

2023 JOINT POLICY

HB 1548

2023 JOINT STANDING COMMITTEE MINUTES

Policy Committee
Roughrider Room, State Capitol

HB 1548
10/23/2023

A bill relating to the public employees retirement system retirement plans; to provide an exemption; to provide a contingent effective date; and to provide an effective date.
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11:05AM Co-Chairman Thomas opened the hearing.

Members Present: Co-Chairman Klein, Senator Clemens, Senator Conley, Senator Elkin, Senator Hogan, Senator Kannianen, Senator Kessel, Senator Larson, Senator Lee, Senator Luick, Senator Patten, Senator Piepkorn, Senator Roers, Senator Wobbema Co-Chairman Thomas, Representative Anderson, Representative Dobervich, Representative Headland, Representative Heinert, Representative Kasper, Representative Klemin, Representative Koppelman, Representative Longmuir, Representative Louser, Representative Ruby, Representative Schauer, Representative Schneider, Representative Weisz.

Discussion Topics:

- Effective Date
- Reason for the delay
- State employees having access to Defined Contribution plan
- Public Employees Retirement System
- Timeline of implementation
- Election options to change benefit plans
- Tax Code

11:06AM Jennifer Clark, Senior Counsel and Code Revisor, Legislative Council, presented and explained the bill. #28059

11:12AM Representative Greg Stemen proposed an amendment. #28063

11:17AM Jennifer Clark answers additional questions

11:21AM Scott Miller, Executive Director, Public Employees Retirement System. Oral testimony.

11:28AM Chairman Thomas closed the hearing.

Carie Winings, Committee Clerk

2023 JOINT STANDING COMMITTEE MINUTES

Policy Committee Roughrider Room, State Capitol

HB 1548
10/24/2023

A bill relating to the public employees retirement system retirement plans; to provide an exemption; to provide a contingent effective date; and to provide an effective date.

10:53AM Chairman Thomas opened the hearing.

Members Present: Co-Chairman Klein, Senator Clemens, Senator Conley, Senator Elkin, Senator Hogan, Senator Kannianen, Senator Kessel, Senator Larson, Senator Lee, Senator Luick, Senator Patten, Senator Piepkorn, Senator Roers, Senator Wobbema Co-Chairman Thomas, Representative Anderson, Representative Dobervich, Representative Headland, Representative Heinert, Representative Kasper, Representative Klemin, Representative Koppelman, Representative Longmuir, Representative Louser, Representative Ruby, Representative Schauer, Representative Schneider, Representative Weisz.

Discussion Topics:

- Amendments
- Effective date
- Defined benefit plan
- Unfunded liability
- Defined contribution plan
- Legacy plan
- Incentive

10:53AM Jennifer Clark, Legislative Council here to explain amendment 23.1172.01003.
#28066

10:54AM Representative Schauer moved a Do Pass.

10:54AM Senator Roers seconded the motion.

10:56AM Roll call vote:

Senators	Vote	Representatives	Vote
Senator Jerry Klein	Y	Representative Paul Thomas	Y
Senator David Clemens	Y	Representative Dick Anderson	AB
Senator Cole Conley	Y	Representative Gretchen Dobervich	Y
Senator Jay Elkin	Y	Representative Craig Headland	Y
Senator Kathy Hogan	Y	Representative Pat Heinert	Y
Senator Jordan Kannianen	Y	Representative Jim Kasper	Y
Senator Greg Kessel	Y	Representative Lawrence Klemin	Y
Senator Diane Larson	Y	Representative Ben Koppelman	Y
Senator Judy Lee	Y	Representative Donald Longmuir	Y
Senator Larry Luick	Y	Representative Scott Louser	Y

Senator Dale Patten	Y	Representative Dan Ruby	Y
Senator Merrill Piepkorn	Y	Representative Austen Schauer	Y
Senator Kristin Roers	Y	Representative Mary Schneider	Y
Senator Michael Wobbema	Y	Representative Robin Weisz	Y

Motion passed 27-0-1. (House 13-0-1 Senate 14-0-0)

10:57AM Senator Roers presented and moved amendment 23.1172.01005 #28067

10:58AM Representative Schauer seconded.

