

10/24 #2

Row 2

Sixty-eighth  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1548**

Introduced by

Legislative Management

1 A BILL for an Act to amend and reenact sections 54-52-02.5, 54-52-02.9, 54-52-02.11,  
2 54-52-02.12, 54-52-02.15, 54-52.2-09, 54-52.6-01, 54-52.6-02, 54-52.6-02.1, 54-52.6-02.2,  
3 54-52.6-03, and 54-52.6-09 of the North Dakota Century Code, relating to the public employees  
4 retirement system retirement plans; to provide an exemption; to provide a contingent effective  
5 date; and to provide an effective date.

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

7 **SECTION 1. AMENDMENT.** Section 54-52-02.5 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **54-52-02.5. Newly elected and appointed state officials. (Effective through**  
10 **~~December 31, 2024~~2023the day before the effective date of this Act)**

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

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

20 1. After December 31, 1999, but before ~~January 1, 2025~~2024the effective date of this  
21 Act, an individual elected or appointed to a state office for the first time must, from and  
22 after the date that individual qualifies and takes office, be a participating member of  
23 the public employees retirement system unless that person makes an election at any

- 1 time during the first six months after the date the person takes office to participate in  
2 the defined contribution retirement plan established under chapter 54-52.6.
- 3 2. After ~~December 31, 2024~~2023~~the day before the effective date of this Act~~, an  
4 individual elected or appointed to a state office for the first time, from and after the  
5 date that individual qualifies and takes office, must be a participating member of the  
6 defined contribution retirement plan established under chapter 54-52.6, unless at the  
7 time of election or appointment the individual is a participating or deferred member  
8 under this chapter, in which case the official remains a participating member under this  
9 chapter.
- 10 3. As used in this section, the phrase "for the first time" means an individual appointed,  
11 who, after December 31, 1999, does not hold office as an appointed official at the time  
12 of that individual's appointment.

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

15 **54-52-02.9. Participation by temporary employees. (Effective through ~~December 31,~~**  
16 **~~2024~~2023~~the day before the effective date of this Act~~)**

- 17 1. Within one hundred eighty days of beginning employment, a temporary employee may  
18 elect to participate in the public employees retirement system and receive credit for  
19 service after enrollment. Monthly, the temporary employee shall pay to the fund an  
20 amount equal to eight and twelve hundredths percent times the temporary employee's  
21 present monthly salary. The amount required to be paid by a temporary employee  
22 increases by two percent times the temporary employee's present monthly salary  
23 beginning with the monthly reporting period of January 2012, and with an additional  
24 two percent increase, beginning with the reporting period of January 2013, and with an  
25 additional increase of two percent, beginning with the monthly reporting period of  
26 January 2014.
- 27 2. If the temporary employee first enrolled:
- 28 a. Before January 1, 2020, in addition the temporary employee shall pay the  
29 required monthly contribution to the retiree health benefit fund established under  
30 section 54-52.1-03.2. This contribution must be recorded as a member  
31 contribution pursuant to section 54-52.1-03.2.

- 1           b. After December 31, 2019, the temporary employee shall pay to the fund an  
2           additional amount equal to one and fourteen hundredths percent times the  
3           temporary employee's present monthly salary.
- 4           3. An employer may not pay the temporary employee's contributions. A temporary  
5           employee may continue to participate as a temporary employee in the public  
6           employees retirement system until termination of employment or reclassification of the  
7           temporary employee as a permanent employee. A temporary employee may not  
8           purchase any additional credit, including additional credit under section 54-52-17.4 or  
9           past service under section 54-52-02.6.

10           **Participation by temporary employees. (Effective ~~after December 31, 2024~~<sup>2023</sup> on the**  
11           **effective date of this Act)**

