

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1548

Page 1, line 1, after "sections" insert "15-39.1-10.3, 54-52-01,"

Page 1, line 2, after the second comma insert "54-52-05, 54-52-14.3, 54-52-17.2,"

Page 1, line 3, after "54-52.6-03" insert ", 54-52.6-05, 54-52.6-05.1, 54-52.6-08"

Page 1, line 3, remove "and"

Page 1, line 3, after "54-52.6-09" insert ", 54-52.6-09.6, 54-52.6-10, 54-52.6-13, 54-52.6-15, 54-52.6-19, 54-52.6-22, and 54-52.6-23"

Page 1, after line 6, insert:

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

15-39.1-10.3. Multiple plan membership - Eligibility for benefits - Amount of benefits. (Effective through December 31, 2024~~2023~~)

1. a. For the purpose of determining vesting of rights and eligibility for benefits under this chapter, a teacher's years of service credit is the total of the years of service credit earned in the fund and the years, with twelve months of compensation equal to a year, of service employment earned in any number of the following alternate plans:
 - (1) The public employees retirement system.
 - (2) The highway patrol troopers' retirement system.Service credit may not exceed one year of service in any fiscal year in determining vesting and benefit eligibility.
- b. If a teacher terminates eligible employment under the fund, if that teacher has not received a refund of member contributions, and if that teacher begins eligible employment in a plan described in paragraph 1 or 2 of subdivision a, that teacher may elect to remain an inactive member of the fund without refund of contributions. The board shall terminate the inactive status of a teacher under this subdivision if the teacher gains eligible employment under this chapter or if the teacher terminates eligible employment under a plan described in paragraph 1 or 2 of subdivision a.
- c. Pursuant to rules adopted by the board, a teacher who has service credit in the fund and in any number of the alternate plans described in paragraphs 1 and 2 of subdivision a is entitled to benefits under this chapter.
 - (1) A tier one member may elect to have benefits calculated using the benefit formula in subsection 2 of section 15-39.1-10 under either of the following calculation methods:

- (a) Using the three highest certified fiscal year salaries of this plan in the computation of final average salary and all service credit earned in this plan; or
 - (b) Using the three highest certified fiscal year salaries of this plan combined with the alternate plan in the computation of final average salary and service credit not to exceed one year in any fiscal year when combined with the service credit earned in the alternate retirement plan.
- (2) A tier two member may elect to have benefits calculated using the benefit formula in subsection 2 of section 15-39.1-10 under either of the following calculation methods:
 - (a) Using the five highest certified fiscal year salaries of this plan in the computation of final average salary and all service credit earned in this plan; or
 - (b) Using the five highest certified fiscal year salaries of this plan combined with the alternate plan in the computation of final average salary and service credit not to exceed one year in any fiscal year when combined with the service credit earned in the alternate retirement plan.
- 2. a. If a teacher, who is eligible to participate in this fund, is also eligible to participate in an alternate retirement system, the employee is a member of the teachers' fund for retirement for duties covered under this fund, and the employee is also a member of the public employees retirement system or highway patrolmen's retirement system for duties covered by those alternate retirement systems. The employers shall pay the member and employer contributions at the rates currently existing for the applicable system.
- b. If a teacher described in subdivision a was employed prior to August 1, 2003, and has dual member rights, the teacher may elect to begin participation in the alternate plan pursuant to the plan provisions on August 1, 2003, or may continue participation pursuant to the plan provisions in effect on July 31, 2003. A plan participation election is required by five p.m. on October 31, 2003. If an election is not received by the retirement plan, the participation and benefit calculation requirements of this chapter as of July 31, 2003, continue to be in effect for the teacher.
- 3. Under rules adopted by the board, an individual whose service credit was canceled when that individual received a refund of assessments at termination of employment under this chapter may, while that individual participates in a plan described in paragraph 1 or 2 of subdivision a of subsection 1, repurchase that service credit that was canceled.

