

Sixty-sixth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2048

Introduced by

Government and Veterans Affairs Committee

(At the request of the Public Employees Retirement System)

1 A BILL ~~for an Act to amend and reenact section 54-52-02.9, subsection 2 of section 54-52-05,~~  
2 ~~section 54-52-06, subsection 6 of section 54-52.6-02, and section 54-52.6-09 of the North-~~  
3 ~~Dakota Century Code, relating to increased employer and employee contributions under the~~  
4 ~~public employees retirement system defined benefit and defined contribution plans.~~ for an Act to  
5 provide for a legislative management study regarding state employee retirement plans.

6 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

7 **SECTION 1. AMENDMENT.** ~~Section 54-52-02.9 of the North Dakota Century Code is~~  
8 ~~amended and reenacted as follows:~~

9 ~~— 54-52-02.9. Participation by temporary employees.~~

10 ~~— A temporary employee may elect, within~~ Within ~~one hundred eighty days of beginning~~  
11 ~~employment, a temporary employee may elect to participate in the public employees retirement~~  
12 ~~system and receive credit for service after enrollment. The~~ Monthly, the ~~temporary employee~~  
13 ~~shall pay monthly to the fund an amount equal to eight and twelve hundredths percent times the~~  
14 ~~temporary employee's present monthly salary. The amount required to be paid by a~~ the  
15 ~~temporary employee increases by two percent times the temporary employee's present monthly~~  
16 ~~salary beginning with the monthly reporting period of January 2012, and, with an additional two~~  
17 ~~percent increase, beginning with the reporting period of January 2013, and, with an additional~~  
18 ~~increase of two percent, beginning with the monthly reporting period of January 2014; and with~~  
19 ~~an additional increase of two percent, beginning with the monthly reporting period of January~~  
20 ~~2021. The~~ In addition, the ~~temporary employee shall also pay the required monthly contribution~~  
21 ~~to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must~~  
22 ~~be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not~~  
23 ~~pay the temporary employee's contributions. A~~ The ~~temporary employee may continue to~~  
24 ~~participate as a temporary employee in the public employees retirement system until~~

1 termination of employment or reclassification of the temporary employee as a permanent  
2 employee. ~~A~~The temporary employee may not purchase any additional credit, including  
3 additional credit under section 54-52-17.4 or past service under section 54-52-02.6.

4 ~~—~~**SECTION 2. AMENDMENT.** Subsection 2 of section 54-52-05 of the North Dakota Century  
5 Code is amended and reenacted as follows:

6 ~~—~~**2.** Each member must be assessed and required to pay monthly four percent of the  
7 monthly salary or wage paid to the member, and such assessment must be deducted  
8 and retained out of such salary in equal monthly installments commencing with the  
9 first month of employment. Member contributions increase by one percent of the  
10 monthly salary or wage paid to the member beginning with the monthly reporting  
11 period of January 2012, and; with an additional increase of one percent, beginning  
12 with the monthly reporting period of January 2013, and; with an additional increase of  
13 one percent, beginning with the monthly reporting period of January 2014; and with an  
14 additional increase of one percent, beginning with the monthly reporting period of  
15 January 2021.

16 ~~—~~**SECTION 3. AMENDMENT.** Section 54-52-06 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 ~~—~~**54-52-06. Employer's contribution to retirement plan – Report to legislative assembly.**

19 ~~—~~**1.** Each governmental unit shall contribute an amount equal to four and  
20 twelve-hundredths percent of the monthly salary or wage of a participating member.  
21 Governmental unit contributions increase by one percent of the monthly salary or  
22 wage of a participating member beginning with the monthly reporting period of  
23 January 2012, and; with an additional increase of one percent, beginning with the  
24 reporting period of January 2013, and; with an additional increase of one percent,  
25 beginning with the monthly reporting period of January 2014; and with an additional  
26 increase of one percent, beginning with the monthly reporting period of January 2021.

27 ~~—~~**2.** For those members who elect to exercise their rights under section 54-52-17.14, the  
28 employing governmental unit, or in the case of a member not presently under covered  
29 employment the most recent employing governmental unit, shall pay the associated  
30 employer contribution. If the employee's contribution is paid by the governmental unit  
31 under subsection 3 of section 54-52-05, the employer unit shall contribute, in addition,

an amount equal to the required employee's contribution. Each governmental unit shall pay the contribution monthly, or in the case of an election made pursuant to section 54-52-17.14 a lump sum, into the retirement fund from its the governmental unit's funds appropriated for payroll and salary or any other funds available for these purposes. Any governmental unit failing to pay the contributions monthly, or in the case of an election made pursuant to section 54-52-17.14 a lump sum, is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof of a month after the payment became due. In lieu of assessing a civil penalty or one percent per month, or both, interest at the actuarial rate of return may be assessed for each month the contributions are delinquent. If contributions are paid within ninety days of the date they the contributions became due, penalty and interest to be paid on delinquent contributions may be waived.