- 12           1. Before ~~January 1, 2025~~<sup>2024</sup>the effective date of this Act, within one hundred eighty  
13           days of beginning employment, a temporary employee may elect to participate in the  
14           public employees retirement system under this chapter and receive credit for service  
15           after enrollment. Monthly, the temporary employee shall pay to the fund an amount  
16           equal to fourteen and twelve hundredths percent times the temporary employee's  
17           present monthly salary. The amount required to be paid by a temporary employee  
18           increases by one percent times the temporary employee's present monthly salary  
19           beginning with the monthly reporting period of January ~~2025~~<sup>2024</sup>.
- 20           2. If the temporary employee first enrolled:
- 21           a. Before January 1, 2020, in addition the temporary employee shall pay the  
22           required monthly contribution to the retiree health benefit fund established under  
23           section 54-52.1-03.2. This contribution must be recorded as a member  
24           contribution pursuant to section 54-52.1-03.2.
- 25           b. After December 31, 2019, the temporary employee shall pay to the fund an  
26           additional amount equal to one and fourteen hundredths percent times the  
27           temporary employee's present monthly salary.
- 28           3. A temporary employee who is a participating member under this chapter due to  
29           employment before ~~January 1, 2025~~<sup>2024</sup>the effective date of this Act, who becomes a  
30           permanent employee after ~~December 31, 2024~~<sup>2023</sup>the day before the effective date

1 | of this Act, qualifies to participate in the defined benefit retirement plan under this  
2 | chapter and receive credit for service after enrollment.

3 | 4. After ~~December 31, 2024~~2023 the day before the effective date of this Act, and within  
4 | one hundred eighty days of beginning employment, a temporary employee may elect  
5 | to participate in the defined contribution retirement plan under chapter 54-52.6.

6 | 5. An employer may not pay the temporary employee's contributions. A temporary  
7 | employee may continue to participate as a temporary employee in the public  
8 | employees retirement system until termination of employment or reclassification of the  
9 | temporary employee as a permanent employee. A temporary employee may not  
10 | purchase any additional credit, including additional credit under section 54-52-17.4 or  
11 | past service under section 54-52-02.6.

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

14 | **54-52-02.11. Participation requirements for nonstate elected officials. (Effective**  
15 | **through ~~December 31, 2024~~2023 the day before the effective date of this Act)**

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

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

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

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

27 | **SECTION 4. AMENDMENT.** Section 54-52-02.12 of the North Dakota Century Code is  
28 | amended and reenacted as follows:

1       **54-52-02.12. Participation requirements for nonstate appointed officials. (Effective**  
2 **through ~~December 31, 2024~~2023~~the day before the effective date of this Act~~)**

3       Nonstate appointed officials of participating employers appointed on or after August 1,  
4 1999, who meet the participation requirements of this chapter must be enrolled in the defined  
5 benefit plan effective within the first month of taking office.

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

8       1. Nonstate appointed officials of participating employers appointed on or after August 1,  
9 1999, but before ~~January 1, 2025~~2024~~the effective date of this Act~~, who meet the  
10 participation requirements of this chapter must be enrolled in the defined benefit plan  
11 effective within the first month of taking office.

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

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

18       **54-52-02.15. Public employees retirement system main plan - Closure to new hires -**  
19 **Multiple plan membership. (Effective ~~after December 31, 2024~~2023~~on the effective date of~~**  
20 **~~this Act~~)**

- 21       1. Under this section "eligible employee" means a permanent employee who:
- 22       a. Meets all the eligibility requirements set by this chapter;
  - 23       b. Is at least eighteen years of age;
  - 24       c. Becomes a participating member after ~~December 31, 2024~~2023~~the day before~~  
25 ~~the effective date of this Act~~; and
  - 26       d. Is not eligible to participate in the law enforcement plan, judges' plan, highway  
27 patrol plan, teachers' fund for retirement plan, or alternative retirement program  
28 established under section 15-10-17 for university system employees.
- 29       2. Effective ~~January 1, 2025~~2024~~on the effective date of this Act~~, the public employees  
30 retirement system defined benefit main plan maintained for employees is closed to  
31 new eligible employees. However, an employee who becomes a participating or

1 deferred member under this chapter before ~~January 1, 2025~~2024~~the effective date of~~  
2 this Act, remains in the defined benefit retirement plan under this chapter, regardless  
3 of being rehired after ~~December 31, 2024~~2023~~the day before the effective date of this~~  
4 Act.

5 3. Except as otherwise provided under this section, effective ~~January 1, 2025~~2024~~on the~~  
6 effective date of this Act, an eligible employee who begins employment with an  
7 employer shall participate in the defined contribution retirement plan under chapter  
8 54-52.6 as provided under section 54-52.6-02.1.

9 4. This section does not impact an employee to the extent the employee is a participating  
10 member in one or more of the following enumerated plans: law enforcement plan,  
11 judges' plan, highway patrol plan, teachers' fund for retirement plan, or alternative  
12 retirement program established under section 15-10-17 for university system  
13 employees.

