

Introduced by

Representative Steiner

1 A BILL for an Act to create and enact a new section to chapter 54-27 and section 54-52.6-02.1
2 of the North Dakota Century Code, relating to transfers from the legacy fund and membership in
3 the public employee defined contribution retirement plan; to amend and reenact sections
4 54-52-01, 54-52-02.1, 54-52-02.2, 54-52-02.5, 54-52-02.9, 54-52.6-01, 54-52.6-02, 54-52.6-03,
5 and 54-52.6-10 of the North Dakota Century Code, relating to closure of the public employee
6 defined benefit retirement plan for state and political subdivision employees and participation in
7 the defined contribution retirement plan; to provide for an estimate of accumulated value
8 transfer; to provide an effective date; and to provide a contingent expiration date.

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

10 **SECTION 1.** A new section to chapter 54-27 of the North Dakota Century Code is created
11 and enacted as follows:

12 **Transfer of legacy fund principal to public employees retirement system.**

13 On January first of each year, the state treasurer shall transfer one hundred eight million
14 dollars from the principal balance of the legacy fund to the public employees retirement system
15 main system retirement fund.

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

18 **54-52-01. Definition of terms.**

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

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

- 1 2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any
2 person designated by a participating member to receive benefits.
- 3 3. "Correctional officer" means a participating member who is employed as a correctional
4 officer by a political subdivision.
- 5 4. a. "Eligible employee" means a permanent employee who meets a
6 participating member before January 1, 2020, and who meets all of the eligibility
7 requirements set by this chapter and who is eighteen years or more of age,
8 and includes an employee of a political subdivision, an appointive and elective
9 official under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12 who is a
10 participating member before January 1, 2020, and a nonteaching
11 employee of the superintendent of public instruction, including the
12 superintendent of public instruction, who elected to transfer from the
13 teachers' fund for retirement to the public employees retirement system under
14 section 54-52-02.13, and an employee of the state board for career
15 and technical education who elected to transfer from the teachers' fund for
16 retirement to the public employees retirement system under section 54-52-02.14.
- 17 b. "Eligible employee" does not include nonclassified state employees who elect to
18 become members of the retirement plan established under chapter 54-52.6 but
19 does include employees of the judicial branch and employees of the board of
20 higher education and state institutions under the jurisdiction of the board:
- 21 (1) A state employee who is first employed after December 31, 2019, and is not
22 a participating member; or
- 23 (2) An employee eligible to participate in the national guard retirement plan or a
24 law enforcement retirement plan.
- 25 5. "Employee" means any individual employed by a governmental unit, whose
26 compensation is paid out of the governmental unit's funds, or funds controlled or
27 administered by a governmental unit, or paid by the federal government through any of
28 its executive or administrative officials; licensed employees of a school district means
29 those employees eligible to participate in the teachers' fund for retirement who, except
30 under subsection 2 of section 54-52-17.2, are not eligible employees under this
31 chapter.

- 1 6. "Employer" means a governmental unit.
- 2 7. "Firefighter" means a participating member who is employed as a firefighter by a
3 political subdivision and, notwithstanding subsection 13, for an individual employed
4 after July 31, 2017, is employed at least thirty-two hours per week and at least twenty
5 weeks each year of employment. A firefighter who is a participating member of the law
6 enforcement retirement plan created by this chapter who begins employment after
7 July 31, 2017, is ineligible to participate concurrently in any other retirement plan
8 administered by the public employees retirement system. The term does not include a
9 firefighter employee of the North Dakota national guard.
- 10 8. "Funding agent" or "agents" means an investment firm, trust bank, or other financial
11 institution which the retirement board may select to hold and invest the employers' and
12 members' contributions.
- 13 9. "Governmental unit" means the state of North Dakota, except the highway patrol for
14 members of the retirement plan created under chapter 39-03.1, or a participating
15 political subdivision thereof.
- 16 10. "National guard security officer or firefighter" means a participating member who is:
17 a. A security police employee of the North Dakota national guard; or
18 b. A firefighter employee of the North Dakota national guard.
- 19 11. "Participating member" means an eligible employee who through payment into the
20 plan has established a claim against the plan.
- 21 12. "Peace officer" means a participating member who is a peace officer as defined in
22 section 12-63-01 and is employed as a peace officer by the bureau of criminal
23 investigation or by a political subdivision and, notwithstanding subsection 13, for
24 persons~~individuals~~ employed after August 1, 2005, is employed thirty-two hours or
25 more per week and at least twenty weeks each year of employment. A peace officer
26 who is a participating member of the law enforcement retirement plan created by this
27 chapter who begins employment after August 1, 2005, is ineligible to participate
28 concurrently in any other retirement plan administered by the public employees
29 retirement system.
- 30 13. "Permanent employee" means a governmental unit employee whose services are not
31 limited in duration and who is filling an approved and regularly funded position in an