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

~~4. The board shall report to each session of the legislative assembly the contributions necessary, as determined by the actuarial study, to maintain the fund's actuarial soundness.~~

**SECTION 4. AMENDMENT.** Subsection 6 of section 54-52.6-02 of the North Dakota Century Code is amended and reenacted as follows:

~~6. A participating member who becomes a temporary employee may still participate in the defined contribution retirement plan upon filing an election with the board within one hundred eighty days of transferring to temporary employee status. The participating member may not become a member of the defined benefit plan as a temporary employee. The temporary employee electing to participate in the defined contribution retirement plan shall pay monthly to the fund an amount equal to eight and twelve hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a~~ the temporary employee increases by two

1           percent times the temporary employee's present monthly salary beginning with the  
2           monthly reporting period of January 2012, and; with an additional increase of two  
3           percent, beginning with the monthly reporting period of January 2013, and; with an  
4           additional increase of two percent, beginning with the monthly reporting period of  
5           January 2014; and with an additional increase of two percent, beginning with the  
6           monthly reporting period of January 2021. TheIn addition, the temporary employee  
7           shall also pay the required monthly contribution to the retiree health benefit fund  
8           established under section 54-52.1-03.2. This contribution must be recorded as a  
9           member contribution pursuant to section 54-52.1-03.2. An employer may not pay the  
10          temporary employee's contributions. AThe temporary employee may continue to  
11          participate as a temporary employee until termination of employment or  
12          reclassification of the temporary employee as a permanent employee.

13       — **SECTION 5. AMENDMENT.** Section 54-52.6-09 of the North Dakota Century Code is  
14       amended and reenacted as follows:

15       — **54-52.6-09. Contributions -- Penalty.**

- 16       — 1. ~~Each participating member shall contribute monthly four percent of the monthly salary~~  
17           ~~or wage paid to the participant, and this assessment must be deducted from the~~  
18           ~~participant's salary in equal monthly installments commencing with the first month of~~  
19           ~~participation in the defined contribution retirement plan established under this chapter.~~  
20           ~~Participating member contributions increase by one percent of the monthly salary or~~  
21           ~~wage paid to the participant beginning with the monthly reporting period of~~  
22           ~~January 2012, and; with an additional increase of one percent, beginning with the~~  
23           ~~reporting period of January 2013, and; with an additional increase of one percent,~~  
24           ~~beginning with the monthly reporting period of January 2014; and with an additional~~  
25           ~~increase of one percent, beginning with the monthly reporting period of January 2021.~~
- 26       — 2. ~~The employer shall contribute an amount equal to four and twelve-hundredths percent~~  
27           ~~of the monthly salary or wage of a participating member. Employer contributions~~  
28           ~~increase by one percent of the monthly salary or wage of a participating member~~  
29           ~~beginning with the monthly reporting period of January 2012, and; with an additional~~  
30           ~~increase of one percent, beginning with the monthly reporting period of January 2013,~~  
31           ~~and; with an additional increase of one percent, beginning with the monthly reporting~~

1 ~~period of January 2014; and with an additional increase of one percent, beginning with~~  
2 ~~the monthly reporting period of January 2021. If the employee's contribution is paid by~~  
3 ~~the employer under subsection 3, the employer shall contribute, in addition, an amount~~  
4 ~~equal to the required employee's contribution. Monthly, the employer shall pay such~~  
5 ~~contribution into the participating member's account from the employer's funds~~  
6 ~~appropriated for payroll and salary or any other funds available for such purposes. If~~  
7 ~~the employer fails to pay the contributions monthly, the employer is subject to a civil~~  
8 ~~penalty of fifty dollars and, as interest, one percent of the amount due for each month~~  
9 ~~of delay or fraction thereof after the payment became due. In lieu of assessing a civil~~  
10 ~~penalty or one percent per month, or both, interest at the actuarial rate of return may~~  
11 ~~be assessed for each month the contributions are delinquent. If contributions are paid~~  
12 ~~within ninety days of the date the contributions became due, penalty and interest to be~~  
13 ~~paid on delinquent contributions may be waived.~~

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

~~its the employer's option under this subsection by reporting its the employer's choice to  
the board in writing.~~

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - RETIREMENT PLANS.** During the 2019-20 interim, the legislative management shall study state retirement plans for state employees. The study must include a review of the current defined benefits plan and defined contribution plan as well as the retirement plan for higher education faculty. The study must consider options for a defined contribution plan only for new hires, including contracting with the organization that administers the retirement plan for higher education faculty. The study must also consider options to adequately fund the defined benefit plan as a closed plan. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-seventh legislative assembly.