

Introduced by

Legislative Management

1 A BILL for an Act to amend and reenact sections [15-39.1-10.3](#), [54-52-01](#), 54-52-02.5,  
2 54-52-02.9, 54-52-02.11, 54-52-02.12, 54-52-02.15, [54-52-05](#), [54-52-14.3](#), [54-52-17.2](#),  
3 54-52.2-09, 54-52.6-01, 54-52.6-02, 54-52.6-02.1, 54-52.6-02.2, 54-52.6-03, [54-52.6-05](#),  
4 [54-52.6-05.1](#), [54-52.6-08](#), ~~and~~ 54-52.6-09, [54-52.6-09.6](#), [54-52.6-10](#), [54-52.6-13](#), [54-52.6-15](#),  
5 [54-52.6-19](#), [54-52.6-22](#), and [54-52.6-23](#) of the North Dakota Century Code, relating to the  
6 public employees retirement system retirement plans; to provide an exemption; to provide a  
7 contingent effective date; and to provide an effective date.

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

9 **SECTION 1. AMENDMENT.** Section 15-39.1-10.3 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **15-39.1-10.3. Multiple plan membership - Eligibility for benefits - Amount of benefits.**  
12 **(Effective through ~~December 31, 2024~~ [the day before the effective date of this Act](#))**

13 1. a. For the purpose of determining vesting of rights and eligibility for benefits under  
14 this chapter, a teacher's years of service credit is the total of the years of service  
15 credit earned in the fund and the years, with twelve months of compensation  
16 equal to a year, of service employment earned in any number of the following  
17 alternate plans:

- 18 (1) The public employees retirement system.  
19 (2) The highway patrol troopers' retirement system.

20 Service credit may not exceed one year of service in any fiscal year in  
21 determining vesting and benefit eligibility.

22 b. If a teacher terminates eligible employment under the fund, if that teacher has not  
23 received a refund of member contributions, and if that teacher begins eligible  
24 employment in a plan described in paragraph 1 or 2 of subdivision a, that teacher

1 may elect to remain an inactive member of the fund without refund of  
2 contributions. The board shall terminate the inactive status of a teacher under this  
3 subdivision if the teacher gains eligible employment under this chapter or if the  
4 teacher terminates eligible employment under a plan described in paragraph 1 or  
5 2 of subdivision a.

6 c. Pursuant to rules adopted by the board, a teacher who has service credit in the  
7 fund and in any number of the alternate plans described in paragraphs 1 and 2 of  
8 subdivision a is entitled to benefits under this chapter.

9 (1) A tier one member may elect to have benefits calculated using the benefit  
10 formula in subsection 2 of section 15-39.1-10 under either of the following  
11 calculation methods:

12 (a) Using the three highest certified fiscal year salaries of this plan in the  
13 computation of final average salary and all service credit earned in  
14 this plan; or

15 (b) Using the three highest certified fiscal year salaries of this plan  
16 combined with the alternate plan in the computation of final average  
17 salary and service credit not to exceed one year in any fiscal year  
18 when combined with the service credit earned in the alternate  
19 retirement plan.

20 (2) A tier two member may elect to have benefits calculated using the benefit  
21 formula in subsection 2 of section 15-39.1-10 under either of the following  
22 calculation methods:

23 (a) Using the five highest certified fiscal year salaries of this plan in the  
24 computation of final average salary and all service credit earned in  
25 this plan; or

26 (b) Using the five highest certified fiscal year salaries of this plan  
27 combined with the alternate plan in the computation of final average  
28 salary and service credit not to exceed one year in any fiscal year  
29 when combined with the service credit earned in the alternate  
30 retirement plan.

- 1           2.   a.   If a teacher, who is eligible to participate in this fund, is also eligible to participate  
2                    in an alternate retirement system, the employee is a member of the teachers'  
3                    fund for retirement for duties covered under this fund, and the employee is also a  
4                    member of the public employees retirement system or highway patrolmen's  
5                    retirement system for duties covered by those alternate retirement systems. The  
6                    employers shall pay the member and employer contributions at the rates  
7                    currently existing for the applicable system.
- 8           b.   If a teacher described in subdivision a was employed prior to August 1, 2003, and  
9                    has dual member rights, the teacher may elect to begin participation in the  
10                   alternate plan pursuant to the plan provisions on August 1, 2003, or may continue  
11                   participation pursuant to the plan provisions in effect on July 31, 2003. A plan  
12                   participation election is required by five p.m. on October 31, 2003. If an election  
13                   is not received by the retirement plan, the participation and benefit calculation  
14                   requirements of this chapter as of July 31, 2003, continue to be in effect for the  
15                   teacher.
- 16           3.   Under rules adopted by the board, an individual whose service credit was canceled  
17                   when that individual received a refund of assessments at termination of employment  
18                   under this chapter may, while that individual participates in a plan described in  
19                   paragraph 1 or 2 of subdivision a of subsection 1, repurchase that service credit that  
20                   was canceled.

21           **Multiple plan membership - Eligibility for benefits - Amount of benefits. (Effective**  
22           **after December 31, 2024 on the effective date of this Act)**

- 23           1.   a.   For the purpose of determining vesting of rights and eligibility for benefits under  
24                   this chapter, a teacher's years of service credit is the total of the years of service  
25                   credit earned in the fund and the years, with twelve months of compensation  
26                   equal to a year, of service employment earned in any number of the following  
27                   alternate plans:
- 28                   (1)   The public employees retirement system, except an "eligible employee" as  
29                   that term is defined under section 54-52-02.15.
- 30                   (2)   The highway patrol troopers' retirement system.

1 Service credit may not exceed one year of service in any fiscal year in  
2 determining vesting and benefit eligibility.

3 b. If a teacher terminates eligible employment under the fund, if that teacher has not  
4 received a refund of member contributions, and if that teacher begins eligible  
5 employment in a plan described in paragraph 1 or 2 of subdivision a, that teacher  
6 may elect to remain an inactive member of the fund without refund of  
7 contributions. The board shall terminate the inactive status of a teacher under this  
8 subdivision if the teacher gains eligible employment under this chapter or if the  
9 teacher terminates eligible employment under a plan described in paragraph 1 or  
10 2 of subdivision a.

11 c. Pursuant to rules adopted by the board, a teacher who has service credit in the  
12 fund and in any number of the alternate plans described in paragraphs 1 and 2 of  
13 subdivision a is entitled to benefits under this chapter.

14 (1) A tier one member may elect to have benefits calculated using the benefit  
15 formula in subsection 2 of section 15-39.1-10 under either of the following  
16 calculation methods:

17 (a) Using the three highest certified fiscal year salaries of this plan in the  
18 computation of final average salary and all service credit earned in  
19 this plan; or

20 (b) Using the three highest certified fiscal year salaries of this plan  
21 combined with the alternate plan in the computation of final average  
22 salary and service credit not to exceed one year in any fiscal year  
23 when combined with the service credit earned in the alternate  
24 retirement plan.

25 (2) A tier two member may elect to have benefits calculated using the benefit  
26 formula in subsection 2 of section 15-39.1-10 under either of the following  
27 calculation methods:

28 (a) Using the five highest certified fiscal year salaries of this plan in the  
29 computation of final average salary and all service credit earned in  
30 this plan; or

- 1 (b) Using the five highest certified fiscal year salaries of this plan  
2 combined with the alternate plan in the computation of final average  
3 salary and service credit not to exceed one year in any fiscal year  
4 when combined with the service credit earned in the alternate  
5 retirement plan.
- 6 2. a. If a teacher, who is eligible to participate in this fund, is also eligible to participate  
7 in an alternate retirement system, the employee is a member of the teachers'  
8 fund for retirement for duties covered under this fund, and the employee is also a  
9 member of the public employees retirement system or highway patrolmen's  
10 retirement system for duties covered by those alternate retirement systems. The  
11 employers shall pay the member and employer contributions at the rates  
12 currently existing for the applicable system.
- 13 b. If a teacher described in subdivision a was employed prior to August 1, 2003, and  
14 has dual member rights, the teacher may elect to begin participation in the  
15 alternate plan pursuant to the plan provisions on August 1, 2003, or may continue  
16 participation pursuant to the plan provisions in effect on July 31, 2003. A plan  
17 participation election is required by five p.m. on October 31, 2003. If an election  
18 is not received by the retirement plan, the participation and benefit calculation  
19 requirements of this chapter as of July 31, 2003, continue to be in effect for the  
20 teacher.
- 21 3. Under rules adopted by the board, an individual whose service credit was canceled  
22 when that individual received a refund of assessments at termination of employment  
23 under this chapter may, while that individual participates in a plan described in  
24 paragraph 1 or 2 of subdivision a of subsection 1, repurchase that service credit that  
25 was canceled.

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

28 **54-52-01. Definition of terms. (Effective through ~~December 31, 2024~~ the day before the**  
29 **effective date of this Act)**

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

- 1       1. "Account balance" means the total contributions made by the employee, vested  
2       employer contributions under section 54-52-11.1, the vested portion of the vesting  
3       fund as of June 30, 1977, and interest credited thereon at the rate established by the  
4       board.
- 5       2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any  
6       person designated by a participating member to receive benefits.
- 7       3. "Correctional officer" means a participating member who is employed as a correctional  
8       officer by a political subdivision.
- 9       4. "Eligible employee" means all permanent employees who meet all of the eligibility  
10      requirements set by this chapter and who are eighteen years or more of age, and  
11      includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and  
12      54-52-02.12, and nonteaching employees of the superintendent of public instruction,  
13      including the superintendent of public instruction, who elect to transfer from the  
14      teachers' fund for retirement to the public employees retirement system under section  
15      54-52-02.13, and employees of the state board for career and technical education who  
16      elect to transfer from the teachers' fund for retirement to the public employees  
17      retirement system under section 54-52-02.14. Eligible employee does not include  
18      nonclassified state employees who elect to become members of the retirement plan  
19      established under chapter 54-52.6 but does include employees of the judicial branch  
20      and employees of the board of higher education and state institutions under the  
21      jurisdiction of the board.
- 22      5. "Employee" means any individual employed by a governmental unit, whose  
23      compensation is paid out of the governmental unit's funds, or funds controlled or  
24      administered by a governmental unit, or paid by the federal government through any of  
25      its executive or administrative officials; licensed employees of a school district means  
26      those employees eligible to participate in the teachers' fund for retirement who, except  
27      under subsection 2 of section 54-52-17.2, are not eligible employees under this  
28      chapter.
- 29      6. "Employer" means a governmental unit.
- 30      7. "Firefighter" means a participating member who is employed as a firefighter by a  
31      political subdivision and, notwithstanding subsection 13, for an individual employed

1 after July 31, 2017, is employed at least thirty-two hours per week and at least twenty  
2 weeks each year of employment. A firefighter who is a participating member of the law  
3 enforcement retirement plan created by this chapter who begins employment after  
4 July 31, 2017, is ineligible to participate concurrently in any other retirement plan  
5 administered by the public employees retirement system. The term does not include a  
6 firefighter employee of the North Dakota national guard.