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

1 **SECTION 3. AMENDMENT.** Section 54-52-02.1 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **54-52-02.1. Political subdivisions authorized to join public employees retirement**
4 **system.**

- 5 1. ABefore August 1, 2019, a political subdivision may, on behalf of its permanent
6 employees, on behalf of its peace officers, firefighters, and correctional officers
7 separately from its other employees, and permanent noncertified employees only in
8 the case of school districts, enter agreements with the retirement board for the
9 purpose of extending the benefits of the public employees retirement system, as
10 provided in this chapter, to those employees. The agreement may, in accordance with
11 this chapter, contain provisions relating to benefits, contributions, effective date,
12 modification, administration, and other appropriate provisions as the retirement board
13 and the political subdivision agree upon, but the agreement must provide:
- 14 a. The political subdivision will contribute on behalf of each eligible employee an
15 amount equal to that provided in section 54-52-06 or 54-52-06.3 for peace
16 officers, firefighters, and correctional officers participating separately from other
17 political subdivision employees.
 - 18 b. A portion of the moneys paid by the political subdivision may be used to pay
19 administrative expenses of the retirement board.
- 20 2. Notwithstanding any other provision of law, a political subdivision having an existing
21 police or firefighter pension plan may merge that plan into the public employees
22 retirement system under rules adopted by and in a manner determined by the board.
- 23 3. Notwithstanding any other provision of this chapter, a political subdivision of this state
24 not currently participating in the public employees retirement system may not become
25 a participant in the retirement system until an actuarial study is performed under the
26 direction of the board to calculate the required employer contribution for any past
27 service liability and the required employer contribution must be an amount determined
28 sufficient to amortize and fund any past service liability over a period not to exceed
29 thirty years as determined by the board. Any fees incurred in performing the actuarial
30 study must be paid for by the political subdivision in a manner determined by the
31 board.

1 4. After July 31, 2019, a political subdivision may not enter a new agreement to
2 participate in a retirement system under this section.

3 **SECTION 4. AMENDMENT.** Section 54-52-02.2 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **54-52-02.2. Employee referendum - Authorization and supervision.**

6 On

7 1. Before August 1, 2019, on their own motion or upon petition by twenty percent of the
8 permanent political subdivision employees or the permanent noncertified employees of
9 any school district, the political subdivision shall authorize and supervise a referendum
10 of the permanent employees employed by that political subdivision on the question
11 whether the employees elect to participate in the retirement system. If the majority of
12 the employees vote in favor of participation in the retirement system, the political
13 subdivision, notwithstanding anything to the contrary in chapter 40-46, may in its
14 discretion enter into the agreement provided for in section 54-52-02.1.

15 2. Notwithstanding provisions to the contrary in chapters 18-05, 18-11, and 40-45, the
16 police department of any city, the fire department of any city, or both, may hold
17 referendums among their employees on the question of whether their department
18 should join the remaining city employees in participation in the retirement system
19 established by this chapter. If a majority of the city police or city firefighters, or both,
20 vote in favor of such participation, the governing body of the city must include the
21 police and firefighters within any agreement entered into pursuant to section
22 54-52-02.1 and must arrange for discontinuance of any existing police or firefighters'
23 pension fund as provided by law.

24 3. After July 31, 2019, a political subdivision may not enter a new agreement to
25 participate in a retirement system under this section.