14 a. A participating or deferred member in the defined contribution retirement plan  
15 under chapter 54-52.6 who becomes eligible to participate in a plan enumerated  
16 under this subsection is eligible to participate in the retirement plan enumerated  
17 under this subsection.

18 b. A participating member of a retirement plan enumerated under this subsection  
19 who becomes an eligible employee is not eligible to participate in the defined  
20 benefit retirement plan under this chapter but instead participates in the defined  
21 contribution retirement plan under chapter 54-52.6. However, this subdivision  
22 does not apply to an individual who before ~~January 1, 2025~~2024~~the effective date~~  
23 of this Act, is a participating or a deferred member under this chapter, as that  
24 individual continues to participate in the defined benefit retirement plan under this  
25 chapter.

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

27 **SECTION 6. AMENDMENT.** Section 54-52.2-09 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29 **54-52.2-09. Employer match for members of defined contribution retirement plan.**

30 An employee who first participated in the defined contribution retirement plan under chapter  
31 54-52.6 after ~~December 31, 2024~~2023~~the day before the effective date of this Act, who elects to~~

1 contribute less than the optional three percent of wages or salary under subdivision b of  
2 subsection 1 of section 54-52.6-09, who participates in the deferred compensation program  
3 under this chapter, qualifies for employer matching of contributions made under this section.  
4 The employee may elect to contribute an amount of wages or salary which does not exceed any  
5 remaining balance of the optional three percent contribution and the employer shall match this  
6 contribution. This section does not limit the ability of an employee to contribute unmatched  
7 wages or salary under this chapter, subject to federal contribution limitations.

8 **SECTION 7. AMENDMENT.** Section 54-52.6-01 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **54-52.6-01. Definition of terms. (Effective through ~~December 31, 2024~~<sup>2023</sup>the day**  
11 **before the effective date of this Act)**

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

- 13 1. "Board" means the public employees retirement system board.
- 14 2. "Deferred member" means a person who elected to receive deferred vested retirement  
15 benefits under chapter 54-52.
- 16 3. "Eligible employee" means a permanent state employee, except an employee of the  
17 judicial branch or an employee of the board of higher education and state institutions  
18 under the jurisdiction of the board, who is eighteen years or more of age and who is in  
19 a position not classified by North Dakota human resource management services. If a  
20 participating member loses permanent employee status and becomes a temporary  
21 employee, the member may still participate in the defined contribution retirement plan.
- 22 4. "Employee" means any person employed by the state, whose compensation is paid  
23 out of state funds, or funds controlled or administered by the state or paid by the  
24 federal government through any of its executive or administrative officials.
- 25 5. "Employer" means the state of North Dakota.
- 26 6. "Participating member" means an eligible employee who elects to participate in the  
27 defined contribution retirement plan established under this chapter.
- 28 7. "Permanent employee" means a state employee whose services are not limited in  
29 duration and who is filling an approved and regularly funded position and is employed  
30 twenty hours or more per week and at least five months each year.

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

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

- 14      1. "Board" means the public employees retirement system board.
- 15      2. "Deferred member" means a person who elected to receive deferred vested retirement  
16      benefits under chapter 54-52.
- 17      3. "Eligible employee", for employees who become participating members after  
18      ~~December 31, 2024~~the day before the effective date of this Act, has the same  
19      meaning as provided under section 54-52-02.15. For employees who elected to join  
20      the defined contribution retirement plan under this chapter before ~~January 1,~~  
21      ~~2025~~2024the effective date of this Act, the term includes a permanent state employee,  
22      except an employee of the judicial branch or an employee of the board of higher  
23      education and state institutions under the jurisdiction of the board of higher education,  
24      who is at least eighteen years of age and who is in a position not classified by the  
25      North Dakota human resource management services.
- 26      4. "Employee" means any person employed by the state, whose compensation is paid  
27      out of state funds, or funds controlled or administered by the state or paid by the  
28      federal government through any of its executive or administrative officials.
- 29      5. "Employer" means the state of North Dakota.
- 30      6. "Participating member" means an eligible employee who elects to participate in the  
31      defined contribution retirement plan established under this chapter.



