

**FIRST ENGROSSMENT  
with House Amendments  
ENGROSSED SENATE BILL NO. 2046**

Introduced by

Government and Veterans Affairs Committee

(At the request of the Public Employees Retirement System)

1 A BILL for an Act to create and enact a new section to chapter 6-09.4, a new section to chapter  
2 21-10, sections 54-52-02.15, 54-52-02.16, and 54-52.6-02.1, and a new section to chapter  
3 57-38 of the North Dakota Century Code, relating to a legacy sinking and interest fund, a legacy  
4 earnings fund, the public employees retirement system main system, membership in the public  
5 employees retirement system defined contribution plan, and an income tax relief fund; to amend  
6 and reenact section 21-10-12, subsection 4 of section 54-52-01, section 54-52-02.5, subsection  
7 1 of section 54-52-02.9, section 54-52-02.9, subsection 2 of section 54-52-05, subsection 1 of  
8 section 54-52-06, and sections 54-52.6-01, 54-52.6-02, and 54-52.6-03 of the North Dakota  
9 Century Code, relating to legacy fund definitions and the public employees retirement system  
10 retirement plans; to provide for a legislative management study; to provide an appropriation; to  
11 provide for a transfer; to provide a statement of legislative intent; to provide for application; to  
12 provide an effective date; and to declare an emergency.

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

14 **SECTION 1.** A new section to chapter 6-09.4 of the North Dakota Century Code is created  
15 and enacted as follows:

16 **Legacy sinking and interest fund - Debt service requirements - Public finance**  
17 **authority.**

18 There is created in the state treasury the legacy sinking and interest fund. The fund consists  
19 of all moneys deposited in the fund under section 3 of this Act. Moneys in the fund may be  
20 spent by the public finance authority pursuant to legislative appropriations to meet the debt  
21 service requirements for evidences of indebtedness issued by the authority for transfer to the  
22 Bank of North Dakota for allocations to infrastructure projects and programs and the clean  
23 sustainable energy fund. Any moneys in the fund in excess of the amounts appropriated from

1 the fund to meet the debt service requirements for a biennium may be appropriated by the  
2 legislative assembly for other purposes.

3 **SECTION 2. AMENDMENT.** Section 21-10-12 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **21-10-12. Legacy fund - ~~Earnings defined~~ definitions.**

6 For the purposes of section 26 of article X of the Constitution of North Dakota, ~~the term~~  
7 "earnings":

- 8 1. "Earnings" means net income in accordance with generally accepted accounting  
9 principles, excluding any unrealized gains or losses.
- 10 2. "Principal" means all moneys in the legacy fund not included in earnings as defined  
11 under subsection 1.

12 **SECTION 3.** A new section to chapter 21-10 of the North Dakota Century Code is created  
13 and enacted as follows:

14 **Legacy earnings fund - State treasurer - Transfers.**

- 15 1. There is created in the state treasury the legacy earnings fund. The fund consists of all  
16 moneys transferred to the fund under subsection 2 and all interest and earnings upon  
17 moneys in the fund.
- 18 2. Any legacy fund earnings transferred to the general fund at the end of each biennium  
19 in accordance with section 26 of article X of the Constitution of North Dakota must be  
20 immediately transferred by the state treasurer to the legacy earnings fund.
- 21 3. For each biennium subsequent to the biennium in which the legacy fund earnings are  
22 transferred under subsection 2, the amount available for appropriation from the legacy  
23 earnings fund is six percent of the five-year average value of the legacy fund assets as  
24 reported by the state investment board. The average value of the legacy fund assets  
25 must be calculated using the value of the assets at the end of each fiscal year for the  
26 five-year period ending with the most recently completed even-numbered fiscal year.
- 27 4. On July first of each odd-numbered year, from the amount available for appropriation  
28 or transfer from the legacy earnings fund for the biennium, the state treasurer shall  
29 transfer funding in the following order:
  - 30 a. The first one hundred million dollars to the legacy sinking and interest fund under  
31 section 1 of this Act.

