

Introduced by

1 A BILL for an Act to create and enact sections 54-52-02.15, 54-52.6-02.1, 54-52.6-05.1,
2 54-52.6-09.5, 54-52.6-09.6, and 54-52.6-22 of the North Dakota Century Code, relating to the
3 closure of the public employees retirement system main plan and expansion of the defined
4 contribution retirement plan; to amend and reenact sections 6-09.4-10.1, 21-10-13, 54-52-01,
5 54-52-02.5, 54-52-02.9, 54-52-02.11, and 54-52-02.12, subsection 2 of section 54-52-05,
6 sections 54-52-06, 54-52-06.5, and 54-52-14.3, subdivision b of subsection 1 of section
7 54-52-17.2, and sections 54-52.6-01, 54-52.6-02, 54-52.6-03, 54-52.6-05, 54-52.6-08,
8 54-52.6-09, 54-52.6-10, 54-52.6-13, and 54-52.6-15 of the North Dakota Century Code, relating
9 to a transfer from the legacy earnings fund to the public employees retirement system main plan
10 and the public employees retirement system defined benefit and defined contribution retirement
11 plans; to provide for application; to provide an effective date; and to declare an emergency.

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

13 **SECTION 1. AMENDMENT.** Section 6-09.4-10.1 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **6-09.4-10.1. Legacy sinking and interest fund - Debt service requirements - Public**
16 **finance authority.**

17 There is created in the state treasury the legacy sinking and interest fund. The fund consists
18 of all moneys deposited in the fund under section 21-10-13. Moneys in the fund may be spent
19 by the public finance authority pursuant to legislative appropriations to meet the debt service
20 requirements for evidences of indebtedness issued by the authority for transfer to the Bank of
21 North Dakota for allocations to infrastructure projects and programs. ~~Any moneys in the fund in~~
22 ~~excess of the amounts appropriated from the fund to meet the debt service requirements for a~~
23 ~~biennium must be transferred by the state treasurer to the public employees retirement system~~
24 ~~main system plan under chapter 54-52, but only if the public employees retirement system main~~

1 ~~system plan's actuarial funded ratio as reported for the most recently completed even-~~
2 ~~numbered fiscal year is less than ninety percent. If the public employees retirement system-~~
3 ~~main system plan's actuarial funded ratio is ninety percent or more and then subsequently-~~
4 ~~decreases below ninety percent, the state treasurer may not resume the transfers under this-~~
5 ~~subdivision unless the main system plan's actuarial funded ratio is less than seventy percent.~~

6 **SECTION 2. AMENDMENT.** Section 21-10-13 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **21-10-13. Legacy earnings fund - State treasurer - Transfers.**

- 9 1. There is created in the state treasury the legacy earnings fund. The fund consists of all
10 moneys transferred to the fund under subsection 2 and all interest and earnings upon
11 moneys in the fund.
- 12 2. Any legacy fund earnings transferred to the general fund at the end of each biennium
13 in accordance with section 26 of article X of the Constitution of North Dakota must be
14 immediately transferred by the state treasurer to the legacy earnings fund.
- 15 3. For each biennium subsequent to the biennium in which the legacy fund earnings are
16 transferred under subsection 2, the amount available for appropriation from the legacy
17 earnings fund is seven percent of the five-year average value of the legacy fund
18 assets as reported by the state investment board. The average value of the legacy
19 fund assets must be calculated using the value of the assets at the end of each fiscal
20 year for the five-year period ending with the most recently completed even-numbered
21 fiscal year.
- 22 4. On July first of each odd-numbered year, from the amount available for appropriation
23 or transfer from the legacy earnings fund for the biennium, the state treasurer shall
24 transfer funding in the following order:
 - 25 a. The lesser of the first one hundred fifty million dollars or an amount equal to any
26 legislative appropriations to meet the debt service requirements for a biennium
27 for evidences of indebtedness issued by the public finance authority for transfer
28 to the Bank of North Dakota for allocations to infrastructure projects and
29 programs to the legacy sinking and interest fund under section 6-09.4-10.1.
 - 30 b. The next seventy million dollars to the public employees retirement system for
31 administrative expenses for chapters 54-52 and 54-52.6 and for the unfunded

1 liability of the main system plan under chapter 54-52, but only if the public
2 employees retirement system main system plan's actuarial funded ratio as
3 reported for the most recently completed even-numbered fiscal year is less than
4 ninety percent. If the public employees retirement system main system plan's
5 actuarial funded ratio is ninety percent or more and subsequently decreases
6 below ninety percent, the state treasurer may not resume the transfers under this
7 subdivision unless the main system plan's actuarial funded ratio is less than
8 seventy percent as reported for the most recently completed even-numbered
9 fiscal year.

10 c. The next sixty million dollars to the highway tax distribution fund for allocations
11 under section 54-27-19.

12 e.d. Any remaining funds for other purposes as designated by the legislative
13 assembly, including:

- 14 (1) Up to fifty million dollars for tax relief pursuant to appropriations or transfers
15 authorized by the legislative assembly;
- 16 (2) Up to thirty million dollars to the clean sustainable energy fund pursuant to
17 appropriations or transfers authorized by the legislative assembly; and
- 18 (3) Up to thirty million dollars for university research programs, the innovation
19 loan fund to support technology advancement, and workforce enrichment
20 initiatives pursuant to appropriations or transfers authorized by the
21 legislative assembly.