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

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

13 10. "National guard security officer or firefighter" means a participating member who is:

14 a. A security police employee of the North Dakota national guard; or

15 b. A firefighter employee of the North Dakota national guard.

16 11. "Participating member" means an eligible employee who through payment into the  
17 plan has established a claim against the plan.

18 12. "Peace officer" means a participating member who is a peace officer as defined in  
19 section 12-63-01 and is employed as a peace officer by the state, except by the  
20 highway patrol for members of the retirement plan created under chapter 39-03.1, or is  
21 employed by a political subdivision and, notwithstanding subsection 13, for persons  
22 employed after August 1, 2005, is employed thirty-two hours or more per week and at  
23 least twenty weeks each year of employment. A peace officer who is a participating  
24 member of the law enforcement retirement plan created by this chapter who begins  
25 employment after August 1, 2005, is ineligible to participate concurrently in any other  
26 retirement plan administered by the public employees retirement system.

27 13. "Permanent employee" means a governmental unit employee whose services are not  
28 limited in duration and who is filling an approved and regularly funded position in an  
29 eligible governmental unit, and is employed twenty hours or more per week and at  
30 least twenty weeks each year of employment.

31 14. "Prior service" means service or employment before July 1, 1966.

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

29 **Definition of terms. (Effective ~~after December 31, 2024~~ on the effective date of this**  
30 **Act)** As used in this chapter, unless the context otherwise requires:



- 1       1. "Account balance" means the total contributions made by the employee, vested  
2       employer contributions under section 54-52-11.1, the vested portion of the vesting  
3       fund as of June 30, 1977, and interest credited thereon at the rate established by the  
4       board.
- 5       2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any  
6       person designated by a participating member to receive benefits.
- 7       3. "Correctional officer" means a participating member who is employed as a correctional  
8       officer by a political subdivision.
- 9       4. "Deferred member" means a participating member who is not actively participating in  
10      the main plan under this chapter and who has an account intact in the main plan under  
11      this chapter.
- 12     5. "Eligible employee", except as otherwise provided under section 54-52-02.15, means  
13      a permanent employee who meets all of the eligibility requirements set by this chapter  
14      and who is eighteen years or more of age. The term includes appointive and elective  
15      officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching  
16      employees of the superintendent of public instruction, including the superintendent of  
17      public instruction, who elect to transfer from the teachers' fund for retirement to the  
18      public employees retirement system under section 54-52-02.13, and employees of the  
19      state board for career and technical education who elect to transfer from the teachers'  
20      fund for retirement to the public employees retirement system under section  
21      54-52-02.14. The term does not include nonclassified state employees who elected  
22      under section 54-52.6-02 to become members of the retirement plan established  
23      under chapter 54-52.6. The term does include employees of the judicial branch and  
24      employees of the board of higher education and state institutions under the jurisdiction  
25      of the board of higher education.
- 26     6. "Employee" means any individual employed by a governmental unit, whose  
27      compensation is paid out of the governmental unit's funds, or funds controlled or  
28      administered by a governmental unit, or paid by the federal government through any of  
29      its executive or administrative officials; licensed employees of a school district means  
30      those employees eligible to participate in the teachers' fund for retirement who, except

- 1 under subsection 2 of section 54-52-17.2, are not eligible employees under this  
2 chapter.
- 3 7. "Employer" means a governmental unit.
- 4 8. "Firefighter" means a participating member who is employed as a firefighter by a  
5 political subdivision and, notwithstanding subsection 13, for an individual employed  
6 after July 31, 2017, is employed at least thirty-two hours per week and at least twenty  
7 weeks each year of employment. A firefighter who is a participating member of the law  
8 enforcement retirement plan created by this chapter who begins employment after  
9 July 31, 2017, is ineligible to participate concurrently in any other retirement plan  
10 administered by the public employees retirement system. The term does not include a  
11 firefighter employee of the North Dakota national guard.
- 12 9. "Funding agent" or "agents" means an investment firm, trust bank, or other financial  
13 institution which the retirement board may select to hold and invest the employers' and  
14 members' contributions.
- 15 10. "Governmental unit" means the state of North Dakota, except the highway patrol for  
16 members of the retirement plan created under chapter 39-03.1, or a participating  
17 political subdivision of the state.
- 18 11. "National guard security officer or firefighter" means a participating member who is:  
19 a. A security police employee of the North Dakota national guard; or  
20 b. A firefighter employee of the North Dakota national guard.
- 21 12. "Participating member" means an eligible employee who through payment into the  
22 plan has established a claim against the plan.
- 23 13. "Peace officer" means a participating member who is a peace officer as defined in  
24 section 12-63-01 and is employed as a peace officer by the state, except by the  
25 highway patrol for members of the retirement plan created under chapter 39-03.1, or is  
26 employed by a political subdivision and, notwithstanding subsection 14, for persons  
27 employed after August 1, 2005, is employed thirty-two hours or more per week and at  
28 least twenty weeks each year of employment. A peace officer who is a participating  
29 member of the law enforcement retirement plan created by this chapter who begins  
30 employment after August 1, 2005, is ineligible to participate concurrently in any other  
31 retirement plan administered by the public employees retirement system.

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

1 participating employer. Bonuses may be considered as salary under this section if  
2 reported and annualized pursuant to rules adopted by the board.

3 **SECTION 3. AMENDMENT.** Section 54-52-02.5 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **54-52-02.5. Newly elected and appointed state officials. (Effective through**  
6 **~~December 31, 2024~~2023~~the day before the effective date of this Act~~)**

7 After December 31, 1999, a person elected or appointed to a state office for the first time  
8 must, from and after the date that person qualifies and takes office, be a participating member  
9 of the public employees retirement system unless that person makes an election at any time  
10 during the first six months after the date the person takes office to participate in the retirement  
11 plan established under chapter 54-52.6. As used in this section, the phrase "for the first time"  
12 means a person appointed, who, after December 31, 1999, does not hold office as an  
13 appointed official at the time of that person's appointment.

14 **Newly elected and appointed state officials. (Effective ~~after December 31, 2024~~2023**  
15 **on the effective date of this Act)**

- 16 1. After December 31, 1999, but before ~~January 1, 2025~~2024~~the effective date of this~~  
17 ~~Act~~, an individual elected or appointed to a state office for the first time must, from and  
18 after the date that individual qualifies and takes office, be a participating member of  
19 the public employees retirement system unless that person makes an election at any  
20 time during the first six months after the date the person takes office to participate in  
21 the defined contribution retirement plan established under chapter 54-52.6.
- 22 2. After ~~December 31, 2024~~2023~~the day before the effective date of this Act~~, an  
23 individual elected or appointed to a state office for the first time, from and after the  
24 date that individual qualifies and takes office, must be a participating member of the  
25 defined contribution retirement plan established under chapter 54-52.6, unless at the  
26 time of election or appointment the individual is a participating or deferred member  
27 under this chapter, in which case the official remains a participating member under this  
28 chapter.
- 29 3. As used in this section, the phrase "for the first time" means an individual appointed,  
30 who, after December 31, 1999, does not hold office as an appointed official at the time  
31 of that individual's appointment.

1       **SECTION 4. AMENDMENT.** Section 54-52-02.9 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **54-52-02.9. Participation by temporary employees. (Effective through ~~December 31,~~**  
4 **~~2024~~2023the day before the effective date of this Act)**

- 5       1. Within one hundred eighty days of beginning employment, a temporary employee may  
6       elect to participate in the public employees retirement system and receive credit for  
7       service after enrollment. Monthly, the temporary employee shall pay to the fund an  
8       amount equal to eight and twelve hundredths percent times the temporary employee's  
9       present monthly salary. The amount required to be paid by a temporary employee  
10      increases by two percent times the temporary employee's present monthly salary  
11      beginning with the monthly reporting period of January 2012, and with an additional  
12      two percent increase, beginning with the reporting period of January 2013, and with an  
13      additional increase of two percent, beginning with the monthly reporting period of  
14      January 2014.
- 15      2. If the temporary employee first enrolled:
  - 16      a. Before January 1, 2020, in addition the temporary employee shall pay the  
17      required monthly contribution to the retiree health benefit fund established under  
18      section 54-52.1-03.2. This contribution must be recorded as a member  
19      contribution pursuant to section 54-52.1-03.2.
  - 20      b. After December 31, 2019, the temporary employee shall pay to the fund an  
21      additional amount equal to one and fourteen hundredths percent times the  
22      temporary employee's present monthly salary.
- 23      3. An employer may not pay the temporary employee's contributions. A temporary  
24      employee may continue to participate as a temporary employee in the public  
25      employees retirement system until termination of employment or reclassification of the  
26      temporary employee as a permanent employee. A temporary employee may not  
27      purchase any additional credit, including additional credit under section 54-52-17.4 or  
28      past service under section 54-52-02.6.

1       **Participation by temporary employees. (Effective ~~after December 31, 2024~~2023on the**  
2 **effective date of this Act)**

- 3       1. Before ~~January 1, 2025~~2024the effective date of this Act, within one hundred eighty  
4 days of beginning employment, a temporary employee may elect to participate in the  
5 public employees retirement system under this chapter and receive credit for service  
6 after enrollment. Monthly, the temporary employee shall pay to the fund an amount  
7 equal to fourteen and twelve hundredths percent times the temporary employee's  
8 present monthly salary. The amount required to be paid by a temporary employee  
9 increases by one percent times the temporary employee's present monthly salary  
10 beginning with the monthly reporting period of January ~~2025~~2024.
- 11       2. If the temporary employee first enrolled:
- 12       a. Before January 1, 2020, in addition the temporary employee shall pay the  
13 required monthly contribution to the retiree health benefit fund established under  
14 section 54-52.1-03.2. This contribution must be recorded as a member  
15 contribution pursuant to section 54-52.1-03.2.
- 16       b. After December 31, 2019, the temporary employee shall pay to the fund an  
17 additional amount equal to one and fourteen hundredths percent times the  
18 temporary employee's present monthly salary.
- 19       3. A temporary employee who is a participating member under this chapter due to  
20 employment before ~~January 1, 2025~~2024the effective date of this Act, who becomes a  
21 permanent employee after ~~December 31, 2024~~2023the day before the effective date  
22 of this Act, qualifies to participate in the defined benefit retirement plan under this  
23 chapter and receive credit for service after enrollment.
- 24       4. After ~~December 31, 2024~~2023the day before the effective date of this Act, and within  
25 one hundred eighty days of beginning employment, a temporary employee may elect  
26 to participate in the defined contribution retirement plan under chapter 54-52.6.
- 27       5. An employer may not pay the temporary employee's contributions. A temporary  
28 employee may continue to participate as a temporary employee in the public  
29 employees retirement system until termination of employment or reclassification of the  
30 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 5. 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. (Effective**  
6 **through ~~December 31, 2024~~2023the day before the effective date of this Act)**

7 Elected officials of participating counties, at their individual option, may enroll in the defined  
8 benefit plan within the first six months of their term.