**Multiple plan membership - Eligibility for benefits - Amount of benefits.
(Effective after December 31, 20242023)**

- 1. a. For the purpose of determining vesting of rights and eligibility for benefits under this chapter, a teacher's years of service credit is the total of the years of service credit earned in the fund and the years,

with twelve months of compensation equal to a year, of service employment earned in any number of the following alternate plans:

- (1) The public employees retirement system, except an "eligible employee" as that term is defined under section 54-52-02.15.
- (2) The highway patrol troopers' retirement system.

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

- b. If a teacher terminates eligible employment under the fund, if that teacher has not received a refund of member contributions, and if that teacher begins eligible employment in a plan described in paragraph 1 or 2 of subdivision a, that teacher may elect to remain an inactive member of the fund without refund of contributions. The board shall terminate the inactive status of a teacher under this subdivision if the teacher gains eligible employment under this chapter or if the teacher terminates eligible employment under a plan described in paragraph 1 or 2 of subdivision a.
- c. Pursuant to rules adopted by the board, a teacher who has service credit in the fund and in any number of the alternate plans described in paragraphs 1 and 2 of subdivision a is entitled to benefits under this chapter.
 - (1) A tier one member may elect to have benefits calculated using the benefit formula in subsection 2 of section 15-39.1-10 under either of the following calculation methods:
 - (a) Using the three highest certified fiscal year salaries of this plan in the computation of final average salary and all service credit earned in this plan; or
 - (b) Using the three highest certified fiscal year salaries of this plan combined with the alternate plan in the computation of final average salary and service credit not to exceed one year in any fiscal year when combined with the service credit earned in the alternate retirement plan.
 - (2) A tier two member may elect to have benefits calculated using the benefit formula in subsection 2 of section 15-39.1-10 under either of the following calculation methods:
 - (a) Using the five highest certified fiscal year salaries of this plan in the computation of final average salary and all service credit earned in this plan; or
 - (b) Using the five highest certified fiscal year salaries of this plan combined with the alternate plan in the computation of final average salary and service credit not to exceed one year in any fiscal year when combined with the service credit earned in the alternate retirement plan.
2. a. If a teacher, who is eligible to participate in this fund, is also eligible to participate in an alternate retirement system, the employee is a member of the teachers' fund for retirement for duties covered under

this fund, and the employee is also a member of the public employees retirement system or highway patrolmen's retirement system for duties covered by those alternate retirement systems. The employers shall pay the member and employer contributions at the rates currently existing for the applicable system.

- b. If a teacher described in subdivision a was employed prior to August 1, 2003, and has dual member rights, the teacher may elect to begin participation in the alternate plan pursuant to the plan provisions on August 1, 2003, or may continue participation pursuant to the plan provisions in effect on July 31, 2003. A plan participation election is required by five p.m. on October 31, 2003. If an election is not received by the retirement plan, the participation and benefit calculation requirements of this chapter as of July 31, 2003, continue to be in effect for the teacher.
3. Under rules adopted by the board, an individual whose service credit was canceled when that individual received a refund of assessments at termination of employment under this chapter may, while that individual participates in a plan described in paragraph 1 or 2 of subdivision a of subsection 1, repurchase that service credit that was canceled.

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

54-52-01. Definition of terms. (Effective through December 31, 2024~~2023~~)

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

1. "Account balance" means the total contributions made by the employee, vested employer contributions under section 54-52-11.1, the vested portion of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the board.
2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
3. "Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.
4. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. Eligible employee does not include nonclassified state employees who elect to become members of the retirement plan established under chapter 54-52.6 but does include employees of the judicial branch and employees of the board of higher education and state institutions under the jurisdiction of the board.