10:59AM Scott Miller, Executive Director, Public Employees Retirement System.

11:04AM Roll call vote:

Senators	Vote	Representatives	Vote
Senator Jerry Klein	Y	Representative Paul Thomas	Y
Senator David Clemens	Y	Representative Dick Anderson	Y
Senator Cole Conley	Y	Representative Gretchen Dobervich	Y
Senator Jay Elkin	Y	Representative Craig Headland	Y
Senator Kathy Hogan	Y	Representative Pat Heinert	Y
Senator Jordan Kannianen	Y	Representative Jim Kasper	Y
Senator Greg Kessel	Y	Representative Lawrence Klemin	Y
Senator Diane Larson	Y	Representative Ben Koppelman	Y
Senator Judy Lee	Y	Representative Donald Longmuir	Y
Senator Larry Luick	Y	Representative Scott Louser	Y
Senator Dale Patten	Y	Representative Dan Ruby	Y
Senator Merrill Piepkorn	Y	Representative Austen Schauer	Y
Senator Kristin Roers	Y	Representative Mary Schneider	Y
Senator Michael Wobbema	Y	Representative Robin Weisz	Y

Motion passed 28-0-0. (House 14-0-0 Senate 14-0-0)

11:05AM Representative Stemens presented amendment 23.1172.01002 #28073

11:06AM Representative Louser moved amendments.

11:06AM Representative Weisz seconded.

11:11AM Scott Miller, PERS came to podium to answer questions.

11:21AM Roll call vote:

Senators	Vote	Representatives	Vote
Senator Jerry Klein	Y	Representative Paul Thomas	Y
Senator David Clemens	Y	Representative Dick Anderson	Y
Senator Cole Conley	Y	Representative Gretchen Dobervich	Y
Senator Jay Elkin	Y	Representative Craig Headland	Y
Senator Kathy Hogan	N	Representative Pat Heinert	Y
Senator Jordan Kannianen	Y	Representative Jim Kasper	Y

Senator Greg Kessel	Y	Representative Lawrence Klemin	Y
Senator Diane Larson	Y	Representative Ben Koppelman	Y
Senator Judy Lee	Y	Representative Donald Longmuir	Y
Senator Larry Luick	Y	Representative Scott Louser	Y
Senator Dale Patten	Y	Representative Dan Ruby	Y
Senator Merrill Piepkorn	Y	Representative Austen Schauer	Y
Senator Kristin Roers	Y	Representative Mary Schneider	Y
Senator Michael Wobbema	Y	Representative Robin Weisz	Y

Motion Passed 27-1-0. (House 14-0-0 Senate 13-1-0)

11:23AM Senator Roers moved a Do Pass As Amended.

11:23AM Senator Wobbema seconded.

11:23AM Roll call vote:

Senators	Vote	Representatives	Vote
Senator Jerry Klein	Y	Representative Paul Thomas	Y
Senator David Clemens	Y	Representative Dick Anderson	Y
Senator Cole Conley	Y	Representative Gretchen Dobervich	Y
Senator Jay Elkin	Y	Representative Craig Headland	Y
Senator Kathy Hogan	N	Representative Pat Heinert	Y
Senator Jordan Kannianen	Y	Representative Jim Kasper	Y
Senator Greg Kessel	Y	Representative Lawrence Klemin	Y
Senator Diane Larson	Y	Representative Ben Koppelman	Y
Senator Judy Lee	Y	Representative Donald Longmuir	Y
Senator Larry Luick	Y	Representative Scott Louser	Y
Senator Dale Patten	Y	Representative Dan Ruby	Y
Senator Merrill Piepkorn	Y	Representative Austen Schauer	Y
Senator Kristin Roers	Y	Representative Mary Schneider	Y
Senator Michael Wobbema	Y	Representative Robin Weisz	Y

Motion Passed 27-1-0. (House 14-0-0 Senate 13-1-0)

Senator Roers and Representative Louser will carry the bill.