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

28 **54-52-02.5. Newly elected and appointed state officials.**

29 After December 31, 1999, ~~a person~~ and before January 1, 2020, an individual elected or
30 appointed to a state office for the first time ~~must~~, from and after the date that ~~person~~ individual
31 qualifies and takes office, must be a participating member of the public employees retirement

1 system unless that ~~person~~individual makes an election at any time during the first six months
2 after the date the ~~person~~individual takes office to participate in the retirement plan established
3 under chapter 54-52.6. After December 31, 2020, an individual elected or appointed to a state
4 office, from and after the individual qualified and takes office, must be a participating member of
5 the retirement plan established under chapter 54-52.6 unless the individual is a participating
6 member under this chapter. As used in this section, the phrase "for the first time" means a-
7 ~~person~~an individual appointed, who, after December 31, 1999, does not hold office as an
8 appointed official at the time of that ~~person's~~individual's appointment.

9 **SECTION 6. AMENDMENT.** Section 54-52-02.9 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **54-52-02.9. Participation by temporary employees.**

12 ~~A~~Before January 1, 2020, a temporary employee may elect, within one hundred eighty days
13 of beginning employment, to participate in the public employees retirement system under this
14 chapter and receive credit for service after enrollment. The temporary employee shall pay
15 monthly to the fund an amount equal to ~~eight~~fourteen and twelve-hundredths percent times the
16 temporary employee's present monthly salary. ~~The amount required to be paid by a temporary~~
17 ~~employee increases by two percent times the temporary employee's present monthly salary~~
18 ~~beginning with the monthly reporting period of January 2012, and with an additional two percent~~
19 ~~increase, beginning with the reporting period of January 2013, and with an additional increase~~
20 ~~of two percent, beginning with the monthly reporting period of January 2014.~~ The temporary
21 employee shall also pay the required monthly contribution to the retiree health benefit fund
22 established under section 54-52.1-03.2. This contribution must be recorded as a member
23 contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary
24 employee's contributions. A temporary employee who is a participating member before
25 January 1, 2020, may continue to participate as a temporary employee in the public employees
26 retirement system until termination of employment or reclassification of the temporary employee
27 as a permanent employee. A temporary employee may not purchase any additional credit,
28 including additional credit under section 54-52-17.4 or past service under section 54-52-02.6.

29 **SECTION 7. AMENDMENT.** Section 54-52.6-01 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **54-52.6-01. Definition of terms.**

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

3 1. "Board" means the ~~public employees retirement system board~~governing authority
4 created under section 54-52-03.

5 2. "Deferred member" means ~~a person~~an individual who elected to receive deferred
6 vested retirement benefits under chapter 54-52.

7 3. a. "Eligible employee" means a permanent state employee, ~~except an employee of~~
8 ~~the judicial branch or an employee of the board of higher education and state~~
9 ~~institutions under the jurisdiction of the board,~~ who is eighteen years or more of
10 age and who is in a position not classified by North Dakota human resource
11 management services. If a participating member loses permanent employee
12 status and becomes a temporary employee, the member may still participate in
13 the defined contribution retirement plan.

14 b. "Eligible employee" does not include a supreme court judge or a district court
15 judge, an employee eligible to participate in the national guard retirement plan or
16 a law enforcement retirement plan, an employee of a political subdivision, or an
17 employee of the board of higher education and state institutions under the
18 jurisdiction of the board who is participating in the teachers' insurance and
19 annuity association of America - college retirement equities fund retirement plan.

20 4. "Employee" means ~~any person~~an individual employed by the state, whose
21 compensation is paid out of state funds, or funds controlled or administered by the
22 state or paid by the federal government through any of its executive or administrative
23 officials.

24 5. "Employer" means the state of North Dakota.

25 6. "Participating member" means an eligible employee who ~~elects to~~
26 ~~participate~~participates in the defined contribution retirement plan established under
27 this chapter.

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

1 8. "Temporary employee" means a governmental unit employee who is not eligible to
2 participate as a permanent employee, who is at least eighteen years old and not
3 actively contributing to another employer-sponsored pension fund, and, if employed by
4 a school district, occupies a noncertified teacher's position.