- 1           b. The next forty million dollars to the clean sustainable energy fund.
- 2           c. The next forty million dollars to the public employees retirement system main
- 3           system plan under chapter 54-52, but only if the public employees retirement
- 4           system main system plan's actuarial funded ratio as reported for the most
- 5           recently completed even-numbered fiscal year is less than ninety percent. If the
- 6           public employees retirement system main system plan's actuarial funded ratio is
- 7           ninety percent or more and then subsequently decreases below ninety percent,
- 8           the state treasurer may not resume the transfers under this subdivision unless
- 9           the main system plan's actuarial funded ratio is less than seventy percent.
- 10          d. Any remaining funds for other purposes as designated by the legislative
- 11          assembly.
- 12          5. If the amounts transferred under subsection 2 exceed the amount available for
- 13          appropriation under subsection 3, the state treasurer shall transfer the excess, within
- 14          thirty days, as follows:
- 15           a. Forty percent to the strategic investment and improvements fund to be used in
- 16           accordance with the provisions of section 15-08.1-08;
- 17           b. Forty percent to the legacy fund to become part of the principal; and
- 18           c. Twenty percent to the income tax relief fund under section 12 of this Act.

19          **SECTION 4. AMENDMENT.** Subsection 4 of section 54-52-01 of the North Dakota Century  
20 Code is amended and reenacted as follows:

- 21          4. "Eligible employee" means all permanent employees who are participating members
- 22          before January 1, 2023, and who meet all of the eligibility requirements set by this
- 23          chapter and who are eighteen years or more of age, and includes appointive and
- 24          elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12 who are
- 25          participating members before January 1, 2023, and nonteaching employees of the
- 26          superintendent of public instruction, including the superintendent of public instruction,
- 27          who ~~elect~~elected to transfer from the teachers' fund for retirement to the public
- 28          employees retirement system under section 54-52-02.13, and employees of the state
- 29          board for career and technical education who ~~elect~~elected to transfer from the
- 30          teachers' fund for retirement to the public employees retirement system under section
- 31          54-52-02.14. Eligible employee does not include ~~nonclassified~~ state employees who

1 ~~elect to become members of the retirement plan established under chapter 54-52.6~~are  
2 first employed after December 31, 2022, and are not participating members, but does  
3 include employees of the judicial branchsupreme court judges and district court  
4 judges, employees eligible to participate in a law enforcement retirement plan,  
5 employees of a participating political subdivision, and employees of the board of  
6 higher education and state institutions under the jurisdiction of the board who are not  
7 participating in the teachers' insurance and annuity association of America - college  
8 retirement equities fund retirement plan.

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

11 **54-52-02.5. Newly elected and appointed state officials.**

12 After December 31, 1999, ~~a person~~and before January 1, 2023, an individual elected or  
13 appointed to a state office for the first time must, from and after the date that ~~person~~individual  
14 qualifies and takes office, be a participating member of the public employees retirement system  
15 unless that ~~person~~individual makes an election at any time during the first six months after the  
16 date the person takes office to participate in the retirement plan established under chapter  
17 54-52.6. After December 31, 2022, an individual elected or appointed to a state office, from and  
18 after the date the individual qualifies and takes office, must be a participating member of the  
19 retirement plan established under chapter 54-52.6 unless the individual is a participating  
20 member under this chapter. As used in this section, the phrase "for the first time" means a  
21 ~~person~~an individual appointed, who, after December 31, 1999, does not hold office as an  
22 appointed official at the time of that ~~person's~~individual's appointment.

23 **SECTION 6. AMENDMENT.** Subsection 1 of section 54-52-02.9 of the North Dakota  
24 Century Code is amended and reenacted as follows:

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

1 beginning with the monthly reporting period of January 2012, ~~and with an~~  
2 ~~additional two percent increase, beginning with the reporting period of~~  
3 ~~January 2013, and with an additional increase of two percent, beginning with the~~  
4 ~~monthly reporting period of January 2014.~~

- 5 b. Monthly, the political subdivision temporary employee shall pay to the fund an  
6 amount equal to twelve and twelve hundredths percent times the temporary  
7 employee's present monthly salary. The amount required to be paid by a  
8 temporary employee increases by two percent times the temporary employee's  
9 present monthly salary beginning with the monthly reporting period of January  
10 2014 and with an additional one percent increase beginning with the reporting  
11 period of January 2022.