5. "Employee" means any individual employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.
6. "Employer" means a governmental unit.
7. "Firefighter" means a participating member who is employed as a firefighter by a political subdivision and, notwithstanding subsection 13, for an individual employed after July 31, 2017, is employed at least thirty-two hours per week and at least twenty weeks each year of employment. A firefighter who is a participating member of the law enforcement retirement plan created by this chapter who begins employment after July 31, 2017, is ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system. The term does not include a firefighter employee of the North Dakota national guard.
8. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution which the retirement board may select to hold and invest the employers' and members' contributions.
9. "Governmental unit" means the state of North Dakota, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision thereof.
10. "National guard security officer or firefighter" means a participating member who is:
 - a. A security police employee of the North Dakota national guard; or
 - b. A firefighter employee of the North Dakota national guard.
11. "Participating member" means an eligible employee who through payment into the plan has established a claim against the plan.
12. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the state, except by the highway patrol for members of the retirement plan created under chapter 39-03.1, or is employed by a political subdivision and, notwithstanding subsection 13, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. A peace officer who is a participating member of the law enforcement retirement plan created by this chapter who begins employment after August 1, 2005, is ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.
13. "Permanent employee" means a governmental unit employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed

twenty hours or more per week and at least twenty weeks each year of employment.

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

Definition of terms. (Effective after December 31, 20242023) As used in this chapter, unless the context otherwise requires:

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

2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
3. "Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.
4. "Deferred member" means a participating member who is not actively participating in the main plan under this chapter and who has an account intact in the main plan under this chapter.
5. "Eligible employee", except as otherwise provided under section 54-52-02.15, means a permanent employee who meets all of the eligibility requirements set by this chapter and who is eighteen years or more of age. The term includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. The term does not include nonclassified state employees who elected under section 54-52.6-02 to become members of the retirement plan established under chapter 54-52.6. The term does include employees of the judicial branch and employees of the board of higher education and state institutions under the jurisdiction of the board of higher education.
6. "Employee" means any individual employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.
7. "Employer" means a governmental unit.
8. "Firefighter" means a participating member who is employed as a firefighter by a political subdivision and, notwithstanding subsection 13, for an individual employed after July 31, 2017, is employed at least thirty-two hours per week and at least twenty weeks each year of employment. A firefighter who is a participating member of the law enforcement retirement plan created by this chapter who begins employment after July 31, 2017, is ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system. The term does not include a firefighter employee of the North Dakota national guard.
9. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution which the retirement board may select to hold and invest the employers' and members' contributions.

10. "Governmental unit" means the state of North Dakota, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision of the state.
11. "National guard security officer or firefighter" means a participating member who is:
 - a. A security police employee of the North Dakota national guard; or
 - b. A firefighter employee of the North Dakota national guard.
12. "Participating member" means an eligible employee who through payment into the plan has established a claim against the plan.
13. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the state, except by the highway patrol for members of the retirement plan created under chapter 39-03.1, or is employed by a political subdivision and, notwithstanding subsection 14, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. A peace officer who is a participating member of the law enforcement retirement plan created by this chapter who begins employment after August 1, 2005, is ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.
14. "Permanent employee" means an employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least twenty weeks each year of employment.
15. "Prior service" means service or employment before July 1, 1966.
16. "Prior service credit" means such credit toward a retirement benefit as the retirement board may determine under the provisions of this chapter.
17. "Public employees retirement system" means the retirement plan and program established by this chapter.
18. "Retirement" means the acceptance of a retirement allowance under this chapter upon either termination of employment or termination of participation in the retirement plan.
19. "Retirement board" or "board" means the governing authority created under section 54-52-03.
20. "Seasonal employee" means a participating member who does not work twelve months a year.
21. "Service" means employment on or after July 1, 1966.
22. "Service benefit" means the credit toward retirement benefits as determined by the retirement board under the provisions of this chapter.

23. "Temporary employee" means an employee who is not eligible to participate as a permanent employee, who is at least eighteen years old and not actively contributing to another employer-sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.
24. "Wages" and "salaries" means the member's earnings in eligible employment under this chapter reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between the member and participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the board."

