

Sixty-eighth
Legislative Assembly
of North Dakota

BILL NO.

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, 20242023)**

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, 20242023)**

19 1. After December 31, 1999, but before January 1, 20252024, an individual elected or
20 appointed to a state office for the first time must, from and after the date that individual
21 qualifies and takes office, be a participating member of the public employees
22 retirement system unless that person makes an election at any time during the first six
23 months after the date the person takes office to participate in the defined contribution
24 retirement plan established under chapter 54-52.6.

1 2. After December 31, ~~2024~~2023, an individual elected or appointed to a state office for
2 the first time, from and after the date that individual qualifies and takes office, must be
3 a participating member of the defined contribution retirement plan established under
4 chapter 54-52.6, unless at the time of election or appointment the individual is a
5 participating or deferred member under this chapter, in which case the official remains
6 a participating member under this chapter.

7 3. As used in this section, the phrase "for the first time" means an individual appointed,
8 who, after December 31, 1999, does not hold office as an appointed official at the time
9 of that individual's appointment.

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

12 **54-52-02.9. Participation by temporary employees. (Effective through December 31,**
13 **~~2024~~2023)**

14 1. Within one hundred eighty days of beginning employment, a temporary employee may
15 elect to participate in the public employees retirement system and receive credit for
16 service after enrollment. Monthly, the temporary employee shall pay to the fund an
17 amount equal to eight and twelve hundredths percent times the temporary employee's
18 present monthly salary. The amount required to be paid by a temporary employee
19 increases by two percent times the temporary employee's present monthly salary
20 beginning with the monthly reporting period of January 2012, and with an additional
21 two percent increase, beginning with the reporting period of January 2013, and with an
22 additional increase of two percent, beginning with the monthly reporting period of
23 January 2014.

24 2. If the temporary employee first enrolled:
25 a. Before January 1, 2020, in addition the temporary employee shall pay the
26 required monthly contribution to the retiree health benefit fund established under
27 section 54-52.1-03.2. This contribution must be recorded as a member
28 contribution pursuant to section 54-52.1-03.2.
29 b. After December 31, 2019, the temporary employee shall pay to the fund an
30 additional amount equal to one and fourteen hundredths percent times the
31 temporary employee's present monthly salary.

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

7 **Participation by temporary employees. (Effective after December 31, ~~2024~~2023)**

- 8 1. Before January 1, ~~2025~~2024, within one hundred eighty days of beginning
9 employment, a temporary employee may elect to participate in the public employees
10 retirement system under this chapter and receive credit for service after enrollment.
11 Monthly, the temporary employee shall pay to the fund an amount equal to fourteen
12 and twelve hundredths percent times the temporary employee's present monthly
13 salary. The amount required to be paid by a temporary employee increases by one
14 percent times the temporary employee's present monthly salary beginning with the
15 monthly reporting period of January ~~2025~~2024.
- 16 2. If the temporary employee first enrolled:
- 17 a. Before January 1, 2020, in addition the temporary employee shall pay the
18 required monthly contribution to the retiree health benefit fund established under
19 section 54-52.1-03.2. This contribution must be recorded as a member
20 contribution pursuant to section 54-52.1-03.2.
- 21 b. After December 31, 2019, the temporary employee shall pay to the fund an
22 additional amount equal to one and fourteen hundredths percent times the
23 temporary employee's present monthly salary.
- 24 3. A temporary employee who is a participating member under this chapter due to
25 employment before January 1, ~~2025~~2024, who becomes a permanent employee after
26 December 31, ~~2024~~2023, qualifies to participate in the defined benefit retirement plan
27 under this chapter and receive credit for service after enrollment.
- 28 4. After December 31, ~~2024~~2023, and within one hundred eighty days of beginning
29 employment, a temporary employee may elect to participate in the defined contribution
30 retirement plan under chapter 54-52.6.

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

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

9 **54-52-02.11. Participation requirements for nonstate elected officials. (Effective**
10 **through December 31, ~~2024~~2023)**

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

13 **Participation requirements for nonstate elected officials. (Effective after**
14 **December 31, ~~2024~~2023)**

15 1. Before January 1, ~~2025~~2024, eligible elected officials of participating counties, at their
16 individual option, may enroll in the defined benefit plan within the first six months of
17 their term.

18 2. After December 31, ~~2024~~2023, eligible elected officials of participating counties, at
19 their individual option, may enroll in the defined contribution retirement plan under
20 chapter 54-52.6 within the first six months of their term.