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

15      **SECTION 8. AMENDMENT.** Section 54-52.6-02 of the North Dakota Century Code is  
16      amended and reenacted as follows:

17      **54-52.6-02. Election. (Effective through ~~December 31, 2024~~2023the day before the**  
18      **effective date of this Act)**

- 19      1. The board shall provide an opportunity for each eligible employee who is a member of  
20      the public employees retirement system on September 30, 2001, and who has not  
21      made a written election under this section to transfer to the defined contribution  
22      retirement plan before October 1, 2001, to elect in writing to terminate membership in  
23      the public employees retirement system and elect to become a participating member  
24      under this chapter. Except as provided in section 54-52.6-03, an election made by an  
25      eligible employee under this section is irrevocable. The board shall accept written  
26      elections under this section from eligible employees during the period beginning on  
27      July 1, 1999, and ending 12:01 a.m. December 14, 2001. An eligible employee who  
28      does not make a written election or who does not file the election during the period  
29      specified in this section continues to be a member of the public employees retirement  
30      system. An eligible employee who makes and files a written election under this section  
31      ceases to be a member of the public employees retirement system effective twelve

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

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

1 rights and is subject to all conditions as a member of that retirement system. A  
2 deferred member who does not make a written election or who does not file the  
3 election during the period specified in this section continues to be a member of the  
4 public employees retirement system. A deferred member who makes and files a  
5 written election to terminate membership in the public employees retirement system  
6 ceases to be a member of the public employees retirement system effective on the  
7 last day of the payroll period that includes the date of the election; becomes a  
8 participating member in the defined contribution retirement plan under this chapter  
9 effective the first day of the payroll immediately following the date of the election; and  
10 waives all of that person's rights to a pension, an annuity, a retirement allowance,  
11 insurance benefit, or any other benefit under the public employees retirement system  
12 effective the last day of the payroll that includes the date of the election. This section  
13 does not affect any right to health benefits or retiree health benefits to which the  
14 deferred member may otherwise be entitled.

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

20 Notwithstanding the irrevocability provisions of this chapter, if a member who elects to  
21 participate in the retirement plan established under this chapter becomes a supreme  
22 or district court judge, becomes a member of the highway patrol, becomes employed  
23 in a position subject to teachers' fund for retirement membership, or becomes an  
24 employee of the board of higher education or state institution under the jurisdiction of  
25 the board who is eligible to participate in an alternative retirement program established  
26 under subsection 6 of section 15-10-17, the member's status as a member of the  
27 defined contribution retirement plan is suspended, and the member becomes a new  
28 member of the retirement plan for which that member's new position is eligible. The  
29 member's account balance remains in the defined contribution retirement plan, but no  
30 new contributions may be made to that account. The member's service credit and  
31 salary history that were forfeited as a result of the member's transfer to the defined

1 contribution retirement plan remain forfeited, and service credit accumulation in the  
2 new retirement plan begins from the first day of employment in the new position. If the  
3 member later returns to employment that is eligible for the defined contribution plan,  
4 the member's suspension must be terminated, the member again becomes a member  
5 of the defined contribution retirement plan, and the member's account resumes  
6 accepting contributions. At the member's option, and pursuant to rules adopted by the  
7 board, the member may transfer any available balance as determined by the  
8 provisions of the alternate retirement plan into the member's account under this  
9 chapter.

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

1 additional increase of two percent, beginning with the monthly reporting period of  
2 January 2014. The temporary employee shall also pay the required monthly  
3 contribution to the retiree health benefit fund established under section 54-52.1-03.2.  
4 This contribution must be recorded as a member contribution pursuant to section  
5 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A  
6 temporary employee may continue to participate as a temporary employee until  
7 termination of employment or reclassification of the temporary employee as a  
8 permanent employee.

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

18 **Election through ~~December 31, 2024~~2023 the day before the effective date of this Act.**

19 **(Effective ~~after December 31, 2024~~2023 on the effective date of this Act)**

- 20 1. The board shall provide an opportunity for each eligible employee who is a member of  
21 the public employees retirement system on September 30, 2001, and who has not  
22 made a written election under this section to transfer to the defined contribution  
23 retirement plan before October 1, 2001, to elect in writing to terminate membership in  
24 the public employees retirement system and elect to become a participating member  
25 under this chapter. Except as provided in section 54-52.6-03, an election made by an  
26 eligible employee under this section is irrevocable. The board shall accept written  
27 elections under this section from eligible employees during the period beginning on  
28 July 1, 1999, and ending 12:01 a.m. December 14, 2001. An eligible employee who  
29 does not make a written election or who does not file the election during the period  
30 specified in this section continues to be a member of the public employees retirement  
31 system. An eligible employee who makes and files a written election under this section