Page 6, after line 12, insert:

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

54-52-05. Membership and assessments - Employer payment of employee contributions. (Effective through December 31, 2024~~2023~~)

1. Every eligible participating political subdivision employee, at the time the political subdivision joins the plan must so state in writing if the employee concurs in the plan and all future eligible employees of the participating political subdivision are participating members in the plan and must be enrolled in the plan within the first month of employment. Except as otherwise provided by law, every other eligible governmental unit employee of a participating governmental unit is a participating member in the plan and must be enrolled in the plan within the first month of employment. An employee who was not enrolled in the retirement system when eligible to participate must be enrolled immediately upon notice of the employee's eligibility, unless the employee waives in writing the employee's right to participate for the previous time of eligibility, to avoid contributing to the fund for past service. An employee who is eligible for normal retirement who accepts a retirement benefit under this chapter and who subsequently becomes employed with a participating employer other than the employer with which the employee was employed at the time the employee retired under this chapter may, before being re-enrolled in the retirement plan within the first month of employment, elect to permanently waive future participation in the retirement plan and the retiree health program and maintain that employee's retirement status. An employee making this election is not required to make any future employee contributions to the public employees retirement system nor is the employee's employer required to make any further contributions on behalf of that employee.

2. Each member must be assessed and required to pay monthly four percent of the monthly salary or wage paid to the member, and such assessment must be deducted and retained out of such salary in equal monthly installments commencing with the first month of employment. Member contributions increase by one percent of the monthly salary or wage paid to the member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014.
3. Each employer, at its option, may pay all or a portion of the employee contributions required by subsection 2 and sections 54-52-06.1, 54-52-06.2, 54-52-06.3, and 54-52-06.4 or the employee contributions required to purchase service credit on a pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not receive the contributed amounts directly once the employer has elected to pay the employee contributions. The amount paid must be paid by the employer in lieu of contributions by the employee. If the state determines not to pay the contributions, the amount that would have been paid must continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the employer, they may not be included as gross income of the employee in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a contribution of a reduction in gross salary and offset against future salary increases. If employee contributions are paid by the employer, they must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made prior to the date on which employee contributions were assumed by the employer. An employer exercising its option under this subsection shall report its choice to the board in writing.
4. For compensation earned after August 1, 2009, all employee contributions required under section 54-52-06.1 and the job service North Dakota retirement plan, and not otherwise paid under subsection 3, must be paid by the employer in lieu of contributions by the member. All contributions paid by the employer under this subsection must be treated as employer contributions in determining tax treatment under this code and the Internal Revenue Code. Contributions paid by the employer under this subsection may not be included as gross income of the member in determining tax treatment under this code and the Internal Revenue Code until the contributions are distributed or made available. Contributions paid by the employer in accordance with this subsection must be treated for the purposes of this chapter in the same manner and to the same extent as member contributions made before the date the contributions were assumed by the employer. The employer shall pay these member contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting

an equal cash reduction in the gross salary of the employee. The employer shall continue making payments under this section unless otherwise specifically provided for under the agency's biennial appropriation or by amendment to law.

Membership and assessments - Employer payment of employee contributions. (Effective after December 31, 2024~~2023~~)

1. Every eligible participating political subdivision employee, at the time the political subdivision joins the plan must so state in writing if the employee concurs in the plan and all future eligible employees of the participating political subdivision are participating members in the plan and must be enrolled in the plan within the first month of employment. Except as otherwise provided by law, every other eligible governmental unit employee of a participating governmental unit is a participating member in the plan and must be enrolled in the plan within the first month of employment. An employee who was not enrolled in the retirement system when eligible to participate must be enrolled immediately upon notice of the employee's eligibility, unless the employee waives in writing the employee's right to participate for the previous time of eligibility, to avoid contributing to the fund for past service. An employee who is eligible for normal retirement who accepts a retirement benefit under this chapter and who subsequently becomes employed with a participating employer other than the employer with which the employee was employed at the time the employee retired under this chapter may, before being re-enrolled in the retirement plan within the first month of employment, elect to permanently waive future participation in the retirement plan and the retiree health program and maintain that employee's retirement status. An employee making this election is not required to make any future employee contributions to the public employees retirement system nor is the employee's employer required to make any further contributions on behalf of that employee.
2. Each member must be assessed and required to pay monthly seven percent of the monthly salary or wage paid to the member, and such assessment must be deducted and retained out of such salary in equal monthly installments commencing with the first month of employment.
3. Each employer, at its option, may pay all or a portion of the employee contributions required by subsection 2 and sections 54-52-06.1, 54-52-06.2, 54-52-06.3, and 54-52-06.4 or the employee contributions required to purchase service credit on a pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not receive the contributed amounts directly once the employer has elected to pay the employee contributions. The amount paid must be paid by the employer in lieu of contributions by the employee. If the state determines not to pay the contributions, the amount that would have been paid must continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the employer, they may not be included as gross income of the employee in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from