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

23 **54-52-02.12. Participation requirements for nonstate appointed officials. (Effective**
24 **through December 31, ~~2024~~2023)**

25 Nonstate appointed officials of participating employers appointed on or after August 1,
26 1999, who meet the participation requirements of this chapter must be enrolled in the defined
27 benefit plan effective within the first month of taking office.

28 **Participation requirements for nonstate appointed officials. (Effective after**
29 **December 31, ~~2024~~2023)**

30 1. Nonstate appointed officials of participating employers appointed on or after August 1,
31 1999, but before January 1, ~~2025~~2024, who meet the participation requirements of this

1 chapter must be enrolled in the defined benefit plan effective within the first month of
2 taking office.

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

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

8 **54-52-02.15. Public employees retirement system main plan - Closure to new hires -**
9 **Multiple plan membership. (Effective after December 31, ~~2024~~2023)**

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

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

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

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

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

15 **54-52.2-09. Employer match for members of defined contribution retirement plan.**

16 An employee who first participated in the defined contribution retirement plan under chapter
17 54-52.6 after December 31, ~~2024~~2023, who elects to contribute less than the optional three
18 percent of wages or salary under subdivision b of subsection 1 of section 54-52.6-09, who
19 participates in the deferred compensation program under this chapter, qualifies for employer
20 matching of contributions made under this section. The employee may elect to contribute an
21 amount of wages or salary which does not exceed any remaining balance of the optional three
22 percent contribution and the employer shall match this contribution. This section does not limit
23 the ability of an employee to contribute unmatched wages or salary under this chapter, subject
24 to federal contribution limitations.

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

27 **54-52.6-01. Definition of terms. (Effective through December 31, ~~2024~~2023)**

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

- 29 1. "Board" means the public employees retirement system board.
30 2. "Deferred member" means a person who elected to receive deferred vested retirement
31 benefits under chapter 54-52.

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

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

- 29 1. "Board" means the public employees retirement system board.
- 30 2. "Deferred member" means a person who elected to receive deferred vested retirement
31 benefits under chapter 54-52.

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

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

1 **54-52.6-02. Election. (Effective through December 31, ~~2024~~2023)**

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

1 54-52, the individual may elect in writing to remain a member of the public employees
2 retirement system or if eligible to participate in the defined contribution retirement plan
3 established under this chapter to terminate membership in the public employees
4 retirement system and become a participating member in the defined contribution
5 retirement plan established under this chapter. An election made by a deferred
6 member under this section is irrevocable. The board shall accept written elections
7 under this section from a deferred member during the period beginning on the date of
8 the individual's re-employment and ending upon the expiration of six months after the
9 date of that re-employment. If the board, in its sole discretion, determines that the
10 employee was not adequately notified of the employee's option to participate in the
11 defined contribution retirement plan, the board may provide the employee a
12 reasonable time within which to make that election, which may extend beyond the
13 original six-month decision window. A deferred member who makes and files a written
14 election to remain a member of the public employees retirement system retains all
15 rights and is subject to all conditions as a member of that retirement system. A
16 deferred member who does not make a written election or who does not file the
17 election during the period specified in this section continues to be a member of the
18 public employees retirement system. A deferred member who makes and files a
19 written election to terminate membership in the public employees retirement system
20 ceases to be a member of the public employees retirement system effective on the
21 last day of the payroll period that includes the date of the election; becomes a
22 participating member in the defined contribution retirement plan under this chapter
23 effective the first day of the payroll immediately following the date of the election; and
24 waives all of that person's rights to a pension, an annuity, a retirement allowance,
25 insurance benefit, or any other benefit under the public employees retirement system
26 effective the last day of the payroll that includes the date of the election. This section
27 does not affect any right to health benefits or retiree health benefits to which the
28 deferred member may otherwise be entitled.

- 29 3. An eligible employee who elects to participate in the retirement plan established under
30 this chapter must remain a participant even if that employee returns to the classified
31 service or becomes employed by a political subdivision that participates in the public

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

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

30 5. If the board receives notification from the internal revenue service that this section or
31 any portion of this section will cause the public employees retirement system or the

1 retirement plan established under this chapter to be disqualified for tax purposes
2 under the Internal Revenue Code, then the portion that will cause the disqualification
3 does not apply.