9 **Participation requirements for nonstate elected officials. (Effective ~~after~~**  
10 **~~December 31, 2024~~2023on the effective date of this Act)**

11 1. Before ~~January 1, 2025~~2024the effective date of this Act, eligible elected officials of  
12 participating counties, at their individual option, may enroll in the defined benefit plan  
13 within the first six months of their term.

14 2. After ~~December 31, 2024~~2023the day before the effective date of this Act, eligible  
15 elected officials of participating counties, at their individual option, may enroll in the  
16 defined contribution retirement plan under chapter 54-52.6 within the first six months  
17 of their term.

18 **SECTION 6. AMENDMENT.** Section 54-52-02.12 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **54-52-02.12. Participation requirements for nonstate appointed officials. (Effective**  
21 **through ~~December 31, 2024~~2023the day before the effective date of this Act)**

22 Nonstate appointed officials of participating employers appointed on or after August 1,  
23 1999, who meet the participation requirements of this chapter must be enrolled in the defined  
24 benefit plan effective within the first month of taking office.

25 **Participation requirements for nonstate appointed officials. (Effective ~~after~~**  
26 **~~December 31, 2024~~2023on the effective date of this Act)**

27 1. Nonstate appointed officials of participating employers appointed on or after August 1,  
28 1999, but before ~~January 1, 2025~~2024the effective date of this Act, who meet the  
29 participation requirements of this chapter must be enrolled in the defined benefit plan  
30 effective within the first month of taking office.

- 1        2. After ~~December 31, 2024~~2023the day before the effective date of this Act, nonstate  
2        appointed officials of participating employers who meet the participation requirements  
3        must be enrolled in the defined contribution retirement plan under chapter 54-52.6  
4        effective within the first month of taking office.

5        **SECTION 7. AMENDMENT.** Section 54-52-02.15 of the North Dakota Century Code is  
6        amended and reenacted as follows:

7        **54-52-02.15. Public employees retirement system main plan - Closure to new hires -**  
8        **Multiple plan membership. (Effective ~~after December 31, 2024~~2023on the effective date of**  
9        **this Act)**

- 10       1. Under this section "eligible employee" means a permanent employee who:  
11       a. Meets all the eligibility requirements set by this chapter;  
12       b. Is at least eighteen years of age;  
13       c. Becomes a participating member after ~~December 31, 2024~~2023the day before  
14       the effective date of this Act; and  
15       d. Is not eligible to participate in the law enforcement plan, judges' plan, highway  
16       patrol plan, teachers' fund for retirement plan, or alternative retirement program  
17       established under section 15-10-17 for university system employees.  
18       2. Effective ~~January 1, 2025~~2024on the effective date of this Act, the public employees  
19       retirement system defined benefit main plan maintained for employees is closed to  
20       new eligible employees. However, an employee who becomes a participating or  
21       deferred member under this chapter before ~~January 1, 2025~~2024the effective date of  
22       this Act, remains in the defined benefit retirement plan under this chapter, regardless  
23       of being rehired after ~~December 31, 2024~~2023the day before the effective date of this  
24       Act.  
25       3. Except as otherwise provided under this section, effective ~~January 1, 2025~~2024on the  
26       effective date of this Act, an eligible employee who begins employment with an  
27       employer shall participate in the defined contribution retirement plan under chapter  
28       54-52.6 as provided under section 54-52.6-02.1.  
29       4. This section does not impact an employee to the extent the employee is a participating  
30       member in one or more of the following enumerated plans: law enforcement plan,  
31       judges' plan, highway patrol plan, teachers' fund for retirement plan, or alternative



1 retirement program established under section 15-10-17 for university system  
2 employees.

3 a. A participating or deferred member in the defined contribution retirement plan  
4 under chapter 54-52.6 who becomes eligible to participate in a plan enumerated  
5 under this subsection is eligible to participate in the retirement plan enumerated  
6 under this subsection.

7 b. A participating member of a retirement plan enumerated under this subsection  
8 who becomes an eligible employee is not eligible to participate in the defined  
9 benefit retirement plan under this chapter but instead participates in the defined  
10 contribution retirement plan under chapter 54-52.6. However, this subdivision  
11 does not apply to an individual who before ~~January 1, 2025~~2024the effective date  
12 of this Act, is a participating or a deferred member under this chapter, as that  
13 individual continues to participate in the defined benefit retirement plan under this  
14 chapter.

15 5. The board shall adopt rules to implement this section.

16 **SECTION 8. AMENDMENT.** Section 54-52-05 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **54-52-05. Membership and assessments - Employer payment of employee**  
19 **contributions. (Effective through ~~December 31, 2024~~the day before the effective date of**  
20 **this Act)**

21 1. Every eligible participating political subdivision employee, at the time the political  
22 subdivision joins the plan must so state in writing if the employee concurs in the plan  
23 and all future eligible employees of the participating political subdivision are  
24 participating members in the plan and must be enrolled in the plan within the first  
25 month of employment. Except as otherwise provided by law, every other eligible  
26 governmental unit employee of a participating governmental unit is a participating  
27 member in the plan and must be enrolled in the plan within the first month of  
28 employment. An employee who was not enrolled in the retirement system when  
29 eligible to participate must be enrolled immediately upon notice of the employee's  
30 eligibility, unless the employee waives in writing the employee's right to participate for  
31 the previous time of eligibility, to avoid contributing to the fund for past service. An

1 employee who is eligible for normal retirement who accepts a retirement benefit under  
2 this chapter and who subsequently becomes employed with a participating employer  
3 other than the employer with which the employee was employed at the time the  
4 employee retired under this chapter may, before being re-enrolled in the retirement  
5 plan within the first month of employment, elect to permanently waive future  
6 participation in the retirement plan and the retiree health program and maintain that  
7 employee's retirement status. An employee making this election is not required to  
8 make any future employee contributions to the public employees retirement system  
9 nor is the employee's employer required to make any further contributions on behalf of  
10 that employee.

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

19 3. Each employer, at its option, may pay all or a portion of the employee contributions  
20 required by subsection 2 and sections 54-52-06.1, 54-52-06.2, 54-52-06.3, and  
21 54-52-06.4 or the employee contributions required to purchase service credit on a  
22 pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not  
23 receive the contributed amounts directly once the employer has elected to pay the  
24 employee contributions. The amount paid must be paid by the employer in lieu of  
25 contributions by the employee. If the state determines not to pay the contributions, the  
26 amount that would have been paid must continue to be deducted from the employee's  
27 compensation. If contributions are paid by the employer, they must be treated as  
28 employer contributions in determining tax treatment under this code and the federal  
29 Internal Revenue Code. If contributions are paid by the employer, they may not be  
30 included as gross income of the employee in determining tax treatment under this  
31 code and the Internal Revenue Code until they are distributed or made available. The

1 employer shall pay these employee contributions from the same source of funds used  
2 in paying compensation to the employee. The employer shall pay these contributions  
3 by effecting an equal cash reduction in the gross salary of the employee or by an  
4 offset against future salary increases or by a contribution of a reduction in gross salary  
5 and offset against future salary increases. If employee contributions are paid by the  
6 employer, they must be treated for the purposes of this chapter in the same manner  
7 and to the same extent as employee contributions made prior to the date on which  
8 employee contributions were assumed by the employer. An employer exercising its  
9 option under this subsection shall report its choice to the board in writing.

- 10 4. For compensation earned after August 1, 2009, all employee contributions required  
11 under section 54-52-06.1 and the job service North Dakota retirement plan, and not  
12 otherwise paid under subsection 3, must be paid by the employer in lieu of  
13 contributions by the member. All contributions paid by the employer under this  
14 subsection must be treated as employer contributions in determining tax treatment  
15 under this code and the Internal Revenue Code. Contributions paid by the employer  
16 under this subsection may not be included as gross income of the member in  
17 determining tax treatment under this code and the Internal Revenue Code until the  
18 contributions are distributed or made available. Contributions paid by the employer in  
19 accordance with this subsection must be treated for the purposes of this chapter in the  
20 same manner and to the same extent as member contributions made before the date  
21 the contributions were assumed by the employer. The employer shall pay these  
22 member contributions from the same source of funds used in paying compensation to  
23 the employee. The employer shall pay these contributions by effecting an equal cash  
24 reduction in the gross salary of the employee. The employer shall continue making  
25 payments under this section unless otherwise specifically provided for under the  
26 agency's biennial appropriation or by amendment to law.

27 **Membership and assessments - Employer payment of employee contributions.**

28 (Effective ~~after December 31, 2024~~ on the effective date of this Act)

- 29 1. Every eligible participating political subdivision employee, at the time the political  
30 subdivision joins the plan must so state in writing if the employee concurs in the plan  
31 and all future eligible employees of the participating political subdivision are

1 participating members in the plan and must be enrolled in the plan within the first  
2 month of employment. Except as otherwise provided by law, every other eligible  
3 governmental unit employee of a participating governmental unit is a participating  
4 member in the plan and must be enrolled in the plan within the first month of  
5 employment. An employee who was not enrolled in the retirement system when  
6 eligible to participate must be enrolled immediately upon notice of the employee's  
7 eligibility, unless the employee waives in writing the employee's right to participate for  
8 the previous time of eligibility, to avoid contributing to the fund for past service. An  
9 employee who is eligible for normal retirement who accepts a retirement benefit under  
10 this chapter and who subsequently becomes employed with a participating employer  
11 other than the employer with which the employee was employed at the time the  
12 employee retired under this chapter may, before being re-enrolled in the retirement  
13 plan within the first month of employment, elect to permanently waive future  
14 participation in the retirement plan and the retiree health program and maintain that  
15 employee's retirement status. An employee making this election is not required to  
16 make any future employee contributions to the public employees retirement system  
17 nor is the employee's employer required to make any further contributions on behalf of  
18 that employee.