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

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

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

54-52-14.3. Public employee retirement funds - Use and investment. (Effective through December 31, 20242023)

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

Public employee retirement funds - Use and investment. (Effective after December 31, 20242023) Any provision of law relating to the use and investment of public employee retirement funds must be deemed a part of the employment contracts of the employees participating in any public employee retirement system. All moneys from any source paid into any public employee retirement system fund created by the laws of this state must be used and invested only for the exclusive benefit of the members, retirees, and beneficiaries of the retirement system, including the payment of system administrative costs.

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

54-52-17.2. Multiple plan membership - Eligibility for benefits - Amount of benefits. (Effective through December 31, 2024~~2023~~)

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

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

- b. Pursuant to rules adopted by the board, an employee who has service credit in the system and in any of the plans described in paragraphs 1 and 2 of subdivision a is entitled to benefits under this chapter. The benefits of a temporary employee employed after July 31, 2015, must be calculated using the benefit formula in section 54-52-17. A permanent employee or a temporary employee employed before August 1, 2015, may elect to have benefits calculated using the benefit formula in section 54-52-17 under either of the following methods:
 - (1) The final average salary as calculated in section 54-52-17. If the participating member has worked for less than thirty-six months at retirement, the final average salary is the average salary for the total months of employment.
 - (2) The final average salary as calculated in section 54-52-17 for employment with any of the three eligible employers under this subdivision, with service credit not to exceed one month in any month when combined with the service credit earned in the alternate retirement system. The board shall calculate benefits for an employee under this subsection by using only those years of service credit earned under this chapter.
2. a. If an employee who is eligible to participate in the public employees retirement system is also employed in any position when membership in an alternate retirement system is required, then, for purposes of current participation, the employee is a member of each applicable retirement system. The employer shall pay over to each retirement system the member assessment and employer contributions at the rates currently existing for that retirement system.
- b. If an employee described in subdivision a was employed prior to August 1, 2003, and has dual membership rights, the employee may elect to begin participation in the alternate plan pursuant to the plan provisions on August 1, 2003, or may continue participation according

to the plan provisions in effect on July 31, 2003. An employee's election under this subdivision is ineffective unless delivered to the public employees retirement system administrative offices by five p.m. on October 31, 2003. If an election is not received by the public employees retirement system, the participation and benefit calculation requirements in effect on July 31, 2003, apply to that employee.

**Multiple plan membership - Eligibility for benefits - Amount of benefits.
(Effective after December 31, 2024~~2023~~)**

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

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

- b. Subject to section 54-52-02.15 and pursuant to rules adopted by the board, an employee who has service credit in the system and in any of the plans described in paragraphs 1 and 2 of subdivision a is entitled to benefits under this chapter. The benefits of a temporary employee employed after July 31, 2015, must be calculated using the benefit formula in section 54-52-17. A permanent employee or a temporary employee employed before August 1, 2015, may elect to have benefits calculated using the benefit formula in section 54-52-17 under either of the following methods:
 - (1) The final average salary as calculated in section 54-52-17. If the participating member has worked for less than thirty-six months at retirement, the final average salary is the average salary for the total months of employment.
 - (2) The final average salary as calculated in section 54-52-17 for employment with any of the three eligible employers under this subdivision, with service credit not to exceed one month in any month when combined with the service credit earned in the alternate retirement system.