4 6. A participating member who becomes a temporary employee may still participate in
5 the defined contribution retirement plan upon filing an election with the board within
6 one hundred eighty days of transferring to temporary employee status. The
7 participating member may not become a member of the defined benefit plan as a
8 temporary employee. The temporary employee electing to participate in the defined
9 contribution retirement plan shall pay monthly to the fund an amount equal to eight
10 and twelve hundredths percent times the temporary employee's present monthly
11 salary. The amount required to be paid by a temporary employee increases by two
12 percent times the temporary employee's present monthly salary beginning with the
13 monthly reporting period of January 2012, and with an additional increase of two
14 percent, beginning with the monthly reporting period of January 2013, and with an
15 additional increase of two percent, beginning with the monthly reporting period of
16 January 2014. The temporary employee shall also pay the required monthly
17 contribution to the retiree health benefit fund established under section 54-52.1-03.2.
18 This contribution must be recorded as a member contribution pursuant to section
19 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A
20 temporary employee may continue to participate as a temporary employee until
21 termination of employment or reclassification of the temporary employee as a
22 permanent employee.

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

1 **Election through December 31, ~~2024~~2023. (Effective after December 31, ~~2024~~2023)**

- 2 1. The board shall provide an opportunity for each eligible employee who is a member of
3 the public employees retirement system on September 30, 2001, and who has not
4 made a written election under this section to transfer to the defined contribution
5 retirement plan before October 1, 2001, to elect in writing to terminate membership in
6 the public employees retirement system and elect to become a participating member
7 under this chapter. Except as provided in section 54-52.6-03, an election made by an
8 eligible employee under this section is irrevocable. The board shall accept written
9 elections under this section from eligible employees during the period beginning on
10 July 1, 1999, and ending 12:01 a.m. December 14, 2001. An eligible employee who
11 does not make a written election or who does not file the election during the period
12 specified in this section continues to be a member of the public employees retirement
13 system. An eligible employee who makes and files a written election under this section
14 ceases to be a member of the public employees retirement system effective twelve
15 midnight December 31, 2001; becomes a participating member in the defined
16 contribution retirement plan under this chapter effective 12:01 a.m. January 1, 2002;
17 and waives all of that person's rights to a pension, annuity, retirement allowance,
18 insurance benefit, or any other benefit under the public employees retirement system
19 effective December 31, 2001. This section does not affect an individual's right to
20 health benefits or retiree health benefits under chapter 54-52.1. An eligible employee
21 who is first employed and entered upon the payroll of that person's employer after
22 September 30, 2001, and before January 1, ~~2025~~2024, may make an election to
23 participate in the defined contribution retirement plan established under this chapter at
24 any time during the first six months after the date of employment. If the board, in its
25 sole discretion, determines that the employee was not adequately notified of the
26 employee's option to participate in the defined contribution retirement plan, the board
27 may provide the employee a reasonable time within which to make that election, which
28 may extend beyond the original six-month decision window.
- 29 2. If an individual who is a deferred member of the public employees retirement system
30 on September 30, 2001, is re-employed before January 1, ~~2025~~2024, and by virtue of
31 that employment is again eligible for membership in the public employees retirement

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

- 29 3. An eligible employee who elects under this section to participate in the retirement plan
30 established under this chapter must remain a participant even if that employee returns
31 to the classified service or becomes employed by a political subdivision that

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

- 24 4. After consultation with its actuary, the board shall determine the method by which a
25 participating member or deferred member may make a written election under this
26 section. If the participating member or deferred member is married at the time of the
27 election, the election is not effective unless the election is signed by the individual's
28 spouse. However, the board may waive this requirement if the spouse's signature
29 cannot be obtained because of extenuating circumstances.
- 30 5. If the board receives notification from the internal revenue service that this section or
31 any portion of this section will cause the public employees retirement system or the

1 retirement plan established under this chapter to be disqualified for tax purposes
2 under the Internal Revenue Code, then the portion that will cause the disqualification
3 does not apply.

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

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

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

12 c. A temporary employee may continue to participate as a temporary employee until
13 termination of employment or reclassification of the temporary employee as a
14 permanent employee.

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

25 8. After December 31, ~~2024~~2023, an eligible employee is no longer allowed to elect
26 participation under this section.