- 22 5. If the amounts transferred under subsection 2 exceed the amount available for
23 appropriation under subsection 3, an amount equal to any appropriations from the
24 legacy sinking and interest fund for bond payments under section 6-09.4-10.1 must be
25 retained in the legacy earnings fund through June 30, 2025, after which an amount
26 equal to twice any appropriations from the legacy sinking and interest fund under
27 section 6-09.4-10.1 for bond payments, but not more than one hundred fifty million
28 dollars, must be retained in the legacy earnings fund. After deducting any amounts to
29 be retained in the legacy earnings fund, the state treasurer shall transfer, within thirty
30 days, any remaining amounts under this subsection in the following order:

- 1 a. The first one hundred million dollars to the legacy fund to become part of the
- 2 principal.
- 3 b. Any remaining amount to the strategic investment and improvements fund to be
- 4 used in accordance with the provisions of section 15-08.1-08.

5 **SECTION 3. AMENDMENT.** Section 54-52-01 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **54-52-01. Definition of terms.**

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

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

1 term does include employees of the judicial branch and employees of the board of
2 higher education and state institutions under the jurisdiction of the board of higher
3 education.

4 ~~5-6.~~ "Employee" means any individual employed by a governmental unit, whose
5 compensation is paid out of the governmental unit's funds, or funds controlled or
6 administered by a governmental unit, or paid by the federal government through any of
7 its executive or administrative officials; licensed employees of a school district means
8 those employees eligible to participate in the teachers' fund for retirement who, except
9 under subsection 2 of section 54-52-17.2, are not eligible employees under this
10 chapter.

11 ~~6-7.~~ "Employer" means a governmental unit.

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

20 ~~8-9.~~ "Funding agent" or "agents" means an investment firm, trust bank, or other financial
21 institution which the retirement board may select to hold and invest the employers' and
22 members' contributions.

23 ~~9-10.~~ "Governmental unit" means the state of North Dakota, except the highway patrol for
24 members of the retirement plan created under chapter 39-03.1, or a participating
25 political subdivision ~~thereof~~ of the state.

26 ~~10-11.~~ "National guard security officer or firefighter" means a participating member who is:
27 a. A security police employee of the North Dakota national guard; or
28 b. A firefighter employee of the North Dakota national guard.

29 ~~11-12.~~ "Participating member" means an eligible employee who through payment into the
30 plan has established a claim against the plan.

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- 1 ~~12-13.~~ "Peace officer" means a participating member who is a peace officer as defined in
2 section 12-63-01 and is employed as a peace officer by the bureau of criminal
3 investigation or by a political subdivision and, notwithstanding subsection 13, for
4 persons employed after August 1, 2005, is employed thirty-two hours or more per
5 week and at least twenty weeks each year of employment. A peace officer who is a
6 participating member of the law enforcement retirement plan created by this chapter
7 who begins employment after August 1, 2005, is ineligible to participate concurrently in
8 any other retirement plan administered by the public employees retirement system.
- 9 ~~13-14.~~ "Permanent employee" means a ~~governmental unit~~ employee whose services are
10 not limited in duration and who is filling an approved and regularly funded position in
11 an eligible governmental unit, and is employed twenty hours or more per week and at
12 least twenty weeks each year of employment.
- 13 ~~14-15.~~ "Prior service" means service or employment before July 1, 1966.
- 14 ~~15-16.~~ "Prior service credit" means such credit toward a retirement benefit as the retirement
15 board may determine under the provisions of this chapter.
- 16 ~~16-17.~~ "Public employees retirement system" means the retirement plan and program
17 established by this chapter.
- 18 ~~17-18.~~ "Retirement" means the acceptance of a retirement allowance under this chapter upon
19 either termination of employment or termination of participation in the retirement plan.
- 20 ~~18-19.~~ "Retirement board" or "board" means the governing authority created under section
21 54-52-03.
- 22 ~~19-20.~~ "Seasonal employee" means a participating member who does not work twelve
23 months a year.
- 24 ~~20-21.~~ "Service" means employment on or after July 1, 1966.
- 25 ~~21-22.~~ "Service benefit" means the credit toward retirement benefits as determined by the
26 retirement board under the provisions of this chapter.
- 27 ~~22-23.~~ "Temporary employee" means a ~~governmental unit~~ employee who is not eligible to
28 participate as a permanent employee, who is at least eighteen years old and not
29 actively contributing to another employer-sponsored pension fund, and, if employed by
30 a school district, occupies a noncertified teacher's position.

1 ~~23-24.~~ "Wages" and "salaries" means the member's earnings in eligible employment under
2 this chapter reported as salary on the member's federal income tax withholding
3 statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125,
4 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as
5 payments for unused sick leave, personal leave, vacation leave paid in a lump sum,
6 overtime, housing allowances, transportation expenses, early retirement incentive pay,
7 severance pay, medical insurance, workforce safety and insurance benefits, disability
8 insurance premiums or benefits, or salary received by a member in lieu of previously
9 employer-provided fringe benefits under an agreement between the member and
10 participating employer. Bonuses may be considered as salary under this section if
11 reported and annualized pursuant to rules adopted by the board.

12 **SECTION 4. AMENDMENT.** Section 54-52-02.5 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **54-52-02.5. Newly elected and appointed state officials.**

- 15 1. After December 31, 1999, a person but before January 1, 2024, an individual elected
16 or appointed to a state office for the first time must, from and after the date that
17 ~~person~~individual qualifies and takes office, be a participating member of the public
18 employees retirement system unless that person makes an election at any time during
19 the first six months after the date the person takes office to participate in the defined
20 contribution retirement plan established under chapter 54-52.6.
- 21 2. After December 31, 2023, an individual elected or appointed to a state office for the
22 first time, from and after the date that individual qualifies and takes office, must be a
23 participating member of the defined contribution retirement plan established under
24 chapter 54-52.6, unless at the time of election or appointment the individual is a
25 participating or deferred member under this chapter, in which case the official remains
26 a participating member under this chapter.
- 27 3. As used in this section, the phrase "for the first time" means a person an individual
28 appointed, who, after December 31, 1999, does not hold office as an appointed official
29 at the time of that person's individual's appointment.