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

14 **54-52-02.9. Participation by temporary employees.**

- 15 1. ~~Within~~Before January 1, 2023, ~~within~~ one hundred eighty days of beginning  
16 employment, a state temporary employee may elect to participate in the public  
17 employees retirement system under this chapter and receive credit for service after  
18 enrollment. Within one hundred eighty days of beginning employment, a participating  
19 political subdivision temporary employee may elect to participate in the public  
20 employees retirement system under this chapter and receive credit for service after  
21 enrollment.
- 22 a. Monthly, the state temporary employee shall pay to the fund an amount equal to  
23 twelve and twelve hundredths percent times the temporary employee's present  
24 monthly salary. The amount required to be paid by a temporary employee  
25 increases by two percent times the temporary employee's present monthly salary  
26 beginning with the monthly reporting period of January 2014.
- 27 b. Monthly, the political subdivision temporary employee shall pay to the fund an  
28 amount equal to twelve and twelve hundredths percent times the temporary  
29 employee's present monthly salary. The amount required to be paid by a  
30 temporary employee increases by two percent times the temporary employee's  
31 present monthly salary beginning with the monthly reporting period of January

1                   2014 and with an additional one percent increase beginning with the reporting  
2                   period of January 2022.

3           2.   If the temporary employee first enrolled:

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

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

11          3.   An employer may not pay the temporary employee's contributions. A temporary  
12          employee who is a participating member before January 1, 2023, may continue to  
13          participate as a temporary employee in the public employees retirement system until  
14          termination of employment or reclassification of the temporary employee as a  
15          permanent employee. A temporary employee may not purchase any additional credit,  
16          including additional credit under section 54-52-17.4 or past service under section  
17          54-52-02.6.

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

20                **54-52-02.15. Public employees retirement system main system - Political**  
21                **subdivisions - Legislative management.**

22           1.   Effective July 1, 2021, the board shall maintain a plan for political subdivisions that  
23           participate in the public employees retirement system main system which is separate  
24           from the main plan maintained for the state.

25           2.   During the 2021-22 interim, the legislative management, in consultation with the public  
26           employees retirement system, shall prepare for submission to the sixty-eighth  
27           legislative assembly legislation to statutorily separate the plan for political subdivisions  
28           that participate so the plan funds are not held in trust with the other plans in the public  
29           employees retirement system main system.

30          **SECTION 9.** Section 54-52-02.16 of the North Dakota Century Code is created and enacted  
31          as follows:

1        **Public employees retirement system main system - State employees.**

2        Effective January 1, 2023, the public employees retirement system main plan maintained  
3 for the state is closed to new participating members. This section does not impact the main plan  
4 maintained for participating political subdivisions, law enforcement plan, judges' plan, highway  
5 patrol plan, teachers' fund for retirement plan, or teachers' insurance and annuity association of  
6 America - college retirement equities fund retirement plan.

7        **SECTION 10. AMENDMENT.** Subsection 2 of section 54-52-05 of the North Dakota  
8 Century Code is amended and reenacted as follows:

9        2. Each participating member must be assessed and required to pay monthly ~~four~~six  
10 percent of the monthly salary or wage paid to the member, and such assessment must  
11 be deducted and retained out of such salary in equal monthly installments  
12 commencing with the first month of employment. Member

13        a. State participating member contributions increase by one percent of the monthly  
14 salary or wage paid to the member beginning with the monthly reporting period of  
15 January 2012, ~~and with an additional increase of one percent, beginning with the~~  
16 ~~monthly reporting period of January 2013, and with an additional increase of one~~  
17 ~~percent, beginning with the monthly reporting period of January 2014.~~

18        b. Political subdivision participating member contributions increase by one percent  
19 of the monthly salary or wage paid to the member beginning with the monthly  
20 reporting period of January 2014 and with an additional increase of one-half of  
21 one percent beginning with the monthly reporting period of January 2022.