- 19 2. Each member must be assessed and required to pay monthly seven percent of the  
20 monthly salary or wage paid to the member, and such assessment must be deducted  
21 and retained out of such salary in equal monthly installments commencing with the  
22 first month of employment.
- 23 3. Each employer, at its option, may pay all or a portion of the employee contributions  
24 required by subsection 2 and sections 54-52-06.1, 54-52-06.2, 54-52-06.3, and  
25 54-52-06.4 or the employee contributions required to purchase service credit on a  
26 pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not  
27 receive the contributed amounts directly once the employer has elected to pay the  
28 employee contributions. The amount paid must be paid by the employer in lieu of  
29 contributions by the employee. If the state determines not to pay the contributions, the  
30 amount that would have been paid must continue to be deducted from the employee's  
31 compensation. If contributions are paid by the employer, they must be treated as

1 employer contributions in determining tax treatment under this code and the federal  
2 Internal Revenue Code. If contributions are paid by the employer, they may not be  
3 included as gross income of the employee in determining tax treatment under this  
4 code and the Internal Revenue Code until they are distributed or made available. The  
5 employer shall pay these employee contributions from the same source of funds used  
6 in paying compensation to the employee. The employer shall pay these contributions  
7 by effecting an equal cash reduction in the gross salary of the employee or by an  
8 offset against future salary increases or by a contribution of a reduction in gross salary  
9 and offset against future salary increases. If employee contributions are paid by the  
10 employer, they must be treated for the purposes of this chapter in the same manner  
11 and to the same extent as employee contributions made prior to the date on which  
12 employee contributions were assumed by the employer. An employer exercising its  
13 option under this subsection shall report its choice to the board in writing.

- 14 4. For compensation earned after August 1, 2009, all employee contributions required  
15 under section 54-52-06.1 and the job service North Dakota retirement plan, and not  
16 otherwise paid under subsection 3, must be paid by the employer in lieu of  
17 contributions by the member. All contributions paid by the employer under this  
18 subsection must be treated as employer contributions in determining tax treatment  
19 under this code and the Internal Revenue Code. Contributions paid by the employer  
20 under this subsection may not be included as gross income of the member in  
21 determining tax treatment under this code and the Internal Revenue Code until the  
22 contributions are distributed or made available. Contributions paid by the employer in  
23 accordance with this subsection must be treated for the purposes of this chapter in the  
24 same manner and to the same extent as member contributions made before the date  
25 the contributions were assumed by the employer. The employer shall pay these  
26 member contributions from the same source of funds used in paying compensation to  
27 the employee. The employer shall pay these contributions by effecting an equal cash  
28 reduction in the gross salary of the employee. The employer shall continue making  
29 payments under this section unless otherwise specifically provided for under the  
30 agency's biennial appropriation or by amendment to law.

1       **SECTION 9. AMENDMENT.** Section 54-52-14.3 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **54-52-14.3. Public employee retirement funds - Use and investment. (Effective**  
4 **through ~~December 31, 2024~~ the day before the effective date of this Act)**

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

11       **Public employee retirement funds - Use and investment. (Effective ~~after-~~**  
12 **~~December 31, 2024~~ on the effective date of this Act)** Any provision of law relating to the use  
13 and investment of public employee retirement funds must be deemed a part of the employment  
14 contracts of the employees participating in any public employee retirement system. All moneys  
15 from any source paid into any public employee retirement system fund created by the laws of  
16 this state must be used and invested only for the exclusive benefit of the members, retirees,  
17 and beneficiaries of the retirement system, including the payment of system administrative  
18 costs.

19       **SECTION 10. AMENDMENT.** Section 54-52-17.2 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21       **54-52-17.2. Multiple plan membership - Eligibility for benefits - Amount of benefits.**  
22 **(Effective through ~~December 31, 2024~~ the day before the effective date of this Act)**

- 23       1. a. For the purpose of determining eligibility for benefits under this chapter, an  
24           employee's years of service credit is the total of the years of service credit earned  
25           in the public employees retirement system and the years of service credit earned  
26           in any number of the following:
- 27           (1) The teachers' fund for retirement.
  - 28           (2) The highway patrol troopers' retirement system.
  - 29           (3) The teachers' insurance and annuity association of America - college  
30           retirement equities fund (TIAA-CREF), for service credit earned while  
31           employed by North Dakota institutions of higher education.

1 Service credit may not exceed twelve months of credit per year.

2 b. Pursuant to rules adopted by the board, an employee who has service credit in  
3 the system and in any of the plans described in paragraphs 1 and 2 of  
4 subdivision a is entitled to benefits under this chapter. The benefits of a  
5 temporary employee employed after July 31, 2015, must be calculated using the  
6 benefit formula in section 54-52-17. A permanent employee or a temporary  
7 employee employed before August 1, 2015, may elect to have benefits calculated  
8 using the benefit formula in section 54-52-17 under either of the following  
9 methods:

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

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

18 The board shall calculate benefits for an employee under this subsection by using only  
19 those years of service credit earned under this chapter.

20 2. a. If an employee who is eligible to participate in the public employees retirement  
21 system is also employed in any position when membership in an alternate  
22 retirement system is required, then, for purposes of current participation, the  
23 employee is a member of each applicable retirement system. The employer shall  
24 pay over to each retirement system the member assessment and employer  
25 contributions at the rates currently existing for that retirement system.

26 b. If an employee described in subdivision a was employed prior to August 1, 2003,  
27 and has dual membership rights, the employee may elect to begin participation in  
28 the alternate plan pursuant to the plan provisions on August 1, 2003, or may  
29 continue participation according to the plan provisions in effect on July 31, 2003.  
30 An employee's election under this subdivision is ineffective unless delivered to  
31 the public employees retirement system administrative offices by five p.m. on

1                   October 31, 2003. If an election is not received by the public employees  
2                   retirement system, the participation and benefit calculation requirements in effect  
3                   on July 31, 2003, apply to that employee.

4                   **Multiple plan membership - Eligibility for benefits - Amount of benefits. (Effective**  
5                   ~~after December 31, 2024~~**on the effective date of this Act)**

6                   1.    a.    For the purpose of determining eligibility for benefits under this chapter, an  
7                   employee's years of service credit is the total of the years of service credit earned  
8                   in the public employees retirement system and the years of service credit earned  
9                   in any number of the following:

- 10                   (1)   The teachers' fund for retirement.  
11                   (2)   The highway patrol troopers' retirement system.  
12                   (3)   The teachers' insurance and annuity association of America - college  
13                   retirement equities fund (TIAA-CREF), for service credit earned while  
14                   employed by North Dakota institutions of higher education.

15                   Service credit may not exceed twelve months of credit per year.

16                   b.    Subject to section 54-52-02.15 and pursuant to rules adopted by the board, an  
17                   employee who has service credit in the system and in any of the plans described  
18                   in paragraphs 1 and 2 of subdivision a is entitled to benefits under this chapter.

19                   The benefits of a temporary employee employed after July 31, 2015, must be  
20                   calculated using the benefit formula in section 54-52-17. A permanent employee  
21                   or a temporary employee employed before August 1, 2015, may elect to have  
22                   benefits calculated using the benefit formula in section 54-52-17 under either of  
23                   the following methods:

- 24                   (1)   The final average salary as calculated in section 54-52-17. If the  
25                   participating member has worked for less than thirty-six months at  
26                   retirement, the final average salary is the average salary for the total months  
27                   of employment.  
28                   (2)   The final average salary as calculated in section 54-52-17 for employment  
29                   with any of the three eligible employers under this subdivision, with service  
30                   credit not to exceed one month in any month when combined with the  
31                   service credit earned in the alternate retirement system.



1 The board shall calculate benefits for an employee under this subsection by using only  
2 those years of service credit earned under this chapter.

- 3 2. a. If an employee who is eligible to participate in the public employees retirement  
4 system is also employed in any position when membership in an alternate  
5 retirement system is required, then, for purposes of current participation, the  
6 employee is a member of each applicable retirement system. The employer shall  
7 pay over to each retirement system the member assessment and employer  
8 contributions at the rates currently existing for that retirement system.
- 9 b. If an employee described in subdivision a was employed prior to August 1, 2003,  
10 and has dual membership rights, the employee may elect to begin participation in  
11 the alternate plan pursuant to the plan provisions on August 1, 2003, or may  
12 continue participation according to the plan provisions in effect on July 31, 2003.  
13 An employee's election under this subdivision is ineffective unless delivered to  
14 the public employees retirement system administrative offices by five p.m. on  
15 October 31, 2003. If an election is not received by the public employees  
16 retirement system, the participation and benefit calculation requirements in effect  
17 on July 31, 2003, apply to that employee.

18 **SECTION 11. AMENDMENT.** Section 54-52.2-09 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **54-52.2-09. Employer match for members of defined contribution retirement plan.**

21 An employee who first participated in the defined contribution retirement plan under chapter  
22 54-52.6 after ~~December 31, 2024~~<sup>2023</sup> the day before the effective date of this Act, who elects to  
23 contribute less than the optional three percent of wages or salary under subdivision b of  
24 subsection 1 of section 54-52.6-09, who participates in the deferred compensation program  
25 under this chapter, qualifies for employer matching of contributions made under this section.  
26 The employee may elect to contribute an amount of wages or salary which does not exceed any  
27 remaining balance of the optional three percent contribution and the employer shall match this  
28 contribution. This section does not limit the ability of an employee to contribute unmatched  
29 wages or salary under this chapter, subject to federal contribution limitations.

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

1       **54-52.6-01. Definition of terms. (Effective through ~~December 31, 2024~~2023the day**  
2 **before the effective date of this Act)**

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

- 4       1. "Board" means the public employees retirement system board.
- 5       2. "Deferred member" means a person who elected to receive deferred vested retirement  
6       benefits under chapter 54-52.
- 7       3. "Eligible employee" means a permanent state employee, except an employee of the  
8       judicial branch or an employee of the board of higher education and state institutions  
9       under the jurisdiction of the board, who is eighteen years or more of age and who is in  
10      a position not classified by North Dakota human resource management services. If a  
11      participating member loses permanent employee status and becomes a temporary  
12      employee, the member may still participate in the defined contribution retirement plan.
- 13     4. "Employee" means any person employed by the state, whose compensation is paid  
14      out of state funds, or funds controlled or administered by the state or paid by the  
15      federal government through any of its executive or administrative officials.
- 16     5. "Employer" means the state of North Dakota.
- 17     6. "Participating member" means an eligible employee who elects to participate in the  
18      defined contribution retirement plan established under this chapter.
- 19     7. "Permanent employee" means a state employee whose services are not limited in  
20      duration and who is filling an approved and regularly funded position and is employed  
21      twenty hours or more per week and at least five months each year.
- 22     8. "Wages" and "salaries" means earnings in eligible employment under this chapter  
23      reported as salary on a federal income tax withholding statement plus any salary  
24      reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or  
25      457. "Salary" does not include fringe benefits such as payments for unused sick leave,  
26      personal leave, vacation leave paid in a lump sum, overtime, housing allowances,  
27      transportation expenses, early retirement, incentive pay, severance pay, medical  
28      insurance, workforce safety and insurance benefits, disability insurance premiums or  
29      benefits, or salary received by a member in lieu of previously employer-provided fringe  
30      benefits under an agreement between an employee and a participating employer.