30 **SECTION 5. AMENDMENT.** Section 54-52-02.9 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **54-52-02.9. Participation by temporary employees.**

- 2 1. ~~Within~~Before January 1, 2024, within one hundred eighty days of beginning
3 employment, a temporary employee may elect to participate in the public employees
4 retirement system under this chapter and receive credit for service after enrollment.
5 Monthly, the temporary employee shall pay to the fund an amount equal to ~~eight~~twelve
6 and twelve hundredths percent times the temporary employee's present monthly
7 salary. The amount required to be paid by a temporary employee increases by two
8 percent times the temporary employee's present monthly salary beginning with the
9 monthly reporting period of ~~January 2012, and with an additional two percent increase,~~
10 ~~beginning with the reporting period of January 2013, and with an additional increase of~~
11 ~~two percent, beginning with the monthly reporting period of January 2014; and with an~~
12 additional one percent increase beginning with the reporting period of January 2024.
- 13 2. If the temporary employee first enrolled:
- 14 a. Before January 1, 2020, in addition the temporary employee shall pay the
15 required monthly contribution to the retiree health benefit fund established under
16 section 54-52.1-03.2. This contribution must be recorded as a member
17 contribution pursuant to section 54-52.1-03.2.
- 18 b. After December 31, 2019, the temporary employee shall pay to the fund an
19 additional amount equal to one and fourteen hundredths percent times the
20 temporary employee's present monthly salary.
- 21 3. A temporary employee who is a participating member under this chapter due to
22 employment before January 1, 2024, who becomes a permanent employee after
23 December 31, 2023, qualifies to participate in the defined benefit retirement plan
24 under this chapter and receive credit for service after enrollment.
- 25 4. After December 31, 2023, and within one hundred eighty days of beginning
26 employment, a temporary employee may elect to participate in the defined contribution
27 retirement plan under chapter 54-52.6.
- 28 5. An employer may not pay the temporary employee's contributions. A temporary
29 employee may continue to participate as a temporary employee in the public
30 employees retirement system until termination of employment or reclassification of the
31 temporary employee as a permanent employee. A temporary employee may not

1 purchase any additional credit, including additional credit under section 54-52-17.4 or
2 past service under section 54-52-02.6.

3 **SECTION 6. AMENDMENT.** Section 54-52-02.11 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **54-52-02.11. Participation requirements for nonstate elected officials.**

6 Elected

- 7 1. Before January 1, 2024, eligible elected officials of participating counties, at their
8 individual option, may enroll in the defined benefit plan within the first six months of
9 their term.
- 10 2. After December 31, 2023, eligible elected officials of participating counties, at their
11 individual option, may enroll in the defined contribution retirement plan under chapter
12 54-52.6 within the first six months of their term.

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

15 **54-52-02.12. Participation requirements for nonstate appointed officials.**

- 16 1. Nonstate appointed officials of participating employers appointed on or after August 1,
17 1999, but before January 1, 2024, who meet the participation requirements of this
18 chapter must be enrolled in the defined benefit plan effective within the first month of
19 taking office.
- 20 2. After December 31, 2023, nonstate appointed officials of participating employers who
21 meet the participation requirements must be enrolled in the defined contribution
22 retirement plan under chapter 54-52.6 effective within the first month of taking office.

23 **SECTION 8.** Section 54-52-02.15 of the North Dakota Century Code is created and enacted
24 as follows:

25 **54-52-02.15. Public employees retirement system main plan - Closure to new hires -**
26 **Dual eligibility.**

- 27 1. Under this section "eligible employee" means a permanent employee who:
- 28 a. Meets all the eligibility requirements set by this chapter;
- 29 b. Is at least eighteen years of age;
- 30 c. Becomes a participating member after December 31, 2023; and

- 1 d. Is not eligible to participate in the law enforcement plan, judges' plan, highway
2 patrol plan, teachers' fund for retirement plan, or alternative retirement program
3 established under section 15-10-17 for university system employees.
- 4 2. Effective January 1, 2024, the public employees retirement system defined benefit
5 main plan maintained for employees is closed to eligible employees. However, an
6 employee who becomes a participating or deferred member under this chapter before
7 January 1, 2024, remains in the defined benefit retirement plan under this chapter,
8 regardless of being rehired after December 31, 2023.
- 9 3. Except as otherwise provided under this section, effective January 1, 2024, an eligible
10 employee who begins employment with an employer shall participate in the defined
11 contribution retirement plan under chapter 54-52.6 as provided under section
12 54-52.6-02.1.
- 13 4. This section does not impact an employee to the extent the employee is a participating
14 member in one or more of the following enumerated plans: law enforcement plan,
15 judges' plan, highway patrol plan, teachers' fund for retirement plan, or alternative
16 retirement program established under section 15-10-17 for university system
17 employees.
- 18 a. A participating or deferred member in the defined contribution retirement plan
19 under chapter 54-52.6 who becomes eligible to participate in a plan enumerated
20 under this subsection is eligible to participate in the retirement plan enumerated
21 under this subsection.
- 22 b. A participating member of a retirement plan enumerated under this subsection
23 who becomes an eligible employee is not eligible to participate in the defined
24 benefit retirement plan under this chapter but instead participates in the defined
25 contribution retirement plan under chapter 54-52.6. However, this subdivision
26 does not apply to an individual who before January 1, 2024, is a participating or a
27 deferred member under this chapter, as that individual continues to participate in
28 the defined benefit retirement plan under this chapter.
- 29 5. The board shall adopt rules to implement this section.