5 9. "Wages" and "salaries" means earnings in eligible employment under this chapter
6 reported as salary on a federal income tax withholding statement plus any salary
7 reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or
8 457. "Salary" does not include fringe benefits such as payments for unused sick leave,
9 personal leave, vacation leave paid in a lump sum, overtime, housing allowances,
10 transportation expenses, early retirement, incentive pay, severance pay, medical
11 insurance, workforce safety and insurance benefits, disability insurance premiums or
12 benefits, or salary received by a member in lieu of previously employer-provided fringe
13 benefits under an agreement between an employee and a participating employer.
14 Bonuses may be considered as salary under this section if reported and annualized
15 pursuant to rules adopted by the board.

16 **SECTION 8. AMENDMENT.** Section 54-52.6-02 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **54-52.6-02. Election.**

19 1. The board shall provide an opportunity for each eligible employee who is first
20 employed before January 1, 2020, and who is a member of the public employees
21 retirement system on ~~September 30, 2001, and who has not made a written election~~
22 ~~under this section June 30, 2020,~~ to transfer to the defined contribution retirement plan
23 ~~before October 1, 2001, to elect~~ by electing in writing to terminate membership in the
24 public employees retirement system and elect to become a participating member
25 under this chapter. Except as provided in section 54-52.6-03, an election made by an
26 eligible employee under this section is irrevocable. ~~The board shall accept written~~
27 ~~elections under this section from eligible employees during the period beginning on~~
28 ~~July 1, 1999, and ending 12:01 a.m. December 14, 2001. An eligible employee who~~
29 ~~does not make a written election or who does not file the election during the period~~
30 ~~specified in this section continues to be a member of the public employees retirement~~
31 ~~system. An eligible employee who makes and files a written election~~ transfers to the

1 defined contribution plan under this section ceases to be a member of the public
2 employees retirement system ~~effective twelve midnight December 31, 2001~~and;
3 becomes a participating member in the defined contribution retirement plan under this
4 chapter ~~effective 12:01 a.m. January 1, 2002~~; and waives all of that
5 ~~person's~~individual's rights to a pension, annuity, retirement allowance, insurance
6 benefit, or any other benefit under the public employees retirement system ~~effective~~
7 ~~December 31, 2001~~. This section does not affect a ~~person's~~an individual's right to
8 health benefits or retiree health benefits under chapter 54-52.1. An eligible employee
9 who is first employed and entered upon the payroll of that ~~person's~~individual's
10 employer ~~after September 30, 2001~~, may make an election to participate in the
11 defined contribution retirement plan established under this chapter at any time during
12 the ~~first six months after the date of employment. If the board, in its sole discretion,~~
13 ~~determines that the employee was not adequately notified of the employee's option to~~
14 ~~participate in the defined contribution retirement plan, the board may provide the~~
15 ~~employee a reasonable time within which to make that election, which may extend~~
16 ~~beyond the original six-month decision window~~period beginning July 1, 2020, and
17 ending 5:00 p.m. December 30, 2020.

- 18 2. If an individual who is a deferred member of the public employees retirement system
19 on ~~September 30, 2001~~December 31, 2019, is re-employed and by virtue of that
20 employment is again eligible for membership in the public employees retirement
21 system under chapter 54-52, the individual may elect in writing to remain a member of
22 the public employees retirement system or if eligible to participate in the defined
23 contribution retirement plan established under this chapter to terminate membership in
24 the public employees retirement system and become a participating member in the
25 defined contribution retirement plan established under this chapter. An election made
26 by a deferred member under this section is irrevocable. The board shall accept written
27 elections under this section from a deferred member during the period beginning on
28 the date of the individual's re-employment and ending upon the expiration of six
29 months after the date of that re-employment. If the board, in its sole discretion,
30 determines that the employee was not adequately notified of the employee's option to
31 participate in the defined contribution retirement plan, the board may provide the