11:25AM Chairman Thomas closed the hearing.

Carie Winings, Committee Clerk

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1548

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

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

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

Page 1, line 3, remove "and"

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

Page 1, after line 6, insert:

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

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

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

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

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

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

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

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

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

- b. If a teacher terminates eligible employment under the fund, if that teacher has not received a refund of member contributions, and if that teacher begins eligible employment in a plan described in paragraph 1 or 2 of subdivision a, that teacher may elect to remain an inactive member of the fund without refund of contributions. The board shall terminate the inactive status of a teacher under this subdivision if the teacher gains eligible employment under this chapter or if the teacher terminates eligible employment under a plan described in paragraph 1 or 2 of subdivision a.
- c. Pursuant to rules adopted by the board, a teacher who has service credit in the fund and in any number of the alternate plans described in paragraphs 1 and 2 of subdivision a is entitled to benefits under this chapter.

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

- (a) Using the three highest certified fiscal year salaries of this plan in the computation of final average salary and all service credit earned in this plan; or
- (b) Using the three highest certified fiscal year salaries of this plan combined with the alternate plan in the computation of final average salary and service credit not to exceed one year in any fiscal year when combined with the service credit earned in the alternate retirement plan.

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

- (a) Using the five highest certified fiscal year salaries of this plan in the computation of final average salary and all service credit earned in this plan; or
- (b) Using the five highest certified fiscal year salaries of this plan combined with the alternate plan in the computation of final average salary and service credit not to exceed one year in any fiscal year when combined with the service credit earned in the alternate retirement plan.

2. a. If a teacher, who is eligible to participate in this fund, is also eligible to participate in an alternate retirement system, the employee is a member of the teachers' fund for retirement for duties covered under

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

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

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

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

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

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

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board of higher education and state institutions under the jurisdiction of the board.

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

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

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

1. "Account balance" means the total contributions made by the employee, vested employer contributions under section 54-52-11.1, the vested portion

of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the board.

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

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

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- 23. "Temporary employee" means an employee who is not eligible to participate as a permanent employee, who is at least eighteen years old and not actively contributing to another employer-sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.

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

Page 1, line 10, overstrike "**December 31,**"

Page 1, line 10, replace "**2023**" with "**the day before the effective date of this Act**"

Page 1, line 18, overstrike "**after December 31,**"

Page 1, line 18, replace "**2023**" with "**on the effective date of this Act**"

Page 1, line 19, overstrike "January 1,"

Page 1, line 19, replace "**2024**" with "**the effective date of this Act**"

Page 2, line 1, overstrike "December 31,"

Page 2, line 1, replace "**2023**" with "**the day before the effective date of this Act**"

Page 2, line 12, overstrike "**December 31,**"

Page 2, line 13, replace "**2023**" with "**the day before the effective date of this Act**"

Page 3, line 7, overstrike "**after December 31,**"

Page 3, line 7, replace "**2023**" with "**on the effective date of this Act**"

Page 3, line 8, overstrike "January 1,"

Page 3, line 8, replace "**2024**" with "**the effective date of this Act**"

Page 3, line 15, remove the overstrike over "2025"

Page 3, line 15, remove "**2024**"

Page 3, line 25, overstrike "January 1,"

Page 3, line 25, replace "**2024**" with "**the effective date of this Act**"

Page 3, line 26, overstrike "December 31,"

Page 3, line 26, replace "**2023**" with "**the day before the effective date of this Act**"