22        **SECTION 11. AMENDMENT.** Subsection 1 of section 54-52-06 of the North Dakota Century  
23 Code is amended and reenacted as follows:

24        1. Each governmental unit shall contribute an amount equal to ~~four~~six and  
25 twelve-hundredths percent of the monthly salary or wage of a participating member.  
26 Governmental

27        a. State governmental unit contributions increase by one percent of the monthly  
28 salary or wage of a participating member beginning with the monthly reporting  
29 period of January 2012; ~~with an additional increase of one percent, beginning~~  
30 ~~with the reporting period of January 2013; and with an additional increase of one~~  
31 ~~percent, beginning with the monthly reporting period of January 2014.~~

- 1           **b.** Political subdivision governmental unit contributions increase by one percent of  
2           the monthly salary or wage of a participating member beginning with the monthly  
3           reporting period of January 2014 and with an additional increase of one-half of  
4           one percent beginning with the monthly reporting period of January 2022.  
5           **c.** For a participating member who first enrolls after December 31, 2019, the  
6           governmental unit shall contribute an additional amount equal to one and  
7           fourteen-hundredths percent of the monthly salary or wage of the participating  
8           member.

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

11          **54-52.6-01. Definition of terms.**

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

- 13          1. "Board" means the public employees retirement system board.  
14          2. "Deferred member" means a person who elected to receive deferred vested retirement  
15          benefits under chapter 54-52.  
16          3. "Eligible employee" means a permanent state employee, ~~except an employee of the~~  
17          ~~judicial branch or an employee of the board of higher education and state institutions~~  
18          ~~under the jurisdiction of the board, who is eighteen years or more of age and who is in~~  
19          ~~a position not classified by North Dakota human resource management services. If a~~  
20          participating member loses permanent employee status and becomes a temporary  
21          employee, the member may still participate in the defined contribution retirement plan.  
22          The term does not include a supreme court judge or a district court judge, an  
23          employee eligible to participate in a law enforcement retirement plan, an employee of  
24          a political subdivision, or an employee of the board of higher education and state  
25          institutions under the jurisdiction of the board of higher education who is participating  
26          in the teachers' insurance and annuity association of America - college retirement  
27          equities fund retirement plan.  
28          4. "Employee" means any person employed by the state, whose compensation is paid  
29          out of state funds, or funds controlled or administered by the state or paid by the  
30          federal government through any of its executive or administrative officials.  
31          5. "Employer" means the state of North Dakota.



- 1       6. "Participating member" means an eligible employee who ~~elects to~~  
2       ~~participate~~participates in the defined contribution retirement plan established under  
3       this chapter.
- 4       7. "Permanent employee" means a state employee whose services are not limited in  
5       duration and who is filling an approved and regularly funded position and is employed  
6       twenty hours or more per week and at least five months each year.
- 7       8. "Temporary employee" means a state employee who is not eligible to participate as a  
8       permanent employee, who is at least eighteen years old and not actively contributing  
9       to another employer-sponsored pension fund.
- 10      9. "Wages" and "salaries" means earnings in eligible employment under this chapter  
11      reported as salary on a federal income tax withholding statement plus any salary  
12      reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or  
13      457. "Salary" does not include fringe benefits such as payments for unused sick leave,  
14      personal leave, vacation leave paid in a lump sum, overtime, housing allowances,  
15      transportation expenses, early retirement, incentive pay, severance pay, medical  
16      insurance, workforce safety and insurance benefits, disability insurance premiums or  
17      benefits, or salary received by a member in lieu of previously employer-provided fringe  
18      benefits under an agreement between an employee and a participating employer.  
19      Bonuses may be considered as salary under this section if reported and annualized  
20      pursuant to rules adopted by the board.