1 employee a reasonable time within which to make that election, which may extend
2 beyond the original six-month decision window. A deferred member who makes and
3 files a written election to remain a member of the public employees retirement system
4 retains all rights and is subject to all conditions as a member of that retirement system.
5 A deferred member who does not make a written election or who does not file the
6 election during the period specified in this section continues to be a member of the
7 public employees retirement system. A deferred member who makes and files a
8 written election to terminate membership in the public employees retirement system
9 ceases to be a member of the public employees retirement system effective on the
10 last day of the payroll period that includes the date of the election; becomes a
11 participating member in the defined contribution retirement plan under this chapter
12 effective the first day of the payroll immediately following the date of the election; and
13 waives all of that ~~person's~~individual's rights to a pension, an annuity, a retirement
14 allowance, insurance benefit, or any other benefit under the public employees
15 retirement system effective the last day of the payroll that includes the date of the
16 election. This section does not affect any right to health benefits or retiree health
17 benefits to which the deferred member may otherwise be entitled.

- 18 3. An eligible employee who elects to participate in the retirement plan established under
19 this chapter must remain a participant even if that employee returns to the classified
20 service or becomes employed by a political subdivision that participates in the public
21 employees retirement system. The contribution amount must be as provided in this
22 chapter, regardless of the position in which the employee is employed.

23 Notwithstanding the irrevocability provisions of this chapter, if a member who elects to
24 participate in the retirement plan established under this chapter becomes a supreme
25 or district court judge, becomes a member of the highway patrol, becomes employed
26 in a position subject to teachers' fund for retirement membership, or becomes an
27 employee of the board of higher education or state institution under the jurisdiction of
28 the board who is eligible to participate in an alternative retirement program established
29 under subsection 6 of section 15-10-17, the member's status as a member of the
30 defined contribution retirement plan is suspended, and the member becomes a new
31 member of the retirement plan for which that member's new position is eligible. The

1 member's account balance remains in the defined contribution retirement plan, but no
2 new contributions may be made to that account. The member's service credit and
3 salary history that were forfeited as a result of the member's transfer to the defined
4 contribution retirement plan remain forfeited, and service credit accumulation in the
5 new retirement plan begins from the first day of employment in the new position. If the
6 member later returns to employment that is eligible for the defined contribution plan,
7 the member's suspension must be terminated, the member again becomes a member
8 of the defined contribution retirement plan, and the member's account resumes
9 accepting contributions. At the member's option, and pursuant to rules adopted by the
10 board, the member may transfer any available balance as determined by the
11 provisions of the alternate retirement plan into the member's account under this
12 chapter.

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

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

24 6. A participating member who becomes a temporary employee may still participate in
25 the defined contribution retirement plan upon filing an election with the board within
26 one hundred eighty days of transferring to temporary employee status. The
27 participating member may not become a member of the defined benefit plan as a
28 temporary employee. The temporary employee electing to participate in the defined
29 contribution retirement plan shall pay monthly 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 percent times the temporary employee's present monthly salary beginning with
2 the 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. The temporary employee shall also pay the required monthly
6 contribution to the retiree health benefit fund established under section 54-52.1-03.2.
7 This contribution must be recorded as a member contribution pursuant to section
8 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A
9 temporary employee may continue to participate as a temporary employee until
10 termination of employment or reclassification of the temporary employee as a
11 permanent employee.

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

21 **SECTION 9.** Section 54-52.6-02.1 of the North Dakota Century Code is created and
22 enacted as follows:

23 **54-52.6-02.1. Membership.**

- 24 1. All eligible employees are participating members.
25 2. Within one hundred eighty days of beginning employment, a temporary employee may
26 elect to participate in the defined contribution retirement plan under this chapter. The
27 temporary employee electing to participate in the defined contribution retirement plan
28 shall pay monthly to the fund an amount equal to fourteen and twelve-hundredths
29 percent times the temporary employee's present monthly salary. The temporary
30 employee also shall pay the required monthly contribution of the retiree health benefit
31 fund established under section 54-52.1-03.2. This contribution must be recorded as a

1 member contribution pursuant to section 54-52.1-03.2. An employer may not pay the
2 temporary employee's contributions. A temporary employee may continue to
3 participate as a temporary employee in the public employees retirement system until
4 termination of employment.