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

1 **54-52.6-02.1. Participation in defined contribution retirement plan. (Effective after**
2 **December 31, 20242023)**

- 3 1. Except as otherwise provided under section 54-52-02.5 or 54-52-02.15 or this chapter,
4 effective January 1, 20252024, an eligible employee who is first enrolled shall
5 participate in the defined contribution retirement plan under this chapter.
6 2. A temporary employee may elect to participate in the defined contribution retirement
7 plan as provided under section 54-52.6-09.6.
8 3. A county elected official may elect to participate in the defined contribution retirement
9 plan as provided under section 54-52-02.11.
10 4. A nonstate appointed official shall participate in the defined contribution retirement
11 plan as provided under section 54-52-02.12.

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

14 **54-52.6-02.2. Election after December 31, 20242023 - Additional employer**
15 **contribution. (Effective after December 31, 20242023)**

- 16 1. As used in this section, "eligible employee" means a permanent state employee who
17 on December 31, 20242023, is a participating member of the public employees
18 retirement system main system plan under chapter 54-42, who has been a
19 participating member under chapter 54-52 for no more than five years, and who is at
20 least eighteen years of age.
21 2. The board shall provide a three-month election period, from January 1, 20252024,
22 through March 31, 20252024, for an eligible employee to transfer to the defined
23 contribution plan under this chapter pursuant to the rules and policies adopted by the
24 board.
25 a. An election under this section made by a member of the public employees
26 retirement system under chapter 54-52 to transfer to the defined contribution
27 retirement plan under this chapter is irrevocable.
28 b. For an eligible employee who elects to transfer from the public employees
29 retirement system under chapter 54-52 to the defined contribution retirement plan
30 under this chapter, the board shall transfer a lump sum amount from the public
31 employees retirement system fund to the member's account in the defined

1 contribution retirement plan under this chapter. However, if the eligible employee
2 terminates employment before receiving the lump sum transfer under this
3 section, the election made is ineffective and the eligible employee remains a
4 member of the public employees retirement system under chapter 54-52 and
5 retains all the rights and privileges under that chapter.

6 c. The board shall calculate the lump sum amount to be transferred based on the
7 actuarial present value of the eligible employee's accumulated benefit obligation
8 under the public employees retirement system based on the assumption the
9 eligible employee will retire under the earlier applicable normal retirement age,
10 plus interest from January 1, ~~2025~~2024, to the date of transfer, at the rate of
11 one-half of one percent less than the actuarial interest assumption at the time of
12 the election.

13 d. This section does not affect an eligible individual's right to health benefits under
14 chapter 54-52.1.

15 3. The state employer of an eligible employee who elects under this section to participate
16 in the defined contribution retirement plan under this chapter shall pay an additional
17 annual contribution of three thousand three hundred and thirty-three dollars for up to
18 three years. Under this subsection, the employer shall pay the additional contribution
19 each year the eligible employee continues permanent employment with the state,
20 beginning January ~~2026~~2025, and extending no further than January ~~2028~~2027.

21 4. If the board receives notification from the internal revenue service that this section or
22 any portion of this section will cause the public employees retirement system or the
23 retirement plan established under this chapter to be disqualified for tax purposes
24 under the Internal Revenue Code, that portion that will cause the disqualification does
25 not apply.

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

28 **54-52.6-03. Transfer of accumulated fund balances. (Effective through December 31,**
29 **~~2024~~2023)**

30 For an individual who elects to terminate membership in the public employees retirement
31 system under chapter 54-52, the board shall transfer a lump sum amount from the retirement

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

- 8 1. The actuarial present value of the individual's accumulated benefit obligation under the
9 public employees retirement system based on the assumption that the individual will
10 retire under the earliest applicable normal retirement age, plus interest from January 1,
11 2001, to the date of transfer, at the rate of one-half of one percent less than the
12 actuarial interest assumption at the time of the election; or
- 13 2. The actual employer contribution made, less vested employer contributions made
14 pursuant to section 54-52-11.1, plus compound interest at the rate of one-half of one
15 percent less than the actuarial interest assumption at the time of the election plus the
16 employee account balance.