21      **SECTION 13. AMENDMENT.** Section 54-52.6-02 of the North Dakota Century Code is  
22      amended and reenacted as follows:

23      **54-52.6-02. Election.**

- 24      1. The board shall provide an opportunity for each eligible employee who is first  
25      employed before January 1, 2023, and who is a member of the public employees  
26      retirement system on September 30, 2001, ~~and who has not made a written election~~  
27      ~~under this section June 30, 2023,~~ to transfer to the defined contribution retirement plan  
28      ~~before October 1, 2001, to elect~~by electing in writing to terminate membership in the  
29      public employees retirement system and elect to become a participating member  
30      under this chapter. Except as provided in section 54-52.6-03, an election made by an  
31      eligible employee under this section is irrevocable. ~~The board shall accept written~~

1           elections under this section from eligible employees during the period beginning on  
2           July 1, 1999, and ending ~~12:01 a.m. December 14, 2001.~~ An eligible employee who  
3           does not make a written election or who does not file the election during the period  
4           specified in this section continues to be a member of the public employees retirement  
5           system. An eligible employee who makes and files a written election transfers to the  
6           defined contribution plan under this section ceases to be a member of the public  
7           employees retirement system ~~effective twelve midnight December 31, 2001;~~ and  
8           becomes a participating member in the defined contribution retirement plan under this  
9           chapter ~~effective 12:01 a.m. January 1, 2002;~~ and waives all of that person's rights to  
10          a pension, annuity, retirement allowance, insurance benefit, or any other benefit under  
11          the public employees retirement system ~~effective December 31, 2001.~~ This section  
12          does not affect a person's right to health benefits or retiree health benefits under  
13          chapter 54-52.1. An eligible employee who is first employed and entered upon the  
14          payroll of that person's employer ~~after September 30, 2001,~~ may make an election to  
15          participate in the defined contribution retirement plan established under this chapter at  
16          any time during the ~~first six months after the date of employment.~~ If the board, in its  
17          sole discretion, ~~determines that the employee was not adequately notified of the~~  
18          ~~employee's option to participate in the defined contribution retirement plan, the board~~  
19          ~~may provide the employee a reasonable time within which to make that election, which~~  
20          ~~may extend beyond the original six-month decision window~~ period beginning July 3,  
21          2023, and ending 5:00 p.m. December 29, 2023.

- 22          2. If an individual who is a deferred member of the public employees retirement system  
23          on ~~September 30, 2001~~ December 31, 2022, is re-employed and by virtue of that  
24          employment is again eligible for membership in the public employees retirement  
25          system under chapter 54-52, the individual may elect in writing to remain a member of  
26          the public employees retirement system or if eligible to participate in the defined  
27          contribution retirement plan established under this chapter to terminate membership in  
28          the public employees retirement system and become a participating member in the  
29          defined contribution retirement plan established under this chapter. An election made  
30          by a deferred member under this section is irrevocable. The board shall accept written  
31          elections under this section from a deferred member during the period beginning on

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

- 22 3. An eligible employee who elects to participate in the retirement plan established under  
23 this chapter must remain a participant even if that employee returns to the classified  
24 service or becomes employed by a political subdivision that participates in the public  
25 employees retirement system. The contribution amount must be as provided in this  
26 chapter, regardless of the position in which the employee is employed.  
27 Notwithstanding the irrevocability provisions of this chapter, if a member who elects to  
28 participate in the retirement plan established under this chapter becomes a supreme  
29 or district court judge, becomes a member of the highway patrol, becomes employed  
30 in a position subject to teachers' fund for retirement membership, or becomes an  
31 employee of the board of higher education or state institution under the jurisdiction of

1 the board who is eligible to participate in an alternative retirement program established  
2 under subsection 6 of section 15-10-17, the member's status as a member of the  
3 defined contribution retirement plan is suspended, and the member becomes a new  
4 member of the retirement plan for which that member's new position is eligible. The  
5 member's account balance remains in the defined contribution retirement plan, but no  
6 new contributions may be made to that account. The member's service credit and  
7 salary history that were forfeited as a result of the member's transfer to the defined  
8 contribution retirement plan remain forfeited, and service credit accumulation in the  
9 new retirement plan begins from the first day of employment in the new position. If the  
10 member later returns to employment that is eligible for the defined contribution plan,  
11 the member's suspension must be terminated, the member again becomes a member  
12 of the defined contribution retirement plan, and the member's account resumes  
13 accepting contributions. At the member's option, and pursuant to rules adopted by the  
14 board, the member may transfer any available balance as determined by the  
15 provisions of the alternate retirement plan into the member's account under this  
16 chapter.