5 **SECTION 10. AMENDMENT.** Section 54-52.6-03 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **54-52.6-03. Transfer of accumulated fund balances.**

8 For an individual who elects to terminate membership in the public employees retirement
9 system under chapter 54-52, the board shall transfer a lump sum amount from the retirement
10 fund to the participating member's account in the defined contribution retirement plan under this
11 chapter. However, if the individual terminates employment prior to receiving the lump sum
12 transfer under this section, the election made under section 54-52.6-02 is ineffective and the
13 individual remains a member of the public employees retirement system under chapter 54-52
14 and retains all the rights and benefits provided under that chapter. The board shall calculate the
15 amount to be transferred ~~for persons employed before October 1, 2001,~~ using the two following
16 formulas, and shall transfer the greater of the two amounts obtained:

- 17 1. The actuarial present value of the individual's accumulated benefit obligation under the
18 public employees retirement system based on the assumption that the individual will
19 retire under the earliest applicable normal retirement age, plus interest from January 1,
20 2001, to the date of transfer, at the rate of one-half of one percent less than the
21 actuarial interest assumption at the time of the election; or
- 22 2. The actual employer contribution made, less vested employer contributions made
23 pursuant to section 54-52-11.1, plus compound interest at the rate of one-half of one
24 percent less than the actuarial interest assumption at the time of the election plus the
25 employee account balance.

26 ~~The board shall calculate the amount to be transferred for persons employed after~~
27 ~~September 30, 2001, using only the formula contained in subsection 2.~~

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

1 **54-52.6-10. Vesting.**

2 1. A participating member is immediately one hundred percent vested in that member's
3 contributions made to that member's account under this chapter. A participating
4 member ~~vests~~ is one hundred percent vested in the employer contributions made on
5 that member's behalf ~~to an account under this chapter according to the following~~
6 ~~schedule:~~

7 ~~1. Upon completion of two years of service, fifty percent.~~

8 ~~2. Upon~~upon completion of ~~three years~~one year of service, ~~seventy-five percent.~~

9 ~~3. Upon completion of four years of service, one hundred percent.~~

10 2. A participating member also becomes one hundred percent vested in the employer
11 contributions upon reaching age sixty-five.

12 3. A participating member who was a member or deferred member of the public
13 employees retirement system under chapter 54-52 who makes an election to
14 participate in the defined contribution retirement plan pursuant to this chapter must be
15 credited with the years of service accrued under the public employees retirement
16 system on the effective date of participation in the defined contribution retirement plan
17 for the purpose of meeting vesting requirements for benefits under this section.

18 4. Any forfeiture as a result of the failure of a participating member to vest in the
19 employer contribution must be deposited in the administrative expenses account.

20 **SECTION 12. PUBLIC EMPLOYEES RETIREMENT SYSTEM - ESTIMATE OF**

21 **ACCUMULATED BALANCE TRANSFER.** For the period beginning January 1, 2020, and
22 ending June 30, 2021, upon the request of an individual who is eligible for termination of
23 membership in the public employees retirement system under chapter 54-52 as provided for in
24 subsection 1 of section 54-52.6-02, the public employees retirement system shall estimate the
25 individual's accumulated balance transfer amount by calculating the actuarial present value of
26 the individual's accumulated benefit obligation under the public employees retirement system
27 based on the assumption that the individual will retire under the earliest applicable normal
28 retirement age.

29 **SECTION 13. EFFECTIVE DATE.** Section 2 and sections 5 through 11 of this Act become
30 effective January 1, 2020.

1 **SECTION 14. CONTINGENT EXPIRATION DATE.** Section 1 of this Act is effective until the
2 executive director of the public employees retirement system certifies to the state treasurer and
3 to the employee benefits programs committee that the actuarial valuation of the public
4 employees retirement system main system shows a ratio of the actuarial value of assets to the
5 actuarial accrued liability of the public employees retirement system main system that is equal
6 to or greater than ninety-five percent, and after that date is ineffective.