1 ceases to be a member of the public employees retirement system effective twelve  
2 midnight December 31, 2001; becomes a participating member in the defined  
3 contribution retirement plan under this chapter effective 12:01 a.m. January 1, 2002;  
4 and waives all of that person's rights to a pension, annuity, retirement allowance,  
5 insurance benefit, or any other benefit under the public employees retirement system  
6 effective December 31, 2001. This section does not affect an individual's right to  
7 health benefits or retiree health benefits under chapter 54-52.1. An eligible employee  
8 who is first employed and entered upon the payroll of that person's employer after  
9 September 30, 2001, and before ~~January 1, 2025~~2024the effective date of this Act,  
10 may make an election to participate in the defined contribution retirement plan  
11 established under this chapter at any time during the first six months after the date of  
12 employment. If the board, in its sole discretion, determines that the employee was not  
13 adequately notified of the employee's option to participate in the defined contribution  
14 retirement plan, the board may provide the employee a reasonable time within which  
15 to make that election, which may extend beyond the original six-month decision  
16 window.

- 17 2. If an individual who is a deferred member of the public employees retirement system  
18 on September 30, 2001, is re-employed before ~~January 1, 2025~~2024the effective date  
19 of this Act, and by virtue of that employment is again eligible for membership in the  
20 public employees retirement system under chapter 54-52, the individual may elect in  
21 writing to remain a member of the public employees retirement system or if eligible to  
22 participate in the defined contribution retirement plan established under this chapter to  
23 terminate membership in the public employees retirement system and become a  
24 participating member in the defined contribution retirement plan established under this  
25 chapter. An election made by a deferred member under this section is irrevocable. The  
26 board shall accept written elections under this section from a deferred member during  
27 the period beginning on the date of the individual's re-employment and ending upon  
28 the expiration of six months after the date of that re-employment. If the board, in its  
29 sole discretion, determines that the employee was not adequately notified of the  
30 employee's option to participate in the defined contribution retirement plan, the board  
31 may provide the employee a reasonable time within which to make that election, which

1           may extend beyond the original six-month decision window. A deferred member who  
2           makes and files a written election to remain a member of the public employees  
3           retirement system retains all rights and is subject to all conditions as a member of that  
4           retirement system. A deferred member who does not make a written election or who  
5           does not file the election during the period specified in this section continues to be a  
6           member of the public employees retirement system. A deferred member who makes  
7           and files a written election to terminate membership in the public employees  
8           retirement system ceases to be a member of the public employees retirement system  
9           effective on the last day of the payroll period that includes the date of the election;  
10          becomes a participating member in the defined contribution retirement plan under this  
11          chapter effective the first day of the payroll immediately following the date of the  
12          election; and waives all of that person's rights to a pension, an annuity, a retirement  
13          allowance, insurance benefit, or any other benefit under the public employees  
14          retirement system effective the last day of the payroll that includes the date of the  
15          election. This section does not affect any right to health benefits or retiree health  
16          benefits to which the deferred member may otherwise be entitled.

17          3. An eligible employee who elects under this section to participate in the retirement plan  
18          established under this chapter must remain a participant even if that employee returns  
19          to the classified service or becomes employed by a political subdivision that  
20          participates in the public employees retirement system. The contribution amount must  
21          be as provided in this chapter, regardless of the position in which the employee is  
22          employed. Notwithstanding the irrevocability provisions of this chapter, if a member  
23          who elects to participate in the retirement plan established under this chapter  
24          becomes a supreme or district court judge, becomes a member of the highway patrol,  
25          becomes employed in a position subject to teachers' fund for retirement membership,  
26          or becomes an employee of the board of higher education or state institution under the  
27          jurisdiction of the board of higher education who is eligible to participate in an  
28          alternative retirement program established under subsection 6 of section 15-10-17, the  
29          member's status as a member of the defined contribution retirement plan is  
30          suspended, and the member becomes a new member of the retirement plan for which  
31          that member's new position is eligible. The member's account balance remains in the