- 17 4. After consultation with its actuary, the board shall determine the method by which a  
18 participating member or deferred member may make a written election under this  
19 section. If the participating member or deferred member is married at the time of the  
20 election, the election is not effective unless the election is signed by the individual's  
21 spouse. However, the board may waive this requirement if the spouse's signature  
22 cannot be obtained because of extenuating circumstances.
- 23 5. If the board receives notification from the internal revenue service that this section or  
24 any portion of this section will cause the public employees retirement system or the  
25 retirement plan established under this chapter to be disqualified for tax purposes  
26 under the Internal Revenue Code, then the portion that will cause the disqualification  
27 does not apply.
- 28 6. A participating member who becomes a temporary employee may still participate in  
29 the defined contribution retirement plan upon filing an election with the board within  
30 one hundred eighty days of transferring to temporary employee status. The  
31 participating member may not become a member of the defined benefit plan as a

1 temporary employee. The temporary employee electing to participate in the defined  
2 contribution retirement plan shall pay monthly to the fund an amount equal to eight  
3 and twelve hundredths percent times the temporary employee's present monthly  
4 salary. The amount required to be paid by a temporary employee increases by two  
5 percent times the temporary employee's present monthly salary beginning with the  
6 monthly reporting period of January 2012, and with an additional increase of two  
7 percent, beginning with the monthly reporting period of January 2013, and with an  
8 additional increase of two percent, beginning with the monthly reporting period of  
9 January 2014. The temporary employee shall also pay the required monthly  
10 contribution to the retiree health benefit fund established under section 54-52.1-03.2.  
11 This contribution must be recorded as a member contribution pursuant to section  
12 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A  
13 temporary employee may continue to participate as a temporary employee until  
14 termination of employment or reclassification of the temporary employee as a  
15 permanent employee.

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

25 **SECTION 14.** Section 54-52.6-02.1 of the North Dakota Century Code is created and  
26 enacted as follows:

27 **54-52.6-02.1. Membership.**

- 28 1. Except as otherwise provided, all eligible employees who are not participating in the  
29 public employees retirement system under chapter 54-52 are participating members.  
30 This subsection does not impact the public employees retirement system main plan  
31 maintained for participating political subdivisions, law enforcement plan, judges' plan.

1 highway patrol plan, teachers' fund for retirement plan, or teachers' insurance and  
2 annuity association of America - college retirement equities fund retirement plan.

3 2. Effective January 1, 2023, a temporary employee may elect, within one hundred eighty  
4 days of beginning employment, to participate in the defined contribution plan under  
5 this chapter. The temporary employee electing to participate in the defined contribution  
6 retirement plan shall pay monthly to the fund an amount equal to fourteen and twelve-  
7 hundredths percent. This contribution must be recorded as a member contribution  
8 pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's  
9 contributions. A temporary employee may continue to participate as a temporary  
10 employee in the public employees retirement system until termination of employment.

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

13 **54-52.6-03. Transfer of accumulated fund balances.**

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

- 23 1. ~~The~~For a vested or a nonvested individual, an estimate of the actuarial present value  
24 of the individual's accumulated benefit obligation under the public employees  
25 retirement system based on the assumption that the individual will retire under the  
26 earliest applicable normal retirement age, plus interest from January 1, ~~2001~~2024, to  
27 the date of transfer, at the rate of one-half of one percent less than the actuarial  
28 interest assumption at the time of the election; or
- 29 2. ~~The~~For a nonvested individual, an estimate of the actual employer contribution made,  
30 less vested employer contributions made pursuant to section 54-52-11.1, plus

1 compound interest at the rate of one-half of one percent less than the actuarial interest  
2 assumption at the time of the election plus the employee account balance.