1 Bonuses may be considered as salary under this section if reported and annualized  
2 pursuant to rules adopted by the board.

3 **Definition of terms. (Effective ~~after December 31, 2024~~2023 on the effective date of**  
4 **this Act)** As used in this chapter, unless the context otherwise requires:

- 5 1. "Board" means the public employees retirement system board.
- 6 2. "Deferred member" means a person who elected to receive deferred vested retirement  
7 benefits under chapter 54-52.
- 8 3. "Eligible employee", for employees who become participating members after  
9 ~~December 31, 2024~~2023 the day before the effective date of this Act, has the same  
10 meaning as provided under section 54-52-02.15. For employees who elected to join  
11 the defined contribution retirement plan under this chapter before ~~January 1,~~  
12 ~~2025~~2024 the effective date of this Act, the term includes a permanent state employee,  
13 except an employee of the judicial branch or an employee of the board of higher  
14 education and state institutions under the jurisdiction of the board of higher education,  
15 who is at least eighteen years of age and who is in a position not classified by the  
16 North Dakota human resource management services.
- 17 4. "Employee" means any person employed by the state, whose compensation is paid  
18 out of state funds, or funds controlled or administered by the state or paid by the  
19 federal government through any of its executive or administrative officials.
- 20 5. "Employer" means the state of North Dakota.
- 21 6. "Participating member" means an eligible employee who elects to participate in the  
22 defined contribution retirement plan established under this chapter.
- 23 7. "Permanent employee" means a state employee whose services are not limited in  
24 duration and who is filling an approved and regularly funded position and is employed  
25 twenty hours or more per week and at least five months each year.
- 26 8. "Wages" and "salaries" means earnings in eligible employment under this chapter  
27 reported as salary on a federal income tax withholding statement plus any salary  
28 reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or  
29 457. "Salary" does not include fringe benefits such as payments for unused sick leave,  
30 personal leave, vacation leave paid in a lump sum, overtime, housing allowances,  
31 transportation expenses, early retirement, incentive pay, severance pay, medical

1 insurance, workforce safety and insurance benefits, disability insurance premiums or  
2 benefits, or salary received by a member in lieu of previously employer-provided fringe  
3 benefits under an agreement between an employee and a participating employer.  
4 Bonuses may be considered as salary under this section if reported and annualized  
5 pursuant to rules adopted by the board.

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

8 **54-52.6-02. Election. (Effective through ~~December 31, 2024~~2023the day before the**  
9 **effective date of this Act)**

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

1 after the date of employment. If the board, in its sole discretion, determines that the  
2 employee was not adequately notified of the employee's option to participate in the  
3 defined contribution retirement plan, the board may provide the employee a  
4 reasonable time within which to make that election, which may extend beyond the  
5 original six-month decision window.

- 6 2. If an individual who is a deferred member of the public employees retirement system  
7 on September 30, 2001, is re-employed and by virtue of that employment is again  
8 eligible for membership in the public employees retirement system under chapter  
9 54-52, the individual may elect in writing to remain a member of the public employees  
10 retirement system or if eligible to participate in the defined contribution retirement plan  
11 established under this chapter to terminate membership in the public employees  
12 retirement system and become a participating member in the defined contribution  
13 retirement plan established under this chapter. An election made by a deferred  
14 member under this section is irrevocable. The board shall accept written elections  
15 under this section from a deferred member during the period beginning on the date of  
16 the individual's re-employment and ending upon the expiration of six months after the  
17 date of that re-employment. If the board, in its sole discretion, determines that the  
18 employee was not adequately notified of the employee's option to participate in the  
19 defined contribution retirement plan, the board may provide the employee a  
20 reasonable time within which to make that election, which may extend beyond the  
21 original six-month decision window. A deferred member who makes and files a written  
22 election to remain a member of the public employees retirement system retains all  
23 rights and is subject to all conditions as a member of that retirement system. A  
24 deferred member who does not make a written election or who does not file the  
25 election during the period specified in this section continues to be a member of the  
26 public employees retirement system. A deferred member who makes and files a  
27 written election to terminate membership in the public employees retirement system  
28 ceases to be a member of the public employees retirement system effective on the  
29 last day of the payroll period that includes the date of the election; becomes a  
30 participating member in the defined contribution retirement plan under this chapter  
31 effective the first day of the payroll immediately following the date of the election; and

1 waives all of that person's rights to a pension, an annuity, a retirement allowance,  
2 insurance benefit, or any other benefit under the public employees retirement system  
3 effective the last day of the payroll that includes the date of the election. This section  
4 does not affect any right to health benefits or retiree health benefits to which the  
5 deferred member may otherwise be entitled.

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

11 Notwithstanding the irrevocability provisions of this chapter, if a member who elects to  
12 participate in the retirement plan established under this chapter becomes a supreme  
13 or district court judge, becomes a member of the highway patrol, becomes employed  
14 in a position subject to teachers' fund for retirement membership, or becomes an  
15 employee of the board of higher education or state institution under the jurisdiction of  
16 the board who is eligible to participate in an alternative retirement program established  
17 under subsection 6 of section 15-10-17, the member's status as a member of the  
18 defined contribution retirement plan is suspended, and the member becomes a new  
19 member of the retirement plan for which that member's new position is eligible. The  
20 member's account balance remains in the defined contribution retirement plan, but no  
21 new contributions may be made to that account. The member's service credit and  
22 salary history that were forfeited as a result of the member's transfer to the defined  
23 contribution retirement plan remain forfeited, and service credit accumulation in the  
24 new retirement plan begins from the first day of employment in the new position. If the  
25 member later returns to employment that is eligible for the defined contribution plan,  
26 the member's suspension must be terminated, the member again becomes a member  
27 of the defined contribution retirement plan, and the member's account resumes  
28 accepting contributions. At the member's option, and pursuant to rules adopted by the  
29 board, the member may transfer any available balance as determined by the  
30 provisions of the alternate retirement plan into the member's account under this  
31 chapter.

- 1       4.   After consultation with its actuary, the board shall determine the method by which a  
2       participating member or deferred member may make a written election under this  
3       section. If the participating member or deferred member is married at the time of the  
4       election, the election is not effective unless the election is signed by the individual's  
5       spouse. However, the board may waive this requirement if the spouse's signature  
6       cannot be obtained because of extenuating circumstances.
- 7       5.   If the board receives notification from the internal revenue service that this section or  
8       any portion of this section will cause the public employees retirement system or the  
9       retirement plan established under this chapter to be disqualified for tax purposes  
10      under the Internal Revenue Code, then the portion that will cause the disqualification  
11      does not apply.
- 12     6.   A participating member who becomes a temporary employee may still participate in  
13      the defined contribution retirement plan upon filing an election with the board within  
14      one hundred eighty days of transferring to temporary employee status. The  
15      participating member may not become a member of the defined benefit plan as a  
16      temporary employee. The temporary employee electing to participate in the defined  
17      contribution retirement plan shall pay monthly to the fund an amount equal to eight  
18      and twelve hundredths percent times the temporary employee's present monthly  
19      salary. The amount required to be paid by a temporary employee increases by two  
20      percent times the temporary employee's present monthly salary beginning with the  
21      monthly reporting period of January 2012, and with an additional increase of two  
22      percent, beginning with the monthly reporting period of January 2013, and with an  
23      additional increase of two percent, beginning with the monthly reporting period of  
24      January 2014. The temporary employee shall also pay the required monthly  
25      contribution to the retiree health benefit fund established under section 54-52.1-03.2.  
26      This contribution must be recorded as a member contribution pursuant to section  
27      54-52.1-03.2. An employer may not pay the temporary employee's contributions. A  
28      temporary employee may continue to participate as a temporary employee until  
29      termination of employment or reclassification of the temporary employee as a  
30      permanent employee.

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

10           **Election through ~~December 31, 2024~~2023**the day before the effective date of this Act.  
11           **(Effective ~~after December 31, 2024~~2023**on the effective date of this Act)

12           1. The board shall provide an opportunity for each eligible employee who is a member of  
13           the public employees retirement system on September 30, 2001, and who has not  
14           made a written election under this section to transfer to the defined contribution  
15           retirement plan before October 1, 2001, to elect in writing to terminate membership in  
16           the public employees retirement system and elect to become a participating member  
17           under this chapter. Except as provided in section 54-52.6-03, an election made by an  
18           eligible employee under this section is irrevocable. The board shall accept written  
19           elections under this section from eligible employees during the period beginning on  
20           July 1, 1999, and ending 12:01 a.m. December 14, 2001. An eligible employee who  
21           does not make a written election or who does not file the election during the period  
22           specified in this section continues to be a member of the public employees retirement  
23           system. An eligible employee who makes and files a written election under this section  
24           ceases to be a member of the public employees retirement system effective twelve  
25           midnight December 31, 2001; becomes a participating member in the defined  
26           contribution retirement plan under this chapter effective 12:01 a.m. January 1, 2002;  
27           and waives all of that person's rights to a pension, annuity, retirement allowance,  
28           insurance benefit, or any other benefit under the public employees retirement system  
29           effective December 31, 2001. This section does not affect an individual's right to  
30           health benefits or retiree health benefits under chapter 54-52.1. An eligible employee  
31           who is first employed and entered upon the payroll of that person's employer after



1 | September 30, 2001, and before ~~January 1, 2025~~2024the effective date of this Act,  
2 | may make an election to participate in the defined contribution retirement plan  
3 | established under this chapter at any time during the first six months after the date of  
4 | employment. If the board, in its sole discretion, determines that the employee was not  
5 | adequately notified of the employee's option to participate in the defined contribution  
6 | retirement plan, the board may provide the employee a reasonable time within which  
7 | to make that election, which may extend beyond the original six-month decision  
8 | window.

