

Fifty-eighth  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO.

Introduced by

Representative DeKrey

1 A BILL for an Act to amend and reenact section 54-52.6-01 of the North Dakota Century Code,  
2 relating to participation by members of the legislative assembly in the defined contribution  
3 retirement plan; and to provide for retroactive application.

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

5 **SECTION 1. AMENDMENT.** Section 54-52.6-01 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **54-52.6-01. Definition of terms.** As used in this chapter, unless the context otherwise  
8 requires:

- 9 1. "Board" means the public employees retirement system board.
- 10 2. "Deferred member" means a person who elected to receive deferred vested  
11 retirement benefits under chapter 54-52.
- 12 3. "Eligible employee" means a permanent state employee, except an employee of  
13 the judicial branch or an employee of the board of higher education and state  
14 institutions under the jurisdiction of the board, who is eighteen years or more of  
15 age, and includes members of the legislative assembly, and who is in a position  
16 not classified by the central personnel division.
- 17 4. "Employee" means any person employed by the state, whose compensation is  
18 paid out of state funds, or funds controlled or administered by the state or paid by  
19 the federal government through any of its executive or administrative officials.
- 20 5. "Employer" means the state of North Dakota.
- 21 6. "Member of the legislative assembly" means a member of the house of  
22 representatives or the senate of the state of North Dakota who has taken and  
23 subscribed to the oath of office.

1           7. "Participating member" means an eligible employee who elects to participate in the  
2           defined contribution retirement plan established under this chapter.

3       ~~7.~~ 8. "Permanent employee" means a state employee whose services are not limited in  
4           duration and who is filling an approved and regularly funded position and is  
5           employed twenty hours or more per week and at least five months each year.

6       ~~8.~~ 9. "Wages" and "salaries" means earnings in eligible employment under this chapter  
7           reported as salary on a federal income tax withholding statement plus any salary  
8           reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h),  
9           or 457. For a member of the legislative assembly, "salary" means compensation  
10          received by that member, exclusive of expense allowances for lodging, travel, and  
11          meals, as follows:

12          a. Per diem compensation for services received under section 54-03-20;

13          b. Monthly compensation for the execution of public duties received under  
14          section 54-03-20; and

15          c. Per diem compensation for time spent in attendance at sessions and  
16          committees of the legislative council pursuant to section 54-35-10.

17       10. "Salary" does not include fringe benefits such as payments for unused sick leave,  
18           personal leave, vacation leave paid in a lump sum, overtime, housing allowances,  
19           transportation expenses, early retirement, incentive pay, severance pay, medical  
20           insurance, workers' compensation benefits, disability insurance premiums or  
21           benefits, or salary received by a member in lieu of previously employer-provided  
22           fringe benefits under an agreement between an employee and a participating  
23           employer. Bonuses may be considered as salary under this section if reported and  
24           annualized pursuant to rules adopted by the board. Salary for members of the  
25           legislative assembly must be reported and annualized pursuant to rules adopted by  
26           the board.

27       **SECTION 2. RETROACTIVE APPLICATION OF ACT.** This Act applies retroactively to  
28       January 1, 2003.