30 **SECTION 9. AMENDMENT.** Subsection 2 of section 54-52-05 of the North Dakota Century
31 Code is amended and reenacted as follows:

- 1 2. Each member must be assessed and required to pay monthly ~~four~~six percent of the
2 monthly salary or wage paid to the member, and such assessment must be deducted
3 and retained out of such salary in equal monthly installments commencing with the
4 first month of employment. Member contributions increase by one percent of the
5 monthly salary or wage paid to the member beginning with the monthly reporting
6 period of January 2012, ~~and with an additional increase of one percent, beginning with~~
7 ~~the monthly reporting period of January 2013, and with an additional increase of one~~
8 ~~percent, beginning with the monthly reporting period of January 2014.~~

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

11 **54-52-06. Employer's Actuarially determined employer contribution to retirement plan**
12 **- Report to the legislative assembly employee benefits programs committee.**

13 ~~4.~~ Each

- 14 1. a. As determined by actuarial valuations, each state governmental unit shall
15 contribute to the defined benefit plan an amount equal to four and
16 ~~twelve hundredths percent of the monthly salary or wage of a participating~~
17 ~~member. Governmental unit contributions increase by one percent of the monthly~~
18 ~~salary or wage of a participating member beginning with the monthly reporting~~
19 ~~period of January 2012; with an additional increase of one percent, beginning~~
20 ~~with the reporting period of January 2013; and with an additional increase of one~~
21 ~~percent, beginning with the monthly reporting period of January 2014~~on a level
22 percent of compensation basis for all main system defined benefit retirement plan
23 employees and all defined contribution retirement plan employees sufficient
24 under the actuarial valuation to meet both the normal cost plus the actuarially
25 determined amount required to amortize the unfunded accrued liability of the
26 main plan over a closed period of twenty years, beginning January 1, 2024, and
27 continuing through June 30, 2044. By November 15 of each even-numbered year
28 the board shall publish the contribution rate required under this subsection. The
29 board shall calculate this rate based on the July 1 actuarial report of that year.

- 1 **b.** Each participating political subdivision shall contribute an amount equal to eight
2 and twelve-hundredths percent of the monthly salary or wage of a participating
3 member.
- 4 **c.** For a participating member who first enrolls after December 31, 2019, ~~the~~
5 ~~governmental unit~~ participating political subdivision shall contribute an additional
6 amount equal to one and fourteen-hundredths percent of the monthly salary or
7 wage of the participating member.
- 8 2. For those members who elect to exercise their rights under section 54-52-17.14, the
9 employing governmental unit, or in the case of a member not presently under covered
10 employment the most recent employing governmental unit, shall pay the associated
11 employer contribution. If the employee's contribution is paid by the governmental unit
12 under subsection 3 of section 54-52-05, the employer unit shall contribute, in addition,
13 an amount equal to the required employee's contribution. Each governmental unit
14 shall pay the contribution monthly, or in the case of an election made pursuant to
15 section 54-52-17.14 a lump sum, into the retirement fund from the governmental unit's
16 funds appropriated for payroll and salary or any other funds available for these
17 purposes. Any governmental unit failing to pay the contributions monthly, or in the
18 case of an election made pursuant to section 54-52-17.14 a lump sum, or failing to
19 otherwise comply with the board's established wage reporting or payroll reporting
20 process requirements, is subject to a civil penalty of fifty dollars and, as interest, one
21 percent of the amount due for each month of delay or fraction of a month after the
22 payment became due. In lieu of assessing a civil penalty or one percent per month, or
23 both, interest at the actuarial rate of return may be assessed for each month the
24 contributions are delinquent. If contributions are paid within ninety days of the date the
25 contributions became due, penalty and interest to be paid on delinquent contributions
26 may be waived.
- 27 3. An employer is required to submit contributions for any past eligible employee who
28 was employed after July 1, 1977, for which contributions were not made if the
29 employee would have been eligible to become vested had the employee participated
30 and if the employee elects to join the public employees retirement system. Employer

1 contributions may not be assessed for eligible service that an employee has waived
2 pursuant to subsection 1 of section 54-52-05.

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

6 **SECTION 11. AMENDMENT.** Section 54-52-06.5 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **54-52-06.5. Reduction in member and employer contributions.**

9 The required increase in the amount of member and employer contributions under sections
10 54-52-02.9, 54-52-05, ~~54-52-06~~, 54-52-06.1, and 54-52-06.3, ~~54-52-6-02~~, and ~~54-52-6-09~~ must
11 be reduced to the rate in effect on July 1, 2013, effective on the July first that follows the first
12 valuation of the public employees retirement system main system showing a ratio of the
13 actuarial value of assets to the actuarial accrued liability of the public employees retirement
14 system main system that is equal to or greater than one hundred percent.