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

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

- b. If an employee described in subdivision a was employed prior to August 1, 2003, and has dual membership rights, the employee may elect to begin participation in the alternate plan pursuant to the plan provisions on August 1, 2003, or may continue participation according to the plan provisions in effect on July 31, 2003. An employee's election under this subdivision is ineffective unless delivered to the public employees retirement system administrative offices by five p.m. on October 31, 2003. If an election is not received by the public employees retirement system, the participation and benefit calculation requirements in effect on July 31, 2003, apply to that employee."

Page 20, after line 11, insert:

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

54-52.6-05. Direction of investments. (Effective through December 31, 20242023)

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

Direction of investments. (Effective after December 31, 20242023)

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

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

54-52.6-05.1. Annuity provider - Qualifications. (Effective after December 31, 20242023)

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

- a. Determine whether the annuity provider and the provider's subsidiaries and affiliates have appropriate financial strength and stability at the time of selection and during the term of contract with the board.
 - (1) The board may require the provider to provide the board with written representation:
 - (a) The provider is in compliance with title 26.1.
 - (b) The provider at the time of selection is and for each of the preceding seven years was in compliance and good standing with the insurance commissioner of the provider's domiciliary state and the provider is not operating under an order of rehabilitation or liquidation.
 - (c) The provider maintains and has maintained reserves that satisfy the statutory requirements of each state in which the provider does business.
 - (2) The board may require a provider selected by the board to provide annuities under this chapter to notify the board of a change of circumstances resulting in the provider failing to meet any of the requirements under paragraph 1.
 - (3) The board must have determined the provider has a claims paying ability rating that meets standards adopted by the board.
- b. Determine whether the annuity provider is able to provide contracted rights and benefits to a participating member.
- c. Determine whether the costs, including fees and commissions, of the annuity options in relation to the benefits and product features of the annuity options are reasonable.
- d. Determine whether the administrative services to be provided under the annuity option are appropriate. At a minimum the administrative services must include periodic reports to the board.
- e. Determine whether the annuity provider is experienced in paying lifetime retirement income through annuities offered to public employee defined contribution retirement plans.
- f. Determine whether the annuity provider offers a menu of annuity options that meet the following conditions:
 - (1) The annuity options are suitable for participating members and beneficiaries.
 - (2) The contract terms and income benefits are clearly stated, based on reasonable assumptions.
 - (3) The menu of annuity options offers a range of lifetime income options.
 - (4) If an annuity is a variable annuity, the annuity offers a fixed account option along with a variable option.

- g. Determine whether the annuity provider offers objective and participant-specific education and tools to help a participating member understand the appropriate use of annuities as a long-term retirement savings vehicle.

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

54-52.6-08. Credit of transfers. (Effective through December 31, 20242023)

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

Credit of transfers. (Effective after December 31, 20242023) The board promptly shall credit the plan account of a participating member who makes an election under section 54-52.6-02 to terminate membership in the public employees retirement system under chapter 54-52 with any amount transferred from the public employees retirement system."

Page 24, after line 2, insert:

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

54-52.6-09.6. Participation by temporary employees. (Effective after December 31, 20242023)

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

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

54-52.6-10. Vesting. (Effective through December 31, 20242023)

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

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

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

Vesting. (Effective after December 31, 2024~~2023~~)

1. A participating member is immediately one hundred percent vested in that member's contributions made to that member's account under this chapter. A participating member vests in the employer contributions made on that member's behalf to an account under this chapter according to the following schedule:
 - a. Upon completion of two years of service, fifty percent.
 - b. Upon completion of three years of service, seventy-five percent.
 - c. Upon completion of four years of service, one hundred percent.
2. A participating member also becomes one hundred percent vested in the employer contributions upon reaching age sixty-five. A participating member who was a member or deferred member of the public employees retirement system under chapter 54-52 who makes an election to participate in the defined contribution retirement plan under section 54-52.6-02 or 54-52.6-02.2 must be credited with the years of service accrued under the public employees retirement system on the effective date of participation in the defined contribution retirement plan for the purpose of meeting vesting requirements for benefits under this section. Any forfeiture as a result of the failure of a participating member to vest in the employer contribution must be deposited in the administrative expenses account.