- 9 | 2. If an individual who is a deferred member of the public employees retirement system  
10 | on September 30, 2001, is re-employed before ~~January 1, 2025~~2024the effective date  
11 | of this Act, and by virtue of that employment is again eligible for membership in the  
12 | public employees retirement system under chapter 54-52, the individual may elect in  
13 | writing to remain a member of the public employees retirement system or if eligible to  
14 | participate in the defined contribution retirement plan established under this chapter to  
15 | terminate membership in the public employees retirement system and become a  
16 | participating member in the defined contribution retirement plan established under this  
17 | chapter. An election made by a deferred member under this section is irrevocable. The  
18 | board shall accept written elections under this section from a deferred member during  
19 | the period beginning on the date of the individual's re-employment and ending upon  
20 | the expiration of six months after the date of that re-employment. If the board, in its  
21 | sole discretion, determines that the employee was not adequately notified of the  
22 | employee's option to participate in the defined contribution retirement plan, the board  
23 | may provide the employee a reasonable time within which to make that election, which  
24 | may extend beyond the original six-month decision window. A deferred member who  
25 | makes and files a written election to remain a member of the public employees  
26 | retirement system retains all rights and is subject to all conditions as a member of that  
27 | retirement system. A deferred member who does not make a written election or who  
28 | does not file the election during the period specified in this section continues to be a  
29 | member of the public employees retirement system. A deferred member who makes  
30 | and files a written election to terminate membership in the public employees  
31 | retirement system ceases to be a member of the public employees retirement system

1 effective on the last day of the payroll period that includes the date of the election;  
2 becomes a participating member in the defined contribution retirement plan under this  
3 chapter effective the first day of the payroll immediately following the date of the  
4 election; and waives all of that person's rights to a pension, an annuity, a retirement  
5 allowance, insurance benefit, or any other benefit under the public employees  
6 retirement system effective the last day of the payroll that includes the date of the  
7 election. This section does not affect any right to health benefits or retiree health  
8 benefits to which the deferred member may otherwise be entitled.

- 9 3. An eligible employee who elects under this section to participate in the retirement plan  
10 established under this chapter must remain a participant even if that employee returns  
11 to the classified service or becomes employed by a political subdivision that  
12 participates in the public employees retirement system. The contribution amount must  
13 be as provided in this chapter, regardless of the position in which the employee is  
14 employed. Notwithstanding the irrevocability provisions of this chapter, if a member  
15 who elects to participate in the retirement plan established under this chapter  
16 becomes a supreme or district court judge, becomes a member of the highway patrol,  
17 becomes employed in a position subject to teachers' fund for retirement membership,  
18 or becomes an employee of the board of higher education or state institution under the  
19 jurisdiction of the board of higher education who is eligible to participate in an  
20 alternative retirement program established under subsection 6 of section 15-10-17, the  
21 member's status as a member of the defined contribution retirement plan is  
22 suspended, and the member becomes a new member of the retirement plan for which  
23 that member's new position is eligible. The member's account balance remains in the  
24 defined contribution retirement plan, but no new contributions may be made to that  
25 account. The member's service credit and salary history that were forfeited as a result  
26 of the member's transfer to the defined contribution retirement plan remain forfeited,  
27 and service credit accumulation in the new retirement plan begins from the first day of  
28 employment in the new position. If the member later returns to employment that is  
29 eligible for the defined contribution retirement plan, the member's suspension must be  
30 terminated, the member again becomes a member of the defined contribution  
31 retirement plan, and the member's account resumes accepting contributions. At the

1 member's option, and pursuant to rules adopted by the board, the member may  
2 transfer any available balance as determined by the provisions of the alternate  
3 retirement plan into the member's account under this chapter.

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

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

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

20 a. The temporary employee electing to participate in the defined contribution  
21 retirement plan shall pay into the plan as provided under section 54-52.6-09.6.

22 b. An employer may not pay the temporary employee's contributions.

23 c. A temporary employee may continue to participate as a temporary employee until  
24 termination of employment or reclassification of the temporary employee as a  
25 permanent employee.

26 7. A former participating member under this section who has accepted a retirement  
27 distribution pursuant to section 54-52.6-13 and who subsequently becomes employed  
28 by an entity different from the employer with which the member was employed at the  
29 time the member retired but which does participate in any state-sponsored retirement  
30 plan may, before re-enrolling in the defined contribution retirement plan, elect to  
31 permanently waive future participation in the defined contribution retirement plan,

1           whatever plan in which the new employing entity participates, and the retiree health  
2           program and maintain that member's retirement status. Neither the member nor the  
3           employer are required to make any future retirement contributions on behalf of that  
4           employee.

5           8. After ~~December 31, 2024~~2023the day before the effective date of this Act, an eligible  
6           employee is no longer allowed to elect participation under this section.

7           **SECTION 14. AMENDMENT.** Section 54-52.6-02.1 of the North Dakota Century Code is  
8           amended and reenacted as follows:

9           **54-52.6-02.1. Participation in defined contribution retirement plan. (Effective ~~after~~**  
10          ~~**December 31, 2024**~~**2023on the effective date of this Act**)

11          1. Except as otherwise provided under section 54-52-02.5 or 54-52-02.15 or this chapter,  
12          effective ~~January 1, 2025~~2024on the effective date of this Act, an eligible employee  
13          who is first enrolled shall participate in the defined contribution retirement plan under  
14          this chapter.

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

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

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

21          **SECTION 15. AMENDMENT.** Section 54-52.6-02.2 of the North Dakota Century Code is  
22          amended and reenacted as follows:

23          **54-52.6-02.2. Election after ~~December 31, 2024~~2023the day before the effective date of**  
24          **this Act** - Additional employer contribution. (Effective ~~after ~~December 31, 2024~~~~**2023on the**  
25          **effective date of this Act**)

26          1. As used in this section, "eligible employee" means a permanent state employee who  
27          on ~~December 31, 2024~~2023the day before the effective date of this Act, is a  
28          participating member of the public employees retirement system main system plan  
29          under chapter 54-42, who has been a participating member under chapter 54-52 for  
30          no more than five years, and who is at least eighteen years of age.

- 1        2. The board shall provide a three-month election period, ~~from January 1,~~  
2        ~~2025~~2024~~beginning on the effective date of this Act, through March 31, 2025~~2024, for  
3        an eligible employee to transfer to the defined contribution plan under this chapter  
4        pursuant to the rules and policies adopted by the board.
- 5        a. An election under this section made by a member of the public employees  
6        retirement system under chapter 54-52 to transfer to the defined contribution  
7        retirement plan under this chapter is irrevocable.
- 8        b. For an eligible employee who elects to transfer from the public employees  
9        retirement system under chapter 54-52 to the defined contribution retirement plan  
10       under this chapter, the board shall transfer a lump sum amount from the public  
11       employees retirement system fund to the member's account in the defined  
12       contribution retirement plan under this chapter. However, if the eligible employee  
13       terminates employment before receiving the lump sum transfer under this  
14       section, the election made is ineffective and the eligible employee remains a  
15       member of the public employees retirement system under chapter 54-52 and  
16       retains all the rights and privileges under that chapter.
- 17       c. The board shall calculate the lump sum amount to be transferred based on the  
18       actuarial present value of the eligible employee's accumulated benefit obligation  
19       under the public employees retirement system based on the assumption the  
20       eligible employee will retire under the earlier applicable normal retirement age,  
21       plus interest from ~~January 1, 2025~~2024~~the effective date of this Act,~~ to the date of  
22       transfer, at the rate of one-half of one percent less than the actuarial interest  
23       assumption at the time of the election.
- 24       d. This section does not affect an eligible individual's right to health benefits under  
25       chapter 54-52.1.
- 26       3. The state employer of an eligible employee who elects under this section to participate  
27       in the defined contribution retirement plan under this chapter shall pay an additional  
28       annual contribution of three thousand three hundred and thirty-three dollars for up to  
29       three years. Under this subsection, the employer shall pay the additional contribution  
30       each year the eligible employee continues permanent employment with the state,  
31       beginning ~~January 2026~~2025~~one year after the effective date of this Act,~~ and

1 extending no further than ~~January 2028~~2027three years following the effective date of  
2 this Act.

- 3 4. 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, that portion that will cause the disqualification does  
7 not apply.

8 **SECTION 16. AMENDMENT.** Section 54-52.6-03 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **54-52.6-03. Transfer of accumulated fund balances. (Effective through ~~December 31,~~**  
11 **~~2024~~2023the day before the effective date of this Act)**

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

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

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

1       **Transfer of accumulated fund balances. (Effective ~~after December 31, 2024~~2023 on the**  
2 **effective date of this Act)**

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

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

23       2. The board shall calculate the amount to be transferred for persons employed after  
24 September 30, 2001, and before ~~January 1, 2025~~2024the effective date of this Act,  
25 using only the formula contained in subdivision b of subsection 1.

26       **SECTION 17. AMENDMENT.** Section 54-52.6-05 of the North Dakota Century Code is  
27 amended and reenacted as follows:

1       **54-52.6-05. Direction of investments. (Effective through ~~December 31, 2024~~the day**  
2 **before the effective date of this Act)**

3       Each participating member shall direct the investment of the individual's accumulated  
4 employer and employee contributions and earnings to one or more investment choices within  
5 available categories of investment provided by the board.

6       **Direction of investments. (Effective ~~after December 31, 2024~~on the effective date of**  
7 **this Act)**

- 8       1. Each participating member shall direct the investment of the individual's accumulated  
9 employer and employee contributions and earnings to one or more investment choices  
10 within available categories of investment provided by the board.
- 11       2. The board shall provide an investment menu of investment options. In establishing the  
12 investment options, the board shall:
  - 13       a. Include predetermined investment portfolio options constructed to reflect different  
14 risk profiles that automatically reallocate and rebalance contributions as a  
15 participating member ages.
  - 16       b. Allow a participating member to construct an investment portfolio using some or  
17 all of the investment options.
- 18       3. The board shall provide a diversified menu of mutual funds and in-plan lifetime annuity  
19 options, either fixed, variable, or a combination of both. In selecting an annuity  
20 provider the board shall comply with section 54-52.6-05.1.