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

17 **54-52-14.3. Public employee retirement funds - Use and investment.**

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

24 **SECTION 13. AMENDMENT.** Subdivision b of subsection 1 of section 54-52-17.2 of the
25 North Dakota Century Code is amended and reenacted as follows:

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

1 to have benefits calculated using the benefit formula in section 54-52-17 under
2 either of the following methods:

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

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

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

13 **54-52.6-01. Definition of terms.**

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

- 15 1. "Board" means the public employees retirement system board.
- 16 2. "Deferred member" means ~~a person who elected to receive deferred vested retirement~~
17 ~~benefits~~an individual who is not actively participating in the main plan under chapter
18 54-52 who has an account intact in the main plan under chapter 54-52.
- 19 3. "Eligible employee" means ~~a permanent state employee, except an employee of the~~
20 ~~judicial branch or an employee of the board of higher education and state institutions~~
21 ~~under the jurisdiction of the board, who is eighteen years or more of age and who is in~~
22 ~~a position not classified by North Dakota human resource management services. If a~~
23 ~~participating member loses permanent employee status and becomes a temporary~~
24 ~~employee, the member may still participate in the defined contribution retirement plan,~~
25 for employees who become participating members after December 31, 2023, has the
26 same meaning as provided under section 54-52-02.15. For employees who elected to
27 join the defined contribution retirement plan under this chapter before January 1, 2024,
28 the term includes a permanent state employee, except an employee of the judicial
29 branch or an employee of the board of higher education and state institutions under
30 the jurisdiction of the board of higher education, who is at least eighteen years of age

1 and who is in a position not classified by the North Dakota human resource
2 management services.

3 4. "Employee" means any personan individual employed by the statea governmental
4 unit, whose compensation is paid out of statethe governmental unit's funds, or funds
5 controlled or administered by the statea governmental unit or paid by the federal
6 government through any of its executive or administrative officials.

7 5. "Employer" means the state of North Dakotaa governmental unit.

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

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

11 8. "Participating member" means an eligible employee who elects to-
12 participateparticipates in the defined contribution retirement plan established under
13 this chapter.

14 7.9. "Permanent employee" means a statean employee whose services are not limited in
15 duration and who is filling an approved and regularly funded position and is employed
16 twenty hours or more per week and at least five months each year.

17 8-10. "Temporary employee" means a governmental unit employee who is not an eligible
18 employee due to not meeting the qualification of being a permanent employee, and
19 who is not actively contributing to another employer-sponsored pension fund, and, if
20 employed by a school district, occupies a noncertified teacher's position.

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

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

3 **54-52.6-02. Election.**

4 1. The board shall provide an opportunity for each eligible employee who is a member of
5 the public employees retirement system on September 30, 2001, and who has not
6 made a written election under this section to transfer to the defined contribution
7 retirement plan before October 1, 2001, to elect in writing to terminate membership in
8 the public employees retirement system and elect to become a participating member
9 under this chapter. Except as provided in section 54-52.6-03, an election made by an
10 eligible employee under this section is irrevocable. The board shall accept written
11 elections under this section from eligible employees during the period beginning on
12 July 1, 1999, and ending 12:01 a.m. December 14, 2001. An eligible employee who
13 does not make a written election or who does not file the election during the period
14 specified in this section continues to be a member of the public employees retirement
15 system. An eligible employee who makes and files a written election under this section
16 ceases to be a member of the public employees retirement system effective twelve
17 midnight December 31, 2001; becomes a participating member in the defined
18 contribution retirement plan under this chapter effective 12:01 a.m. January 1, 2002;
19 and waives all of that person's rights to a pension, annuity, retirement allowance,
20 insurance benefit, or any other benefit under the public employees retirement system
21 effective December 31, 2001. This section does not affect ~~a person's~~ an individual's
22 right to health benefits or retiree health benefits under chapter 54-52.1. An eligible
23 employee who is first employed and entered upon the payroll of that person's
24 employer after September 30, 2001, and before January 1, 2024, may make an
25 election to participate in the defined contribution retirement plan established under this
26 chapter at any time during the first six months after the date of employment. If the
27 board, in its sole discretion, determines that the employee was not adequately notified
28 of the employee's option to participate in the defined contribution retirement plan, the
29 board may provide the employee a reasonable time within which to make that election,
30 which may extend beyond the original six-month decision window.

1 2. If an individual who is a deferred member of the public employees retirement system
2 on September 30, 2001, is re-employed before January 1, 2024, and by virtue of that
3 employment is again eligible for membership in the public employees retirement
4 system under chapter 54-52, the individual may elect in writing to remain a member of
5 the public employees retirement system or if eligible to participate in the defined
6 contribution retirement plan established under this chapter to terminate membership in
7 the public employees retirement system and become a participating member in the
8 defined contribution retirement plan established under this chapter. An election made
9 by a deferred member under this section is irrevocable. The board shall accept written
10 elections under this section from a deferred member during the period beginning on
11 the date of the individual's re-employment and ending upon the expiration of six
12 months after the date of that re-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. A deferred member who makes and
17 files a written election to remain a member of the public employees retirement system
18 retains all rights and is subject to all conditions as a member of that retirement system.
19 A deferred member who does not make a written election or who does not file the
20 election during the period specified in this section continues to be a member of the
21 public employees retirement system. A deferred member who makes and files a
22 written election to terminate membership in the public employees retirement system
23 ceases to be a member of the public employees retirement system effective on the
24 last day of the payroll period that includes the date of the election; becomes a
25 participating member in the defined contribution retirement plan under this chapter
26 effective the first day of the payroll immediately following the date of the election; and
27 waives all of that person's rights to a pension, an annuity, a retirement allowance,
28 insurance benefit, or any other benefit under the public employees retirement system
29 effective the last day of the payroll that includes the date of the election. This section
30 does not affect any right to health benefits or retiree health benefits to which the
31 deferred member may otherwise be entitled.