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

19 **Transfer of accumulated fund balances. (Effective after December 31, ~~2024~~2023)**

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

1 individual will retire under the earliest applicable normal retirement age, plus
2 interest from January 1, 2001, to the date of transfer, at the rate of one-half of
3 one percent less than the actuarial interest assumption at the time of the election;
4 or

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

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

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

14 **54-52.6-09. Contributions - Penalty. (Effective through December 31, ~~2024~~2023)**

15 1. Each participating member shall contribute monthly four percent of the monthly salary
16 or wage paid to the participant, and this assessment must be deducted from the
17 participant's salary in equal monthly installments commencing with the first month of
18 participation in the defined contribution retirement plan established under this chapter.
19 Participating member contributions increase by one percent of the monthly salary or
20 wage paid to the participant beginning with the monthly reporting period of
21 January 2012; with an additional increase of one percent, beginning with the reporting
22 period of January 2013; and with an additional increase of one percent, beginning with
23 the monthly reporting period of January 2014.

24 2. The employer shall contribute an amount equal to four and twelve-hundredths percent
25 of the monthly salary or wage of a participating member. Employer contributions
26 increase by one percent of the monthly salary or wage of a participating member
27 beginning with the monthly reporting period of January 2012; with an additional
28 increase of one percent, beginning with the monthly reporting period of January 2013;
29 and with an additional increase of one percent, beginning with the monthly reporting
30 period of January 2014. For members first enrolled after December 31, 2019, the
31 employer contribution includes an additional increase of one and fourteen-hundredths

1 percent. If the employee's contribution is paid by the employer under subsection 3, the
2 employer shall contribute, in addition, an amount equal to the required employee's
3 contribution. Monthly, the employer shall pay such contribution into the participating
4 member's account from the employer's funds appropriated for payroll and salary or
5 any other funds available for such purposes. If the employer fails to pay the
6 contributions monthly, or fails to otherwise comply with the board's established wage
7 reporting or payroll reporting process requirements, the employer is subject to a civil
8 penalty of fifty dollars and, as interest, one percent of the amount due for each month
9 of delay or fraction of a month after the payment became due. In lieu of assessing a
10 civil penalty or one percent per month, or both, interest at the actuarial rate of return
11 may be assessed for each month the contributions are delinquent. If contributions are
12 paid within ninety days of the date the contributions became due, penalty and interest
13 to be paid on delinquent contributions may be waived.

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

1 employer shall exercise its option under this subsection by reporting its choice to the
2 board in writing.

3 **Contributions - Penalty. (Effective after December 31, ~~2024~~2023)**

4 1. a. A participating member who first joined the defined contribution retirement plan
5 before January 1, ~~2025~~2024, and an employee who elects to participate in the
6 defined contribution plan under section 54-52.6-02.2, shall contribute monthly
7 seven percent of the monthly salary or wage paid to the participant.

8 b. A participating member who first joined the defined contribution retirement plan
9 after December 31, ~~2024~~2023, except for an employee who elects to participate
10 in the defined contribution plan under section 54-52.6-02.2, shall contribute
11 monthly four percent of the monthly salary or wage paid to the participant. In
12 addition, the participating member may elect to contribute monthly up to an
13 additional three percent of the monthly salary or wage paid to the participant.

14 c. This assessment must be deducted from the participant's salary in equal monthly
15 installments commencing with the first month of participation in the defined
16 contribution retirement plan established under this chapter.

17 2. a. For a participating member who first joined the defined contribution retirement
18 plan before January 1, ~~2025~~2024, and for an employee who elects to participate
19 in the defined contribution plan under section 54-52.6-02.2, the employer shall
20 contribute an amount equal to seven and twelve-hundredths percent of the
21 monthly salary or wage of the participating member.

22 b. For a participating member who first joined the defined contribution retirement
23 plan after December 31, ~~2024~~2023, except for an employee who elects to
24 participate in the defined contribution plan under section 54-52.6-02.2, the
25 employer shall contribute an amount equal to four and twelve-hundredths percent
26 of the monthly salary or wage of a participating member, plus up to an additional
27 three percent as an employer matching contribution calculated based on the
28 participating member's election under subdivision b of subsection 1.

29 c. For a participating member first enrolled after December 31, 2019, the employer
30 contribution includes an additional increase of one and fourteen-hundredths
31 percent.

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

1 employer shall exercise its option under this subsection by reporting its choice to the
2 board in writing.

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

5 **SECTION 14. CONTINGENT EFFECTIVE DATE.** Sections 1 through 12 of this Act become
6 effective on January 1, 2024, if before that date the retirement board certifies to the legislative
7 council that the public employees retirement system is prepared to close the main system
8 defined benefit retirement plan on December 31, 2023, and to open the new defined
9 contribution retirement plan on January 1, 2024.

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.