for the  
6 purpose of meeting vesting requirements for benefits under this section. Any forfeiture  
7 as a result of the failure of a participating member to vest in the employer contribution  
8 must be deposited in the administrative expenses account.

9 **SECTION 26. AMENDMENT.** Section 54-52.6-13 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **54-52.6-13. Distributions.**

- 12 1. A participating member is eligible to receive distribution of that ~~person's~~individual's  
13 accumulated balance in the plan upon becoming a former participating member.
- 14 2. Upon the death of a participating member or former participating member, the board  
15 shall pay the accumulated account balance of that deceased participant to the  
16 deceased participant's refund beneficiary, if any, as provided in this subsection. If the  
17 deceased participant designated an alternate refund beneficiary with the surviving  
18 spouse's written consent, the board shall distribute the accumulated balance to the  
19 named beneficiary. If the deceased participant named more than one primary  
20 beneficiary with the surviving spouse's written consent, the board shall pay the  
21 accumulated account balance to the named primary beneficiaries in the percentages  
22 designated by the deceased participant or, if the deceased participant had not  
23 designated a percentage for the beneficiaries, in equal percentages. If one or more of  
24 the primary beneficiaries has predeceased the deceased participant, the board shall  
25 pay the predeceased beneficiary's share to the remaining primary beneficiaries. If any  
26 beneficiary survives the deceased participant, yet dies before distribution of the  
27 beneficiary's share, the beneficiary must be treated as if the beneficiary predeceased  
28 the deceased participant. If there is no remaining primary beneficiary, the board shall  
29 pay the accumulated account balance of that deceased participant to the contingent  
30 beneficiaries in the same manner. If there is no remaining designated beneficiary, the  
31 board shall pay the accumulated account balance of that deceased participant to the

1           deceased participant's estate. If the deceased participant had not designated an  
2           alternate refund beneficiary or the surviving spouse is the refund beneficiary, the  
3           surviving spouse of the deceased participant may select a form of payment as  
4           provided in subdivision d of subsection 3.

- 5           3. a. A former participating member may elect one or a combination of several of the  
6           following methods of distribution of the accumulated balance:
- 7           a. (1) A lump sum distribution to the recipient.  
8           b. (2) A lump sum direct rollover to another qualified plan, to the extent allowed by  
9           federal law.  
10          e. (3) Periodic distributions, including annuities, as authorized by the board.  
11          d. (4) No current distribution, in which case the accumulated balance must remain  
12          in the plan until the former participating member or refund beneficiary elects  
13          a method or methods of distribution under this section, to the extent allowed  
14          by federal law.
- 15          b. A surviving spouse beneficiary may elect one or a combination of several of the  
16          methods of distribution provided in ~~subdivisions a, b, or c~~ paragraph 1, 2, or 3 of  
17          subdivision a if the surviving spouse is the sole refund beneficiary. If the surviving  
18          spouse is not the sole refund beneficiary, the refund beneficiary may only choose  
19          a lump sum distribution of the accumulated balance.
- 20          4. If the former participating member's vested account balance is less than one thousand  
21          dollars, the board ~~shall~~ automatically shall refund the member's vested account  
22          balance upon termination of employment. The member may waive the refund if the  
23          member submits a written statement to the board, within one hundred twenty days  
24          after termination, requesting that the member's vested account balance remain in the  
25          plan.

26           **SECTION 27. AMENDMENT.** Section 54-52.6-15 of the North Dakota Century Code is  
27   amended and reenacted as follows:

28           **54-52.6-15. Board to provide information.**

- 29           1. The board shall provide information to employees who are eligible under section  
30           54-52.6-02 or 54-52.6-02.2 to elect to become participating members under this  
31           chapter. The information must include at a minimum the employee's current account

1 balance, the assumption of investment risk under a defined contribution retirement  
2 plan, administrative and investment costs, coordination of benefits information, and a  
3 comparison of projected retirement benefits under the public employees retirement  
4 system under chapter 54-52 and the retirement plan established under this chapter.

5 2. The board, or the board's vendor, shall provide to participating members:

6 a. Enrollment information that includes benefits of the defined contribution  
7 retirement plan, investment options available, the assumption of risk, and  
8 administrative and investment costs.

9 b. Ongoing investment and retirement income planning, including education on how  
10 to set, measure, and adjust income and saving goals based on desired  
11 retirement income and financial objectives, actual behavior, and changing  
12 circumstances.

13 c. Retirement income education, including distribution options available and in-plan  
14 annuitization options.

15 d. Advice and guidance information, tools, and services primarily focused on long-  
16 term planning and investing and life events that potentially influence and impact  
17 retirement savings.

18 3. Notwithstanding any other provision of law, the board is not liable for any election or  
19 investment decision made by an employee based upon information provided to an  
20 employee under this chapter.

21 **SECTION 28. AMENDMENT.** Section 54-52.6-19 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23 **54-52.6-19. Overpayments.**

24 The board has the right of setoff to recover overpayments made under this chapter and to  
25 satisfy any claims arising from embezzlement or fraud committed by a participating member,  
26 deferred member under this chapter, refund beneficiary, or other person ~~whethat~~ that has a claim to  
27 a distribution or any other benefit from a plan governed by this chapter.

28 **SECTION 29.** Section 54-52.6-22 of the North Dakota Century Code is created and enacted  
29 as follows:

1        **54-52.6-22. Report to employee benefits programs committee.**

2        Annually, the board shall provide a report to the employee benefits programs committee on  
3 the status of the defined contribution retirement plan under this chapter.