- 1 3. An eligible employee who elects under this section to participate in the retirement plan
2 established under this chapter must remain a participant even if that employee returns
3 to the classified service or becomes employed by a political subdivision that
4 participates in the public employees retirement system. The contribution amount must
5 be as provided in this chapter, regardless of the position in which the employee is
6 employed. Notwithstanding the irrevocability provisions of this chapter, if a member
7 who elects to participate in the retirement plan established under this chapter
8 becomes a supreme or district court judge, becomes a member of the highway patrol,
9 becomes employed in a position subject to teachers' fund for retirement membership,
10 or becomes an employee of the board of higher education or state institution under the
11 jurisdiction of the board of higher education who is eligible to participate in an
12 alternative retirement program established under subsection 6 of section 15-10-17, the
13 member's status as a member of the defined contribution retirement plan is
14 suspended, and the member becomes a new member of the retirement plan for which
15 that member's new position is eligible. The member's account balance remains in the
16 defined contribution retirement plan, but no new contributions may be made to that
17 account. The member's service credit and salary history that were forfeited as a result
18 of the member's transfer to the defined contribution retirement plan remain forfeited,
19 and service credit accumulation in the new retirement plan begins from the first day of
20 employment in the new position. If the member later returns to employment that is
21 eligible for the defined contribution retirement plan, the member's suspension must be
22 terminated, the member again becomes a member of the defined contribution
23 retirement plan, and the member's account resumes accepting contributions. At the
24 member's option, and pursuant to rules adopted by the board, the member may
25 transfer any available balance as determined by the provisions of the alternate
26 retirement plan into the member's account under this chapter.
- 27 4. After consultation with its actuary, the board shall determine the method by which a
28 participating member or deferred member may make a written election under this
29 section. If the participating member or deferred member is married at the time of the
30 election, the election is not effective unless the election is signed by the individual's

1 spouse. However, the board may waive this requirement if the spouse's signature
2 cannot be obtained because of extenuating circumstances.

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

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

13 a. The temporary employee electing to participate in the defined contribution
14 retirement plan shall pay monthly to the fund an amount equal to ~~eight~~twelve and
15 twelve hundredths percent times the temporary employee's present monthly
16 salary. The amount required to be paid by a temporary employee increases by
17 two percent times the temporary employee's present monthly salary beginning
18 with the monthly reporting period of ~~January 2012, and with an additional~~
19 ~~increase of two percent, beginning with the monthly reporting period of~~
20 ~~January 2013, and with an additional increase of two percent, beginning with the~~
21 ~~monthly reporting period of~~ January 2014.

22 b. The temporary employee also shall ~~also~~ pay the required monthly contribution to
23 the retiree health benefit fund established under section 54-52.1-03.2. This
24 contribution must be recorded as a member contribution pursuant to section
25 54-52.1-03.2.

26 c. An employer may not pay the temporary employee's contributions.

27 d. A temporary employee may continue to participate as a temporary employee until
28 termination of employment or reclassification of the temporary employee as a
29 permanent employee.

30 7. A former participating member under this section who has accepted a retirement
31 distribution pursuant to section 54-52.6-13 and who subsequently becomes employed

1 by an entity different from the employer with which the member was employed at the
2 time the member retired but which does participate in any state-sponsored retirement
3 plan may, before re-enrolling in the defined contribution retirement plan, elect to
4 permanently waive future participation in the defined contribution retirement plan,
5 whatever plan in which the new employing entity participates, and the retiree health
6 program and maintain that member's retirement status. Neither the member nor the
7 employer are required to make any future retirement contributions on behalf of that
8 employee.

9 8. After December 31, 2023, an eligible employee is no longer allowed to elect
10 participation under this section.

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

13 **54-52.6-02.1. Participation in defined contribution retirement plan.**

14 1. Except as otherwise provided under section 54-52-02.5 or 54-52-02.15 or this chapter,
15 effective January 1, 2024, an eligible employee who is first enrolled shall participate in
16 the defined contribution retirement plan under this chapter.

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

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

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

23 **SECTION 17. AMENDMENT.** Section 54-52.6-03 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **54-52.6-03. Transfer of accumulated fund balances.**

26 1. For an individual who elects under section 54-52.6-02 to terminate membership in the
27 public employees retirement system under chapter 54-52, the board shall transfer a
28 lump sum amount from the retirement fund to the participating member's account in
29 the defined contribution retirement plan under this chapter. However, if the individual
30 terminates employment ~~prior to~~ before receiving the lump sum transfer under this
31 section, the election made under section 54-52.6-02 is ineffective and the individual

1 remains a member of the public employees retirement system under chapter 54-52
2 and retains all the rights and benefits provided under that chapter. The board shall
3 calculate the amount to be transferred for persons employed before October 1, 2001,
4 using the two following formulas, and shall transfer the greater of the two amounts
5 obtained:

6 1-a. The actuarial present value of the individual's accumulated benefit obligation
7 under the public employees retirement system based on the assumption that the
8 individual will retire under the earliest applicable normal retirement age, plus
9 interest from January 1, 2001, to the date of transfer, at the rate of one-half of
10 one percent less than the actuarial interest assumption at the time of the election;
11 or

12 2-b. The actual employer contribution made, less vested employer contributions made
13 pursuant to section 54-52-11.1, plus compound interest at the rate of one-half of
14 one percent less than the actuarial interest assumption at the time of the election
15 plus the employee account balance.

16 2. The board shall calculate the amount to be transferred for persons employed after
17 September 30, 2001, and before January 1, 2024, using only the formula contained in
18 subdivision b of subsection 21.

