



# North Dakota Legislative Council

Prepared for the House Government and  
Veterans Affairs Committee  
21.9730.04000  
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## SUMMARY OF PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2046

### INTRODUCTION

This memorandum summarizes amendment 21.0095.02009 to Engrossed Senate Bill No. 2046.

### AMENDMENT 21.0095.02009

Amendment 21.0095.02009 is a hoghouse amendment. This amendment replaces the text of Engrossed House Bill No. 2046 with new text that provides for:

- Closure of the Public Employees Retirement System (PERS) main system plan (defined benefit plan) for new state hires effective January 1, 2023, and for direction of those new hires into the PERS defined contribution plan;
- The PERS main system to be separated into a plan for state employees and a plan for political subdivision employees;
- A general fund cash infusion of \$100 million into the PERS main system plan for state employees;
- A report to the Employee Benefits Programs Committee;
- The creation of a legacy sinking and interest fund and an income tax relief fund;
- Clarifications to legacy fund definitions;
- The creation of a legacy earnings fund to implement a percent of market value calculation to determine the amount of legacy fund earnings available for spending based on 6 percent of the 5-year average value of legacy fund earnings;
- Allocations from a legacy earnings fund to a legacy sinking and interest fund (\$100 million), a clean sustainable energy fund (\$40 million), the PERS main system plan based on the plan's actuarial funded ratio (\$40 million), and other legislative purposes (remaining amount); and
- Allocations of excess money from a legacy earnings fund to the strategic investment and improvements fund (40 percent), legacy fund principal (40 percent), and an income tax relief fund (20 percent).

### Allocation of Legacy Fund Earnings

- **SECTION 1** - Creates a legacy sinking and interest fund for bond repayments related to bonds issued to support infrastructure projects and programs and the clean sustainable energy fund.
- **SECTION 2** - Clarifies legacy fund definitions related to the provisions of the Constitution of North Dakota.
- **SECTION 3** - Creates a legacy earnings fund to implement a percent of market value calculation to determine the amount of legacy fund earnings available for spending based on 6 percent of the 5-year average value of legacy fund earnings and provides the following allocations from the legacy earnings fund:
  - \$100 million to a legacy sinking and interest fund;
  - \$40 million to a clean sustainable energy fund;
  - \$40 million to the PERS main system plan based on the plan's actuarial funded ratio;
  - The remaining amount available for spending for other legislative purposes;
  - 40 percent of any excess in the legacy earnings fund to the strategic investment and improvements fund;

40 percent of any excess in the legacy earnings fund to the legacy fund to become part of the principal; and

20 percent of any excess in the legacy earnings fund to an income tax relief fund.

- **SECTION 15** - Provides a statement of legislative intent for the 68<sup>th</sup> Legislative Assembly to consider additional allocations from the legacy earnings fund, including allocations to the highway tax distribution fund, value-added agricultural programs, the innovation loan fund to support technology advancement, state building maintenance and improvements, and for other one-time initiatives and projects.
- **SECTION 18** - Provides the effective date of August 1, 2021, for the provisions of the bill relating to the allocation of legacy fund earnings.

#### **Closure of Defined Benefit Plan and Routing of New Hires to Defined Contribution Plan**

- **SECTION 4** - Amends the definition of "eligible employee" as that term applies to the defined benefit plan, providing the term does not include state employees who are first employed after December 31, 2022, and clarifying the closure of the defined benefit plan does not affect Supreme Court and district court judges, employees eligible to participate in a law enforcement retirement plan, employees of a political subdivision, and employees of the State Board of Higher Education and state institutions under the jurisdiction of the State Board of Higher Education.
- **SECTION 5** - Provides the closure of the defined benefit plan applies to individuals appointed or elected to a state office after December 31, 2022, and provides those individuals are participating members of the defined contribution plan.
- **SECTION 6** - Closes the defined benefit plan to temporary employees who first begin employment after December 31, 2022.
- **SECTION 8** - Amends the definitions of "eligible employee" and "participating member" and creates a new definition of "temporary employee" as these terms apply to the defined contribution plan.

The term "eligible employee" clarifies the term does not include a Supreme Court or district court judge, an employee eligible to participate in a law enforcement retirement plan, an employee of a political subdivision, or an employee of the State Board of Higher Education and state institutions under the jurisdiction of the State Board of Higher Education.

The term "participating member" clarifies an eligible employee no longer elects to participate in the defined contribution plan.

The term "temporary employee" is created.

- **SECTION 9** - Provides for a 6-month window for members of the defined benefit plan to transfer to the defined contribution plan.
- **SECTION 10** - Creates a new section of law to the defined contribution plan law, providing:
  - All eligible employees are participating members of the defined contribution plan.
  - A temporary employee may elect to participate in the defined contribution plan.
  - The contribution rate for a temporary employee who elects to participate in the defined contribution plan.
- **SECTION 11** - Provides the formula for the transfer of accumulated fund balances for a member of the defined benefit plan who elects to transfer to the defined contribution plan.
- **SECTION 13** - Directs the PERS Board to estimate the accumulated balance transfer for a member of the defined benefit plan who might be interested in transferring to the defined contribution plan.
- **SECTION 18** - Provides the effective date for the closure and routing provisions of the bill is January 1, 2023.

#### **Separation of State and Political Subdivision Plans**

- **SECTION 7** - The newly created Section 54-52-02.15 provides effective July 1, 2021, the PERS Board shall maintain a plan for political subdivisions that participate in the PERS main system which is separate from the main plan for the state.

- **SECTION 17** - The application clause clarifies in implementing Section 7, effective July 1, 2021, for all current active and retired members of the PERS main system, the PERS Board shall calculate separate data for both the main system plan for state employees and the plan for political subdivisions on the:
  - Actuarial accrued liability;
  - Actuarial value of assets; and
  - Unfunded actuarial liability.

#### **Appropriation**

- **SECTION 14** - Provides for a general fund appropriation and transfer of \$100 million to PERS for the PERS main system plan for state employees.

#### **Report to Employee Benefits Programs Committee**

- **SECTION 16** - Directs the PERS Board to make periodic reports to the Employee Benefits Programs Committee regarding the status of establishing a strategy for the main system plan for political subdivision reaching full funding within 30 years.