- 1 defined contribution retirement plan, but no new contributions may be made to that  
2 account. The member's service credit and salary history that were forfeited as a result  
3 of the member's transfer to the defined contribution retirement plan remain forfeited,  
4 and service credit accumulation in the new retirement plan begins from the first day of  
5 employment in the new position. If the member later returns to employment that is  
6 eligible for the defined contribution retirement plan, the member's suspension must be  
7 terminated, the member again becomes a member of the defined contribution  
8 retirement plan, and the member's account resumes accepting contributions. At the  
9 member's option, and pursuant to rules adopted by the board, the member may  
10 transfer any available balance as determined by the provisions of the alternate  
11 retirement plan into the member's account under this chapter.
- 12 4. After consultation with its actuary, the board shall determine the method by which a  
13 participating member or deferred member may make a written election under this  
14 section. If the participating member or deferred member is married at the time of the  
15 election, the election is not effective unless the election is signed by the individual's  
16 spouse. However, the board may waive this requirement if the spouse's signature  
17 cannot be obtained because of extenuating circumstances.
- 18 5. If the board receives notification from the internal revenue service that this section or  
19 any portion of this section will cause the public employees retirement system or the  
20 retirement plan established under this chapter to be disqualified for tax purposes  
21 under the Internal Revenue Code, then the portion that will cause the disqualification  
22 does not apply.
- 23 6. A participating member under this section who becomes a temporary employee may  
24 still participate in the defined contribution retirement plan upon filing an election with  
25 the board within one hundred eighty days of transferring to temporary employee  
26 status. The participating member may not become a member of the defined benefit  
27 plan as a temporary employee.
- 28 a. The temporary employee electing to participate in the defined contribution  
29 retirement plan shall pay into the plan as provided under section 54-52.6-09.6.
- 30 b. An employer may not pay the temporary employee's contributions.



- 1 c. A temporary employee may continue to participate as a temporary employee until  
2 termination of employment or reclassification of the temporary employee as a  
3 permanent employee.
- 4 7. A former participating member under this section who has accepted a retirement  
5 distribution pursuant to section 54-52.6-13 and who subsequently becomes employed  
6 by an entity different from the employer with which the member was employed at the  
7 time the member retired but which does participate in any state-sponsored retirement  
8 plan may, before re-enrolling in the defined contribution retirement plan, elect to  
9 permanently waive future participation in the defined contribution retirement plan,  
10 whatever plan in which the new employing entity participates, and the retiree health  
11 program and maintain that member's retirement status. Neither the member nor the  
12 employer are required to make any future retirement contributions on behalf of that  
13 employee.
- 14 8. After ~~December 31, 2024~~<sup>2023</sup>the day before the effective date of this Act, an eligible  
15 employee is no longer allowed to elect participation under this section.

16 **SECTION 9. AMENDMENT.** Section 54-52.6-02.1 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **54-52.6-02.1. Participation in defined contribution retirement plan. (Effective after**  
19 **~~December 31, 2024~~<sup>2023</sup>on the effective date of this Act)**

- 20 1. Except as otherwise provided under section 54-52-02.5 or 54-52-02.15 or this chapter,  
21 effective ~~January 1, 2025~~<sup>2024</sup>on the effective date of this Act, an eligible employee  
22 who is first enrolled shall participate in the defined contribution retirement plan under  
23 this chapter.
- 24 2. A temporary employee may elect to participate in the defined contribution retirement  
25 plan as provided under section 54-52.6-09.6.
- 26 3. A county elected official may elect to participate in the defined contribution retirement  
27 plan as provided under section 54-52-02.11.
- 28 4. A nonstate appointed official shall participate in the defined contribution retirement  
29 plan as provided under section 54-52-02.12.

30 **SECTION 10. AMENDMENT.** Section 54-52.6-02.2 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1       **54-52.6-02.2. Election after ~~December 31, 2024~~<sup>2023</sup>the day before the effective date of**  
2 **this Act - Additional employer contribution. (Effective ~~after December 31, 2024~~<sup>2023</sup>on the**  
3 **effective date of this Act)**