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

54-52.6-13. Distributions. (Effective through December 31, 2024~~2023~~)

1. A participating member is eligible to receive distribution of that person's accumulated balance in the plan upon becoming a former participating member.
2. Upon the death of a participating member or former participating member, the board shall pay the accumulated account balance of that deceased participant to the deceased participant's refund beneficiary, if any, as provided in this subsection. If the deceased participant designated an alternate refund beneficiary with the surviving spouse's written consent, the board shall distribute the accumulated balance to the named beneficiary. If the deceased participant named more than one primary beneficiary with the surviving spouse's written consent, the board shall pay the

accumulated account balance to the named primary beneficiaries in the percentages designated by the deceased participant or, if the deceased participant had not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the deceased participant, the board shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If any beneficiary survives the deceased participant, yet dies before distribution of the beneficiary's share, the beneficiary must be treated as if the beneficiary predeceased the deceased participant. If there is no remaining primary beneficiary, the board shall pay the accumulated account balance of that deceased participant to the contingent beneficiaries in the same manner. If there is no remaining designated beneficiary, the board shall pay the accumulated account balance of that deceased participant to the deceased participant's estate. If the deceased participant had not designated an alternate refund beneficiary or the surviving spouse is the refund beneficiary, the surviving spouse of the deceased participant may select a form of payment as provided in subdivision d of subsection 3.

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

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

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

Distributions. (Effective after December 31, 20242023)

1. A participating member is eligible to receive distribution of that individual's accumulated balance in the plan upon becoming a former participating member.
2. Upon the death of a participating member or former participating member, the board shall pay the accumulated account balance of that deceased participant to the deceased participant's refund beneficiary, if any, as

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

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

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

54-52.6-15. Board to provide information. (Effective through December 31, 20242023)

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

Board to provide information. (Effective after December 31, 20242023)

1. The board shall provide information to employees who are eligible under section 54-52.6-02 or 54-52.6-02.2 to elect to become participating members under this chapter. The information must include at a minimum the employee's current account balance, the assumption of investment risk under a defined contribution retirement plan, administrative and investment costs, coordination of benefits information, and a comparison of projected retirement benefits under the public employees retirement system under chapter 54-52 and the retirement plan established under this chapter.
2. The board, or the board's vendor, shall provide to participating members:
 - a. Enrollment information that includes benefits of the defined contribution retirement plan, investment options available, the assumption of risk, and administrative and investment costs.
 - b. Ongoing investment and retirement income planning, including education on how to set, measure, and adjust income and saving goals based on desired retirement income and financial objectives, actual behavior, and changing circumstances.
 - c. Retirement income education, including distribution options available and in-plan annuitization options.
 - d. Advice and guidance information, tools, and services primarily focused on long-term planning and investing and life events that potentially influence and impact retirement savings.
3. Notwithstanding any other provision of law, the board is not liable for any election or investment decision made by an employee based upon information provided to an employee under this chapter.

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

54-52.6-19. Overpayments. (Effective through December 31, 20242023)

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

Overpayments. (Effective after December 31, 20242023) The board has the right of setoff to recover overpayments made under this chapter and to satisfy any claims arising from embezzlement or fraud committed by a participating member, deferred member under this chapter, refund beneficiary, or other person that has a claim to a distribution or any other benefit from a plan governed by this chapter.

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

54-52.6-22. Report to employee benefits programs committee. (Effective after December 31, 20242023)

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

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

54-52.6-23. Savings clause - Plan modification. (Effective after December 31, 20242023)

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

Page 24, line 5, replace "12" with "27"

Page 24, line 10, replace "13" with "28"

Page 24, line 10, replace "14" with "29"

Renumber accordingly