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

5 **SECTION 16.** A new section to chapter 57-38 of the North Dakota Century Code is created  
6 and enacted as follows:

7 **Income tax relief fund.**

8 There is created in the state treasury the income tax relief fund. The fund consists of all  
9 moneys deposited in the fund under section 3 of this Act. Moneys in the fund may be spent  
10 pursuant to legislative appropriations for individual and corporate income tax relief.

11 **SECTION 17. PUBLIC EMPLOYEES RETIREMENT SYSTEM - ESTIMATE OF**  
12 **ACCUMULATED BALANCE TRANSFER.** For the period beginning January 2, 2023, and  
13 ending December 29, 2023, upon the request of an individual who is eligible for termination of  
14 membership in the public employees retirement system under chapter 54-52 as provided for in  
15 subsection 1 of section 54-52.6-02, the public employees retirement system shall estimate the  
16 individual's accumulated balance transfer amount by calculating the actuarial present value of  
17 the individual's accumulated benefit obligation under the public employees retirement system  
18 based on the assumption that the individual will retire under the earliest applicable normal  
19 retirement age.

20 **SECTION 18. APPROPRIATION - TRANSFER - GENERAL FUND TO PUBLIC**  
21 **EMPLOYEES RETIREMENT SYSTEM FUND.** There is appropriated out of any moneys in the  
22 general fund in the state treasury, not otherwise appropriated, the sum of \$100,000,000, which  
23 the office of management and budget shall transfer on January 1, 2023, to the public  
24 employees retirement system main system plan for state employees for the purpose of reducing  
25 the unfunded actuarial liability of the state share of the public employees retirement system  
26 main system plan for state employees for the biennium beginning July 1, 2021, and ending  
27 June 30, 2023.

28 **SECTION 19. LEGISLATIVE INTENT - OTHER USES OF LEGACY FUND EARNINGS.** It  
29 is the intent of the sixty-seventh legislative assembly that the sixty-eighth legislative assembly  
30 consider additional allocations from the legacy earnings fund, including allocations to the  
31 highway tax distribution fund, value-added agricultural programs, the innovation loan fund to

1 support technology advancement, state building maintenance and improvements, and for other  
2 one-time initiatives and projects, including initiatives and projects to diversify the state's  
3 economy, to improve the efficiency and effectiveness of state government, and to reduce  
4 ongoing general fund appropriations of state agencies.

5 **SECTION 20. LEGISLATIVE MANAGEMENT STUDY - PUBLIC EMPLOYEES**  
6 **RETIREMENT SYSTEM RETIREMENT PLANS.**

- 7 1. During the period July 1, 2021, through November 1, 2021, the legislative  
8 management shall study the public employees retirement system retirement plans,  
9 including:
- 10 a. Identifying a strategy for the main system plan for political subdivisions reaching  
11 full funding within thirty years and considering the governance of this plan;
  - 12 b. Reviewing the financial status of the plans under chapter 54-52; and
  - 13 c. Contracting for actuarial analyses of the plans under chapter 54-52 to determine  
14 the feasibility and desirability of remaining open as defined benefit plans versus  
15 closing and moving to a defined contribution plan.
- 16 2. By November 1, 2021, the legislative management shall be prepared to report its  
17 findings and recommendations, together with any legislation required to implement the  
18 recommendations, for introduction to the special session of the sixty-seventh  
19 legislative assembly.

20 **SECTION 21. APPLICATION.** In implementing section 8 of this Act, effective July 1, 2021,  
21 for all current active and retired members of the public employees retirement system main plan,  
22 the public employees retirement system board shall calculate separate data on the actuarial  
23 accrued liability, actuarial value of assets, and unfunded actuarial liability for the main system  
24 plan for state employees and the plan for political subdivisions.

25 **SECTION 22. EFFECTIVE DATE.** Sections 1, 2, 3, and 16 of this Act become effective on  
26 August 1, 2021. Sections 4, 5, 7, 12, 13, 14, 15, and 17 of this Act become effective on  
27 January 1, 2023.

28 **SECTION 23. EMERGENCY.** This Act is declared to be an emergency measure.