- 4       1. As used in this section, "eligible employee" means a permanent state employee who  
5       on ~~December 31, 2024~~<sup>2023</sup>the day before the effective date of this Act, is a  
6       participating member of the public employees retirement system main system plan  
7       under chapter 54-42, who has been a participating member under chapter 54-52 for  
8       no more than five years, and who is at least eighteen years of age.
- 9       2. The board shall provide a three-month election period, ~~from January 1, 2025~~<sup>2024</sup>,  
10 ~~through March 31, 2025~~<sup>2024</sup>beginning on the effective date of this Act, for an eligible  
11       employee to transfer to the defined contribution plan under this chapter pursuant to the  
12       rules and policies adopted by the board.
- 13       a. An election under this section made by a member of the public employees  
14       retirement system under chapter 54-52 to transfer to the defined contribution  
15       retirement plan under this chapter is irrevocable.
- 16       b. For an eligible employee who elects to transfer from the public employees  
17       retirement system under chapter 54-52 to the defined contribution retirement plan  
18       under this chapter, the board shall transfer a lump sum amount from the public  
19       employees retirement system fund to the member's account in the defined  
20       contribution retirement plan under this chapter. However, if the eligible employee  
21       terminates employment before receiving the lump sum transfer under this  
22       section, the election made is ineffective and the eligible employee remains a  
23       member of the public employees retirement system under chapter 54-52 and  
24       retains all the rights and privileges under that chapter.
- 25       c. The board shall calculate the lump sum amount to be transferred based on the  
26       actuarial present value of the eligible employee's accumulated benefit obligation  
27       under the public employees retirement system based on the assumption the  
28       eligible employee will retire under the earlier applicable normal retirement age,  
29       plus interest from ~~January 1, 2025~~<sup>2024</sup>the effective date of this Act, to the date of  
30       transfer, at the rate of one-half of one percent less than the actuarial interest  
31       assumption at the time of the election.

- 1           d. This section does not affect an eligible individual's right to health benefits under  
2           chapter 54-52.1.
- 3           3. The state employer of an eligible employee who elects under this section to participate  
4           in the defined contribution retirement plan under this chapter shall pay an additional  
5           annual contribution of three thousand three hundred and thirty-three dollars for up to  
6           three years. Under this subsection, the employer shall pay the additional contribution  
7           each year the eligible employee continues permanent employment with the state,  
8           beginning ~~January 2026~~one year after the effective date of this Act, and  
9           extending no further than ~~January 2028~~three years following the effective date of  
10          this Act.
- 11          4. If the board receives notification from the internal revenue service that this section or  
12          any portion of this section will cause the public employees retirement system or the  
13          retirement plan established under this chapter to be disqualified for tax purposes  
14          under the Internal Revenue Code, that portion that will cause the disqualification does  
15          not apply.

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

18          **54-52.6-03. Transfer of accumulated fund balances. (Effective through ~~December 31,~~**  
19          **~~2024~~2023**the day before the effective date of this Act)****

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

- 29          1. The actuarial present value of the individual's accumulated benefit obligation under the  
30          public employees retirement system based on the assumption that the individual will  
31          retire under the earliest applicable normal retirement age, plus interest from January 1,

1           2001, to the date of transfer, at the rate of one-half of one percent less than the  
2           actuarial interest assumption at the time of the election; or

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

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

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

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

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

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

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

4        **SECTION 12. AMENDMENT.** Section 54-52.6-09 of the North Dakota Century Code is  
5        amended and reenacted as follows:

6        **54-52.6-09. Contributions - Penalty. (Effective through ~~December 31, 2024~~2023~~the day~~**  
7        **before the effective date of this Act)**

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

1 penalty of fifty dollars and, as interest, one percent of the amount due for each month  
2 of delay or fraction of a month after the payment became due. In lieu of assessing a  
3 civil penalty or one percent per month, or both, interest at the actuarial rate of return  
4 may be assessed for each month the contributions are delinquent. If contributions are  
5 paid within ninety days of the date the contributions became due, penalty and interest  
6 to be paid on delinquent contributions may be waived.

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

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

- 28 1. a. A participating member who first joined the defined contribution retirement plan  
29 before ~~January 1, 2025~~ the effective date of this Act, and an employee who  
30 elects to participate in the defined contribution plan under section 54-52.6-02.2,