21 **4. This section applies to all defined contribution retirement plans regardless of the**  
22 **effective date of the plan.**

23       **SECTION 18. AMENDMENT.** Section 54-52.6-05.1 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25       **54-52.6-05.1. Annuity provider - Qualifications. (Effective ~~after December 31, 2024~~on**  
26 **the effective date of this Act)**

- 27       1. The board shall select one or more annuity providers to provide the annuity options  
28 under this chapter.
- 29       2. In selecting an annuity provider under this section, the board shall:



- 1 a. Determine whether the annuity provider and the provider's subsidiaries and  
2 affiliates have appropriate financial strength and stability at the time of selection  
3 and during the term of contract with the board.
  - 4 (1) The board may require the provider to provide the board with written  
5 representation:
    - 6 (a) The provider is in compliance with title 26.1.
    - 7 (b) The provider at the time of selection is and for each of the preceding  
8 seven years was in compliance and good standing with the insurance  
9 commissioner of the provider's domiciliary state and the provider is  
10 not operating under an order of rehabilitation or liquidation.
    - 11 (c) The provider maintains and has maintained reserves that satisfy the  
12 statutory requirements of each state in which the provider does  
13 business.
  - 14 (2) The board may require a provider selected by the board to provide annuities  
15 under this chapter to notify the board of a change of circumstances resulting  
16 in the provider failing to meet any of the requirements under paragraph 1.
  - 17 (3) The board must have determined the provider has a claims paying ability  
18 rating that meets standards adopted by the board.
- 19 b. Determine whether the annuity provider is able to provide contracted rights and  
20 benefits to a participating member.
- 21 c. Determine whether the costs, including fees and commissions, of the annuity  
22 options in relation to the benefits and product features of the annuity options are  
23 reasonable.
- 24 d. Determine whether the administrative services to be provided under the annuity  
25 option are appropriate. At a minimum the administrative services must include  
26 periodic reports to the board.
- 27 e. Determine whether the annuity provider is experienced in paying lifetime  
28 retirement income through annuities offered to public employee defined  
29 contribution retirement plans.
- 30 f. Determine whether the annuity provider offers a menu of annuity options that  
31 meet the following conditions:

- 1 (1) The annuity options are suitable for participating members and
- 2 beneficiaries.
- 3 (2) The contract terms and income benefits are clearly stated, based on
- 4 reasonable assumptions.
- 5 (3) The menu of annuity options offers a range of lifetime income options.
- 6 (4) If an annuity is a variable annuity, the annuity offers a fixed account option
- 7 along with a variable option.
- 8 g. Determine whether the annuity provider offers objective and participant-specific
- 9 education and tools to help a participating member understand the appropriate
- 10 use of annuities as a long-term retirement savings vehicle.

11 **SECTION 19. AMENDMENT.** Section 54-52.6-08 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 **54-52.6-08. Credit of transfers. (Effective through ~~December 31, 2024~~the day before**  
14 **the effective date of this Act)**

15 The board shall promptly credit the plan account of a participating member who makes an  
16 election under this chapter to terminate membership in the public employees retirement system  
17 under chapter 54-52 with any amount transferred from the public employees retirement system.

18 **Credit of transfers. (Effective ~~after December 31, 2024~~on the effective date of this Act)**

19 The board promptly shall credit the plan account of a participating member who makes an  
20 election under section 54-52.6-02 to terminate membership in the public employees retirement  
21 system under chapter 54-52 with any amount transferred from the public employees retirement  
22 system.

23 **SECTION 20. AMENDMENT.** Section 54-52.6-09 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25 **54-52.6-09. Contributions - Penalty. (Effective through ~~December 31, 2024~~2023the day**  
26 **before the effective date of this Act)**

- 27 1. Each participating member shall contribute monthly four percent of the monthly salary
- 28 or wage paid to the participant, and this assessment must be deducted from the
- 29 participant's salary in equal monthly installments commencing with the first month of
- 30 participation in the defined contribution retirement plan established under this chapter.
- 31 Participating member contributions increase by one percent of the monthly salary or

1 wage paid to the participant beginning with the monthly reporting period of  
2 January 2012; with an additional increase of one percent, beginning with the reporting  
3 period of January 2013; and with an additional increase of one percent, beginning with  
4 the monthly reporting period of January 2014.

5 2. The employer shall contribute an amount equal to four and twelve-hundredths percent  
6 of the monthly salary or wage of a participating member. Employer contributions  
7 increase by one percent of the monthly salary or wage of a participating member  
8 beginning with the monthly reporting period of January 2012; with an additional  
9 increase of one percent, beginning with the monthly reporting period of January 2013;  
10 and with an additional increase of one percent, beginning with the monthly reporting  
11 period of January 2014. For members first enrolled after December 31, 2019, the  
12 employer contribution includes an additional increase of one and fourteen-hundredths  
13 percent. If the employee's contribution is paid by the employer under subsection 3, the  
14 employer shall contribute, in addition, an amount equal to the required employee's  
15 contribution. Monthly, the employer shall pay such contribution into the participating  
16 member's account from the employer's funds appropriated for payroll and salary or  
17 any other funds available for such purposes. If the employer fails to pay the  
18 contributions monthly, or fails to otherwise comply with the board's established wage  
19 reporting or payroll reporting process requirements, the employer is subject to a civil  
20 penalty of fifty dollars and, as interest, one percent of the amount due for each month  
21 of delay or fraction of a month after the payment became due. In lieu of assessing a  
22 civil penalty or one percent per month, or both, interest at the actuarial rate of return  
23 may be assessed for each month the contributions are delinquent. If contributions are  
24 paid within ninety days of the date the contributions became due, penalty and interest  
25 to be paid on delinquent contributions may be waived.

26 3. Each employer, at its option, may pay the employee contributions required by this  
27 section for all compensation earned after December 31, 1999. The amount paid must  
28 be paid by the employer in lieu of contributions by the employee. If the employer  
29 decides not to pay the contributions, the amount that would have been paid will  
30 continue to be deducted from the employee's compensation. If contributions are paid  
31 by the employer, they must be treated as employer contributions in determining tax

1 treatment under this code and the federal Internal Revenue Code. Contributions paid  
2 by the employer may not be included as gross income of the employee in determining  
3 tax treatment under this code and the federal Internal Revenue Code until they are  
4 distributed or made available. The employer shall pay these employee contributions  
5 from the same source of funds used in paying compensation to the employee. The  
6 employer shall pay these contributions by effecting an equal cash reduction in the  
7 gross salary of the employee or by an offset against future salary increases or by a  
8 combination of a reduction in gross salary and offset against future salary increases.  
9 Employee contributions paid by the employer must be treated for the purposes of this  
10 chapter in the same manner and to the same extent as employee contributions made  
11 before the date on which employee contributions were assumed by the employer. An  
12 employer shall exercise its option under this subsection by reporting its choice to the  
13 board in writing.

14 **Contributions - Penalty. (Effective ~~after December 31, 2024~~2023 on the effective date**  
15 **of this Act)**

- 16 1. a. A participating member who first joined the defined contribution retirement plan  
17 before ~~January 1, 2025~~2024 the effective date of this Act, and an employee who  
18 elects to participate in the defined contribution plan under section 54-52.6-02.2,  
19 shall contribute monthly seven percent of the monthly salary or wage paid to the  
20 participant.
- 21 b. A participating member who first joined the defined contribution retirement plan  
22 after ~~December 31, 2024~~2023 the day before the effective date of this Act, except  
23 for an employee who elects to participate in the defined contribution plan under  
24 section 54-52.6-02.2, shall contribute monthly four percent of the monthly salary  
25 or wage paid to the participant. In addition, the participating member may elect to  
26 contribute monthly up to an additional three percent of the monthly salary or  
27 wage paid to the participant.
- 28 c. This assessment must be deducted from the participant's salary in equal monthly  
29 installments commencing with the first month of participation in the defined  
30 contribution retirement plan established under this chapter.

- 1           2.   a.   For a participating member who first joined the defined contribution retirement  
2           plan before ~~January 1, 2025~~2024~~the effective date of this Act~~, and for an  
3           employee who elects to participate in the defined contribution plan under section  
4           54-52.6-02.2, the employer shall contribute an amount equal to seven and  
5           twelve-hundredths percent of the monthly salary or wage of the participating  
6           member.
- 7           b.   For a participating member who first joined the defined contribution retirement  
8           plan after ~~December 31, 2024~~2023~~the day before the effective date of this Act~~,  
9           except for an employee who elects to participate in the defined contribution plan  
10          under section 54-52.6-02.2, the employer shall contribute an amount equal to  
11          four and twelve-hundredths percent of the monthly salary or wage of a  
12          participating member, plus up to an additional three percent as an employer  
13          matching contribution calculated based on the participating member's election  
14          under subdivision b of subsection 1.
- 15          c.   For a participating member first enrolled after December 31, 2019, the employer  
16          contribution includes an additional increase of one and fourteen-hundredths  
17          percent.
- 18          d.   If the employee's contribution is paid by the employer under subsection 3, the  
19          employer shall contribute, in addition, an amount equal to the required  
20          employee's contribution. Monthly, the employer shall pay such contribution into  
21          the participating member's account from the employer's funds appropriated for  
22          payroll and salary or any other funds available for such purposes.
- 23          e.   If the employer fails to pay the contributions monthly, or fails to otherwise comply  
24          with the board's established wage reporting or payroll reporting process  
25          requirements, the employer is subject to a civil penalty of fifty dollars and, as  
26          interest, one percent of the amount due for each month of delay or fraction of a  
27          month after the payment became due. In lieu of assessing a civil penalty or one  
28          percent per month, or both, interest at the actuarial rate of return may be  
29          assessed for each month the contributions are delinquent. If contributions are  
30          paid within ninety days of the date the contributions became due, penalty and  
31          interest to be paid on delinquent contributions may be waived.

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

20          **SECTION 21. AMENDMENT.** Section 54-52.6-09.6 of the North Dakota Century Code is  
21          amended and reenacted as follows:

22          **54-52.6-09.6. Participation by temporary employees. (Effective ~~after December 31,~~**  
23          **~~2024~~ on the effective date of this Act)**

24          A temporary employee may elect, within one hundred eighty days of beginning employment,  
25          to participate in the defined contribution retirement plan under this chapter. Monthly, the  
26          temporary employee shall contribute an amount equal to nine and twenty-six hundredths  
27          percent times the temporary employee's present monthly salary, and may elect to contribute up  
28          to an additional six percent. An employer may not pay the temporary employee's contribution. A  
29          temporary employee may continue to participate as a temporary employee until termination of  
30          employment or reclassification of the temporary employee as a permanent employee.

1       **SECTION 22. AMENDMENT.** Section 54-52.6-10 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **54-52.6-10. Vesting. (Effective through ~~December 31, 2024~~the day before the effective**  
4 **date of this Act)**

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

- 9       1. Upon completion of two years of service, fifty percent.
- 10       2. Upon completion of three years of service, seventy-five percent.
- 11       3. Upon completion of four years of service, one hundred percent.

12 A participating member also becomes one hundred percent vested in the employer  
13 contributions upon reaching age sixty-five. A participating member who was a member or  
14 deferred member of the public employees retirement system under chapter 54-52 who makes  
15 an election to participate in the defined contribution retirement plan pursuant to this chapter  
16 must be credited with the years of service accrued under the public employees retirement  
17 system on the effective date of participation in the defined contribution retirement plan for the  
18 purpose of meeting vesting requirements for benefits under this section. Any forfeiture as a  
19 result of the failure of a participating member to vest in the employer contribution must be  
20 deposited in the administrative expenses account.