19 **SECTION 18. AMENDMENT.** Section 54-52.6-05 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **54-52.6-05. Direction of investments.**

- 22 1. Each participating member shall direct the investment of the individual's accumulated
23 employer and employee contributions and earnings to one or more investment choices
24 within available categories of investment provided by the board. The board shall follow
25 federal guidelines for establishing a qualified default investment alternative for
26 contributions made by a participating member who fails to provide explicit investment
27 direction. If a participating member does not elect an investment option upon
28 enrollment into the defined contribution retirement plan, the board shall automatically
29 enroll the participating member into the qualified default investment alternative option.
30 2. The board shall provide an investment menu of investment options. In establishing the
31 investment options, the board shall:

- 1 a. Include predetermined investment portfolio options constructed to reflect different
- 2 risk profiles that automatically reallocate and rebalance contributions as a
- 3 participating member ages.
- 4 b. Allow a participating member to construct an investment portfolio using some or
- 5 all of the investment options.
- 6 c. Create a qualified default investment alternative that includes in-plan annuities.
- 7 3. The board shall provide a diversified menu of mutual funds and in-plan lifetime annuity
- 8 options, either fixed, variable, or a combination of both. In selecting an annuity
- 9 provider the board shall comply with section 54-52.6-05.1.

10 **SECTION 19.** Section 54-52.6-05.1 of the North Dakota Century Code is created and
11 enacted as follows:

12 **54-52.6-05.1. Annuity provider - Qualifications.**

- 13 1. The board shall select one or more annuity providers to provide the annuity options
- 14 under this chapter.
- 15 2. In selecting an annuity provider under this section, the board shall:
 - 16 a. Determine whether the annuity provider and the provider's subsidiaries and
 - 17 affiliates have appropriate financial strength and stability at the time of selection
 - 18 and during the term of contract with the board.
 - 19 (1) The board may require the provider to provide the board with written
 - 20 representation:
 - 21 (a) The provider is in compliance with title 26.1.
 - 22 (b) The provider at the time of selection is and for each of the preceding
 - 23 seven years was in compliance and good standing with the insurance
 - 24 commissioner of the provider's domiciliary state and the provider is
 - 25 not operating under an order of rehabilitation or liquidation.
 - 26 (c) The provider maintains and has maintained reserves that satisfy the
 - 27 statutory requirements of each state in which the provider does
 - 28 business.
 - 29 (2) The board may require a provider selected by the board to provide annuities
 - 30 under this chapter to notify the board of a change of circumstances resulting
 - 31 in the provider failing to meet any of the requirements under paragraph 1.

- 1 (3) The board must have determined the provider has a claims paying ability
2 rating that meets standards adopted by the board.
- 3 b. Determine whether the annuity provider is able to provide contracted rights and
4 benefits to a participating member.
- 5 c. Determine whether the costs, including fees and commissions, of the annuity
6 options in relation to the benefits and product features of the annuity options are
7 reasonable.
- 8 d. Determine whether the administrative services to be provided under the annuity
9 option are appropriate. At a minimum the administrative services must include
10 periodic reports to the board.
- 11 e. Determine whether the annuity provider is experienced in paying lifetime
12 retirement income through annuities offered to public employee defined
13 contribution retirement plans.
- 14 f. Determine whether the annuity provider offers a menu of annuity options that
15 meet the following conditions:
- 16 (1) The annuity options are suitable for participating members and
17 beneficiaries.
- 18 (2) The contract terms and income benefits are clearly stated, based on
19 reasonable assumptions.
- 20 (3) The menu of annuity options offers a range of lifetime income options.
- 21 (4) If an annuity is a variable annuity, the annuity offers a fixed account option
22 along with a variable option.
- 23 g. Determine whether the annuity provider offers objective and participant-specific
24 education and tools to help a participating member understand the appropriate
25 use of annuities as a long-term retirement savings vehicle.

26 **SECTION 20. AMENDMENT.** Section 54-52.6-08 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **54-52.6-08. Credit of transfers.**

29 The board shall promptly credit the plan account of a participating member who makes an
30 election under ~~this chapter~~ section 54-52.6-02 to terminate membership in the public employees

1 retirement system under chapter 54-52 with any amount transferred from the public employees
2 retirement system.

3 **SECTION 21. AMENDMENT.** Section 54-52.6-09 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **54-52.6-09. Contributions - Penalty.**

- 6 1. Each participating member shall contribute monthly four percent of the monthly salary
7 or wage paid to the participant, ~~and this.~~ In addition, a participating member may elect
8 to contribute monthly up to an additional three percent of the monthly salary or wage
9 paid to the participant. This assessment must be deducted from the participant's
10 salary in equal monthly installments commencing with the first month of participation in
11 the defined contribution retirement plan established under this chapter. Participating-
12 member contributions increase by one percent of the monthly salary or wage paid to
13 the participant beginning with the monthly reporting period of January 2012; with an
14 additional increase of one percent, beginning with the reporting period of
15 January 2013; and with an additional increase of one percent, beginning with the
16 monthly reporting period of January 2014. A participating member may revise the
17 participating member's election on a monthly basis.
- 18 2. The employer shall contribute an amount equal to four and twelve-hundredths percent
19 of the monthly salary or wage of a participating member, plus up to an additional three
20 percent as an employer matching contribution calculated based on the participating
21 member's election under subsection 1. ~~Employer contributions increase by one-~~
22 ~~percent of the monthly salary or wage of a participating member beginning with the~~
23 ~~monthly reporting period of January 2012; with an additional increase of one percent,~~
24 ~~beginning with the monthly reporting period of January 2013; and with an additional~~
25 ~~increase of one percent, beginning with the monthly reporting period of January 2014.~~
26 For members first enrolled after December 31, 2019, the employer contribution
27 includes an additional increase of one and fourteen-hundredths percent. If the
28 employee's contribution is paid by the employer under subsection 3, the employer
29 shall contribute, in addition, an amount equal to the required employee's contribution.
30 Monthly, the employer shall pay such contribution into the participating member's
31 account from the employer's funds appropriated for payroll and salary or any other