- 1 shall contribute monthly seven percent of the monthly salary or wage paid to the  
2 participant.
- 3 b. A participating member who first joined the defined contribution retirement plan  
4 after ~~December 31, 2024~~<sup>2023</sup>the day before the effective date of this Act, except  
5 for an employee who elects to participate in the defined contribution plan under  
6 section 54-52.6-02.2, shall contribute monthly four percent of the monthly salary  
7 or wage paid to the participant. In addition, the participating member may elect to  
8 contribute monthly up to an additional three percent of the monthly salary or  
9 wage paid to the participant.
- 10 c. This assessment must be deducted from the participant's salary in equal monthly  
11 installments commencing with the first month of participation in the defined  
12 contribution retirement plan established under this chapter.
- 13 2. a. For a participating member who first joined the defined contribution retirement  
14 plan before ~~January 1, 2025~~<sup>2024</sup>the effective date of this Act, and for an  
15 employee who elects to participate in the defined contribution plan under section  
16 54-52.6-02.2, the employer shall contribute an amount equal to seven and  
17 twelve-hundredths percent of the monthly salary or wage of the participating  
18 member.
- 19 b. For a participating member who first joined the defined contribution retirement  
20 plan after ~~December 31, 2024~~<sup>2023</sup>the day before the effective date of this Act,  
21 except for an employee who elects to participate in the defined contribution plan  
22 under section 54-52.6-02.2, the employer shall contribute an amount equal to  
23 four and twelve-hundredths percent of the monthly salary or wage of a  
24 participating member, plus up to an additional three percent as an employer  
25 matching contribution calculated based on the participating member's election  
26 under subdivision b of subsection 1.
- 27 c. For a participating member first enrolled after December 31, 2019, the employer  
28 contribution includes an additional increase of one and fourteen-hundredths  
29 percent.
- 30 d. If the employee's contribution is paid by the employer under subsection 3, the  
31 employer shall contribute, in addition, an amount equal to the required

- 1           employee's contribution. Monthly, the employer shall pay such contribution into  
2           the participating member's account from the employer's funds appropriated for  
3           payroll and salary or any other funds available for such purposes.
- 4           e.   If the employer fails to pay the contributions monthly, or fails to otherwise comply  
5           with the board's established wage reporting or payroll reporting process  
6           requirements, the employer is subject to a civil penalty of fifty dollars and, as  
7           interest, one percent of the amount due for each month of delay or fraction of a  
8           month after the payment became due. In lieu of assessing a civil penalty or one  
9           percent per month, or both, interest at the actuarial rate of return may be  
10          assessed for each month the contributions are delinquent. If contributions are  
11          paid within ninety days of the date the contributions became due, penalty and  
12          interest to be paid on delinquent contributions may be waived.
- 13          3.   Each employer, at its option, may pay the employee contributions required by this  
14          section for all compensation earned after December 31, 1999. The amount paid must  
15          be paid by the employer in lieu of contributions by the employee. If the employer  
16          decides not to pay the contributions, the amount that would have been paid will  
17          continue to be deducted from the employee's compensation. If contributions are paid  
18          by the employer, they must be treated as employer contributions in determining tax  
19          treatment under this code and the federal Internal Revenue Code. Contributions paid  
20          by the employer may not be included as gross income of the employee in determining  
21          tax treatment under this code and the federal Internal Revenue Code until they are  
22          distributed or made available. The employer shall pay these employee contributions  
23          from the same source of funds used in paying compensation to the employee. The  
24          employer shall pay these contributions by effecting an equal cash reduction in the  
25          gross salary of the employee or by an offset against future salary increases or by a  
26          combination of a reduction in gross salary and offset against future salary increases.  
27          Employee contributions paid by the employer must be treated for the purposes of this  
28          chapter in the same manner and to the same extent as employee contributions made  
29          before the date on which employee contributions were assumed by the employer. An  
30          employer shall exercise its option under this subsection by reporting its choice to the  
31          board in writing.



1       **SECTION 13. EXEMPTION - EMPLOYEE BENEFITS PROGRAMS COMMITTEE.** This Act  
2 is exempt from the requirements of section 54-35-02.4.

3       **SECTION 14. CONTINGENT EFFECTIVE DATE.** Sections 1 through 12 of this Act become  
4 effective on ~~January 1, 2024, if before that~~ the date, which must be before January 1, 2025,  
5 identified in a certification by the retirement board, only if the board certifies to the legislative  
6 council that the public employees retirement system is prepared to close the main system  
7 defined benefit retirement plan on ~~December 31, 2023~~ the day before the date identified by the  
8 board, and to open the new defined contribution retirement plan on ~~January 1, 2024~~ the date  
9 identified by the board.

10       **SECTION 15. EFFECTIVE DATE.** Sections 13 and 14 of this Act become effective on the  
11 date this Act is filed with the secretary of state.