21       **Vesting. (Effective ~~after December 31, 2024~~on the effective date of this Act)**

- 22       1. A participating member is immediately one hundred percent vested in that member's  
23 contributions made to that member's account under this chapter. A participating  
24 member vests in the employer contributions made on that member's behalf to an  
25 account under this chapter according to the following schedule:
  - 26       a. Upon completion of two years of service, fifty percent.
  - 27       b. Upon completion of three years of service, seventy-five percent.
  - 28       c. Upon completion of four years of service, one hundred percent.
- 29       2. A participating member also becomes one hundred percent vested in the employer  
30 contributions upon reaching age sixty-five. A participating member who was a member  
31 or deferred member of the public employees retirement system under chapter 54-52

1 who makes an election to participate in the defined contribution retirement plan under  
2 section 54-52.6-02 or 54-52.6-02.2 must be credited with the years of service accrued  
3 under the public employees retirement system on the effective date of participation in  
4 the defined contribution retirement plan for the purpose of meeting vesting  
5 requirements for benefits under this section. Any forfeiture as a result of the failure of a  
6 participating member to vest in the employer contribution must be deposited in the  
7 administrative expenses account.

8 **SECTION 23. AMENDMENT.** Section 54-52.6-13 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **54-52.6-13. Distributions. (Effective through ~~December 31, 2024~~the day before the**  
11 **effective date of this Act)**

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



1           deceased participant's estate. If the deceased participant had not designated an  
2           alternate refund beneficiary or the surviving spouse is the refund beneficiary, the  
3           surviving spouse of the deceased participant may select a form of payment as  
4           provided in subdivision d of subsection 3.

- 5           3. A former participating member may elect one or a combination of several of the  
6           following methods of distribution of the accumulated balance:
- 7           a. A lump sum distribution to the recipient.
  - 8           b. A lump sum direct rollover to another qualified plan, to the extent allowed by  
9           federal law.
  - 10          c. Periodic distributions, as authorized by the board.
  - 11          d. No current distribution, in which case the accumulated balance must remain in  
12          the plan until the former participating member or refund beneficiary elects a  
13          method or methods of distribution under this section, to the extent allowed by  
14          federal law.

15           A surviving spouse beneficiary may elect one or a combination of several of the  
16           methods of distribution provided in subdivisions a, b, or c if the surviving spouse is the  
17           sole refund beneficiary. If the surviving spouse is not the sole refund beneficiary, the  
18           refund beneficiary may only choose a lump sum distribution of the accumulated  
19           balance.

- 20          4. If the former participating member's vested account balance is less than one thousand  
21          dollars, the board shall automatically refund the member's vested account balance  
22          upon termination of employment. The member may waive the refund if the member  
23          submits a written statement to the board, within one hundred twenty days after  
24          termination, requesting that the member's vested account balance remain in the plan.

25          **Distributions. (Effective ~~after December 31, 2024~~ on the effective date of this Act)**

- 26          1. A participating member is eligible to receive distribution of that individual's  
27          accumulated balance in the plan upon becoming a former participating member.
- 28          2. Upon the death of a participating member or former participating member, the board  
29          shall pay the accumulated account balance of that deceased participant to the  
30          deceased participant's refund beneficiary, if any, as provided in this subsection. If the  
31          deceased participant designated an alternate refund beneficiary with the surviving

1 spouse's written consent, the board shall distribute the accumulated balance to the  
2 named beneficiary. If the deceased participant named more than one primary  
3 beneficiary with the surviving spouse's written consent, the board shall pay the  
4 accumulated account balance to the named primary beneficiaries in the percentages  
5 designated by the deceased participant or, if the deceased participant had not  
6 designated a percentage for the beneficiaries, in equal percentages. If one or more of  
7 the primary beneficiaries has predeceased the deceased participant, the board shall  
8 pay the predeceased beneficiary's share to the remaining primary beneficiaries. If any  
9 beneficiary survives the deceased participant, yet dies before distribution of the  
10 beneficiary's share, the beneficiary must be treated as if the beneficiary predeceased  
11 the deceased participant. If there is no remaining primary beneficiary, the board shall  
12 pay the accumulated account balance of that deceased participant to the contingent  
13 beneficiaries in the same manner. If there is no remaining designated beneficiary, the  
14 board shall pay the accumulated account balance of that deceased participant to the  
15 deceased participant's estate. If the deceased participant had not designated an  
16 alternate refund beneficiary or the surviving spouse is the refund beneficiary, the  
17 surviving spouse of the deceased participant may select a form of payment as  
18 provided in subdivision d of subsection 3.

- 19 3. a. A former participating member may elect one or a combination of several of the  
20 following methods of distribution of the accumulated balance:
- 21 (1) A lump sum distribution to the recipient.
  - 22 (2) A lump sum direct rollover to another qualified plan, to the extent allowed by  
23 federal law.
  - 24 (3) Periodic distributions, including annuities, as authorized by the board.
  - 25 (4) No current distribution, in which case the accumulated balance must remain  
26 in the plan until the former participating member or refund beneficiary elects  
27 a method or methods of distribution under this section, to the extent allowed  
28 by federal law.
- 29 b. A surviving spouse beneficiary may elect one or a combination of several of the  
30 methods of distribution provided in paragraph 1, 2, or 3 of subdivision a if the  
31 surviving spouse is the sole refund beneficiary. If the surviving spouse is not the

1                   sole refund beneficiary, the refund beneficiary may only choose a lump sum  
2                   distribution of the accumulated balance.

3           4.   If the former participating member's vested account balance is less than one thousand  
4           dollars, the board automatically shall refund the member's vested account balance  
5           upon termination of employment. The member may waive the refund if the member  
6           submits a written statement to the board, within one hundred twenty days after  
7           termination, requesting that the member's vested account balance remain in the plan.

8           **SECTION 24. AMENDMENT.** Section 54-52.6-15 of the North Dakota Century Code is  
9           amended and reenacted as follows:

10           **54-52.6-15. Board to provide information. (Effective through ~~December 31, 2024~~the**  
11           **day before the effective date of this Act)**

12           The board shall provide information to employees who are eligible to elect to become  
13           participating members under this chapter. The information must include at a minimum the  
14           employee's current account balance, the assumption of investment risk under a defined  
15           contribution retirement plan, administrative and investment costs, coordination of benefits  
16           information, and a comparison of projected retirement benefits under the public employees  
17           retirement system under chapter 54-52 and the retirement plan established under this chapter.  
18           Notwithstanding any other provision of law, the board is not liable for any election or investment  
19           decision made by an employee based upon information provided to an employee under this  
20           chapter.

21           **Board to provide information. (Effective ~~after December 31, 2024~~on the effective date**  
22           **of this Act)**

23           1.   The board shall provide information to employees who are eligible under section  
24           54-52.6-02 or 54-52.6-02.2 to elect to become participating members under this  
25           chapter. The information must include at a minimum the employee's current account  
26           balance, the assumption of investment risk under a defined contribution retirement  
27           plan, administrative and investment costs, coordination of benefits information, and a  
28           comparison of projected retirement benefits under the public employees retirement  
29           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 all participating members of the  
2        defined contribution retirement plan, including individuals who elected to become  
3        participating members under section 54-52.6-02 or 54-52.6-02.2:
- 4        a. Enrollment information that includes benefits of the defined contribution  
5        retirement plan, investment options available, the assumption of risk, and  
6        administrative and investment costs.
- 7        b. Ongoing investment and retirement income planning, including education on how  
8        to set, measure, and adjust income and saving goals based on desired  
9        retirement income and financial objectives, actual behavior, and changing  
10       circumstances.
- 11       c. Retirement income education, including distribution options available and in-plan  
12       annuitization options.
- 13       d. Advice and guidance information, tools, and services primarily focused on long-  
14       term planning and investing and life events that potentially influence and impact  
15       retirement savings.
- 16       3. Notwithstanding any other provision of law, the board is not liable for any election or  
17       investment decision made by an employee individual based upon information provided  
18       to an employee individual under this chapter.

19       **SECTION 25. AMENDMENT.** Section 54-52.6-19 of the North Dakota Century Code is  
20       amended and reenacted as follows:

21       **54-52.6-19. Overpayments. (Effective through ~~December 31, 2024~~ the day before the**  
22       **effective date of this Act)**

23       The board has the right of setoff to recover overpayments made under this chapter and to  
24       satisfy any claims arising from embezzlement or fraud committed by a participating member,  
25       deferred member, refund beneficiary, or other person who has a claim to a distribution or any  
26       other benefit from a plan governed by this chapter.

27       **Overpayments. (Effective ~~after December 31, 2024~~ on the effective date of this Act)**

28       The board has the right of setoff to recover overpayments made under this chapter and to  
29       satisfy any claims arising from embezzlement or fraud committed by a participating member,  
30       deferred member under this chapter, refund beneficiary, or other person that has a claim to a  
31       distribution or any other benefit from a plan governed by this chapter.

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

3       **54-52.6-22. Report to employee benefits programs committee. (Effective ~~after-~~**  
4 **~~December 31, 2024~~the day before the effective date of this Act)**

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

7       **SECTION 27. AMENDMENT.** Section 54-52.6-23 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9       **54-52.6-23. Savings clause - Plan modification. (Effective ~~after December 31, 2024~~on**  
10 **~~the effective date of this Act)~~**

11       If the board determines any section of this chapter does not comply with applicable federal  
12 statutes or rules, the board shall adopt appropriate terminology with respect to that section as  
13 will comply with those federal statutes or rules, subject to the approval of the employee benefits  
14 programs committee. Any plan modifications made by the board pursuant to this section are  
15 effective until the effective date of any measure enacted by the legislative assembly providing  
16 the necessary amendments to this chapter to ensure compliance with the federal statutes or  
17 rules.

18       **SECTION 28. EXEMPTION - EMPLOYEE BENEFITS PROGRAMS COMMITTEE.** This Act  
19 is exempt from the requirements of section 54-35-02.4.

20       **SECTION 29. CONTINGENT EFFECTIVE DATE.** Sections 1 through ~~12~~<sup>27</sup> of this Act  
21 become effective on ~~January 1, 2024, if before that~~the date which must be before January 1,  
22 2025, identified in a certification by the retirement board, only if the board certifies to the  
23 legislative council that the public employees retirement system is prepared to close the main  
24 system defined benefit retirement plan on ~~December 31, 2023~~the day before the date identified  
25 by the board, and to open the new defined contribution retirement plan on ~~January 1, 2024~~the  
26 date identified by the board.

27       **SECTION 30. EFFECTIVE DATE.** Sections ~~13~~<sup>28</sup> and ~~14~~<sup>29</sup> of this Act become effective on  
28 the date this Act is filed with the secretary of state.