4        **SECTION 30.** Section 54-52.6-23 of the North Dakota Century Code is created and enacted  
5 as follows:

6        **54-52.6-23. Savings clause - Plan modification.**

7        If the board determines any section of this chapter does not comply with applicable federal  
8 statutes or rules, the board shall adopt appropriate terminology with respect to that section as  
9 will comply with those federal statutes or rules, subject to the approval of the employee benefits  
10 programs committee. Any plan modifications made by the board pursuant to this section are  
11 effective until the effective date of any measure enacted by the legislative assembly providing  
12 the necessary amendments to this chapter to ensure compliance with the federal statutes or  
13 rules.

14        **SECTION 31. AMENDMENT.** Section 57-51.1-07.5 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16        **57-51.1-07.5. State share of oil and gas taxes - Deposits.**

17        From the revenues designated for deposit in the state general fund under chapters 57-51  
18 and 57-51.1, the state treasurer shall deposit the revenues received each biennium in the  
19 following order:

- 20        1. The first two hundred million dollars into the state general fund;
- 21        2. The next two hundred million dollars into the tax relief fund;
- 22        3. The next seventy-five million dollars into the budget stabilization fund, but not in an  
23        amount that would bring the balance in the fund to more than the limit in section  
24        54-27.2-01;
- 25        4. The next two hundred million dollars into the state general fund;
- 26        5. The next ten million dollars into the lignite research fund;
- 27        6. The next twenty million dollars into the state disaster relief fund, but not in an amount  
28        that would bring the unobligated balance in the fund to more than twenty million  
29        dollars;
- 30        7. The next four hundred million dollars into the strategic investment and improvements  
31        fund;

1       8.   The next sixty-five million dollars to the public employees retirement fund for the main  
2       system plan;

3       9.   The next fifty-nine million seven hundred fifty thousand dollars, or the amount  
4       necessary to provide for twice the amount of the distributions under subsection 2 of  
5       section 57-51.1-07.7, into the funds designated for infrastructure development in  
6       non-oil-producing counties under sections 57-51.1-07.7 and 57-51.1-07.8 with fifty  
7       percent deposited into the municipal infrastructure fund and fifty percent deposited into  
8       the county and township infrastructure fund;

9       ~~9-10.~~ The next one hundred seventy million two hundred fifty thousand dollars or the amount  
10      necessary to provide a total of two hundred thirty million dollars into the funds  
11      designated for infrastructure development in non-oil-producing counties under sections  
12      57-51.1-07.7 and 57-51.1-07.8 with fifty percent deposited into the municipal  
13      infrastructure fund and fifty percent deposited into the county and township  
14      infrastructure fund;

15   ~~40-11.~~ The next twenty million dollars into the airport infrastructure fund; and

16   ~~44-12.~~ Any additional revenues into the strategic investment and improvements fund.

17       **SECTION 32. REPEAL.** Sections 54-52-06.5 and 54-52.6-03 of the North Dakota Century  
18   Code are repealed.

19       **SECTION 33. LEGISLATIVE MANAGEMENT STUDY - PUBLIC EMPLOYEES**

20   **RETIREMENT SYSTEM RETIREMENT PLAN.** During the 2023-24 interim, the legislative  
21   management shall study the public employees retirement system main system plan, including  
22   funding options and contributions by political subdivisions. The legislative management shall  
23   report its findings and recommendations, together with any legislation required to implement the  
24   recommendations, to the sixty-ninth legislative assembly.

25       **SECTION 34. LEGISLATIVE MANAGEMENT STUDY - PUBLIC EMPLOYEES**

26   **RETIREMENT SYSTEM MAIN RETIREMENT PLAN.** During the 2023-24 interim, the  
27   legislative management shall study best practices for public employee retirement plans,  
28   including defined benefit plans, defined contribution plans, and hybrid plans such as  
29   side-by-side hybrid plans, cash benefit plans, and stacked hybrid plans. The study must include  
30   development of legislation to implement the retirement plan best suited to meet the needs of the  
31   state, political subdivisions, and public employees. The legislative management shall report its



1 findings and recommendations, together with any legislation required to implement the  
2 recommendations, to the sixty-ninth legislative assembly.

3 **SECTION 35. TRANSFER - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND TO**  
4 **PUBLIC EMPLOYEES RETIREMENT SYSTEM FUND.** The office of management and budget  
5 shall transfer \$135,000,000 from the strategic investment and improvements fund to the public  
6 employees retirement system fund, for the purpose of reducing the unfunded liability of the  
7 public employees retirement system main system plan, during the biennium beginning July 1,  
8 2023, and ending June 30, 2025.

9 **SECTION 36. APPLICATION.** Subdivision a of subsection 1 of section 54-52-06, as  
10 amended under section 10 of this Act, applies to employer contributions beginning January  
11 2026, using a contribution rate based on the July 1, 2024, actuarial analysis.

12 **SECTION 37. EFFECTIVE DATE.** Sections 9, 31, 33, 34, and 35 of this Act become  
13 effective August 1, 2023; sections 1 through 8, sections 11 through 22, sections 24 through 30,  
14 and section 32 of this Act become effective January 1, 2025; and sections 10, 23, and 36 of this  
15 Act become effective January 1, 2026.