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

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

29 **SECTION 22.** Section 54-52.6-09.5 of the North Dakota Century Code is created and
30 enacted as follows:

1 **54-52.6-09.5. Employer contribution for defined benefit plan.**

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

7 **SECTION 23.** Section 54-52.6-09.6 of the North Dakota Century Code is created and
8 enacted as follows:

9 **54-52.6-09.6. Participation by temporary employees.**

10 A temporary employee may elect, within one hundred eighty days of beginning employment,
11 to participate in the defined contribution retirement plan under this chapter. Monthly, the
12 temporary employee shall contribute an amount equal to nine and twenty-six hundredths
13 percent times the temporary employee's present monthly salary, and may elect to contribute up
14 to an additional six percent. A temporary employee may revise the temporary employee's
15 election on a monthly basis.

16 **SECTION 24. AMENDMENT.** Section 54-52.6-10 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **54-52.6-10. Vesting.**

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

23 1-a. Upon completion of two years of service, fifty percent.

24 2-b. Upon completion of three years of service, seventy-five percent.

25 3-c. Upon completion of four years of service, one hundred percent.

26 2. A participating member also becomes one hundred percent vested in the employer
27 contributions upon reaching age sixty-five. A participating member who was a member
28 or deferred member of the public employees retirement system under chapter 54-52
29 who makes an election to participate in the defined contribution retirement plan
30 ~~pursuant to this chapter~~ under section 54-52.6-02 must be credited with the years of
31 service accrued under the public employees retirement system on the effective date of

1 participation in the defined contribution retirement plan for the purpose of meeting
2 vesting requirements for benefits under this section. Any forfeiture as a result of the
3 failure of a participating member to vest in the employer contribution must be
4 deposited in the administrative expenses account.

5 **SECTION 25. AMENDMENT.** Section 54-52.6-13 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **54-52.6-13. Distributions.**

- 8 1. A participating member is eligible to receive distribution of that ~~person's~~individual's
9 accumulated balance in the plan upon becoming a former participating member.
- 10 2. Upon the death of a participating member or former participating member, the board
11 shall pay the accumulated account balance of that deceased participant to the
12 deceased participant's refund beneficiary, if any, as provided in this subsection. If the
13 deceased participant designated an alternate refund beneficiary with the surviving
14 spouse's written consent, the board shall distribute the accumulated balance to the
15 named beneficiary. If the deceased participant named more than one primary
16 beneficiary with the surviving spouse's written consent, the board shall pay the
17 accumulated account balance to the named primary beneficiaries in the percentages
18 designated by the deceased participant or, if the deceased participant had not
19 designated a percentage for the beneficiaries, in equal percentages. If one or more of
20 the primary beneficiaries has predeceased the deceased participant, the board shall
21 pay the predeceased beneficiary's share to the remaining primary beneficiaries. If any
22 beneficiary survives the deceased participant, yet dies before distribution of the
23 beneficiary's share, the beneficiary must be treated as if the beneficiary predeceased
24 the deceased participant. If there is no remaining primary beneficiary, the board shall
25 pay the accumulated account balance of that deceased participant to the contingent
26 beneficiaries in the same manner. If there is no remaining designated beneficiary, the
27 board shall pay the accumulated account balance of that deceased participant to the
28 deceased participant's estate. If the deceased participant had not designated an
29 alternate refund beneficiary or the surviving spouse is the refund beneficiary, the
30 surviving spouse of the deceased participant may select a form of payment as
31 provided in subdivision d of subsection 3.

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

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

24 **54-52.6-15. Board to provide information.**

- 25 1. The board shall provide information to employees who are eligible under section
26 54-52.6-02 to elect to become participating members under this chapter. The
27 information must include at a minimum the employee's current account balance, the
28 assumption of investment risk under a defined contribution retirement plan,
29 administrative and investment costs, coordination of benefits information, and a
30 comparison of projected retirement benefits under the public employees retirement
31 system under chapter 54-52 and the retirement plan established under this chapter.

- 1 2. The board, or the board's vendor, shall provide to participating members:
2 a. Enrollment information that includes benefits of the defined contribution
3 retirement plan, investment options available, the assumption of risk, and
4 administrative and investment costs.
5 b. Ongoing investment and retirement income planning, including education on how
6 to set, measure, and adjust income and saving goals based on desired
7 retirement income and financial objectives, actual behavior, and changing
8 circumstances.
9 c. Retirement income education, including distribution options available and in-plan
10 annuitization options.
11 d. Advice and guidance information, tools, and services primarily focused on long-
12 term planning and investing and life events that potentially influence and impact
13 retirement savings.
14 3. Notwithstanding any other provision of law, the board is not liable for any election or
15 investment decision made by an employee based upon information provided to an
16 employee under this chapter.

17 **SECTION 27.** Section 54-52.6-22 of the North Dakota Century Code is created and enacted
18 as follows:

19 **54-52.6-22. Report to employee benefits programs committee.**

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

22 **SECTION 28. APPLICATION.** Subdivision a of subsection 1 of section 54-52-06 applies to
23 employer contributions beginning January 2024, using a contribution rate based on the July 1,
24 2022, actuarial analysis.

25 **SECTION 29. EFFECTIVE DATE.** Sections 1 and 2 of this Act become effective July 1,
26 2023, and Sections 3 through 28 of this Act become effective January 1, 2024.

27 **SECTION 30. EMERGENCY.** Sections 1 and 2 of this Act are declared to be an emergency
28 measure.