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- Page 3, line 28, overstrike "December 31,"
- Page 3, line 28, replace "2023" with "the day before the effective date of this Act"
- Page 4, line 10, overstrike "**December 31,**"
- Page 4, line 10, replace "**2023**" with "**the day before the effective date of this Act**"
- Page 4, line 13, overstrike "after"
- Page 4, line 14, overstrike "**December 31,**"
- Page 4, line 14, replace "**2023**" with "**on the effective date of this Act**"
- Page 4, line 15, overstrike "January 1,"
- Page 4, line 15, replace "2024" with "the effective date of this Act"
- Page 4, line 18, overstrike "December 31,"
- Page 4, line 18, replace "2023" with "the day before the effective date of this Act"
- Page 4, line 24, overstrike "**December 31,**"
- Page 4, line 24, replace "**2023**" with "**the day before the effective date of this Act**"
- Page 4, line 28, overstrike "after"
- Page 4, line 29, overstrike "**December 31,**"
- Page 4, line 29, replace "**2023**" with "**on the effective date of this Act**"
- Page 4, line 31, overstrike "January 1,"
- Page 4, line 31, replace "2024" with "the effective date of this Act"
- Page 5, line 3, overstrike "December 31,"
- Page 5, line 3, replace "2023" with "the day before the effective date of this Act"
- Page 5, line 9, overstrike "**after December 31,**"
- Page 5, line 9, replace "**2023**" with "**on the effective date of this Act**"
- Page 5, line 13, overstrike "December 31,"
- Page 5, line 13, replace "2023" with "the day before the effective date of this Act"
- Page 5, line 17, overstrike "January 1,"
- Page 5, line 17, replace "2024" with "on the effective date of this Act"
- Page 5, line 20, overstrike "January 1,"
- Page 5, line 20, replace "2024" with "the effective date of this Act"
- Page 5, line 21, overstrike "December 31,"
- Page 5, line 21, replace "2023" with "the day before the effective date of this Act"
- Page 5, line 22, overstrike "January 1,"
- Page 5, line 22, replace "2024" with "on the effective date of this Act"

Page 6, line 9, overstrike "January 1,"

Page 6, line 9, replace "2024" with "the effective date of this Act"

Page 6, after line 12, insert:

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

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

1. Every eligible participating political subdivision employee, at the time the political subdivision joins the plan must so state in writing if the employee concurs in the plan and all future eligible employees of the participating political subdivision are participating members in the plan and must be enrolled in the plan within the first month of employment. Except as otherwise provided by law, every other eligible governmental unit employee of a participating governmental unit is a participating member in the plan and must be enrolled in the plan within the first month of employment. An employee who was not enrolled in the retirement system when eligible to participate must be enrolled immediately upon notice of the employee's eligibility, unless the employee waives in writing the employee's right to participate for the previous time of eligibility, to avoid contributing to the fund for past service. An employee who is eligible for normal retirement who accepts a retirement benefit under this chapter and who subsequently becomes employed with a participating employer other than the employer with which the employee was employed at the time the employee retired under this chapter may, before being re-enrolled in the retirement plan within the first month of employment, elect to permanently waive future participation in the retirement plan and the retiree health program and maintain that employee's retirement status. An employee making this election is not required to make any future employee contributions to the public employees retirement system nor is the employee's employer required to make any further contributions on behalf of that employee.
2. Each member must be assessed and required to pay monthly four percent of the monthly salary or wage paid to the member, and such assessment must be deducted and retained out of such salary in equal monthly installments commencing with the first month of employment. Member contributions increase by one percent of the monthly salary or wage paid to the member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014.
3. Each employer, at its option, may pay all or a portion of the employee contributions required by subsection 2 and sections 54-52-06.1, 54-52-06.2, 54-52-06.3, and 54-52-06.4 or the employee contributions required to purchase service credit on a pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not receive the contributed amounts directly once the employer has elected to pay the

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employee contributions. The amount paid must be paid by the employer in lieu of contributions by the employee. If the state determines not to pay the contributions, the amount that would have been paid must continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the employer, they may not be included as gross income of the employee in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a contribution of a reduction in gross salary and offset against future salary increases. If employee contributions are paid by the employer, they must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made prior to the date on which employee contributions were assumed by the employer. An employer exercising its option under this subsection shall report its choice to the board in writing.

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

Membership and assessments - Employer payment of employee contributions. (Effective after ~~December 31, 2024~~ on the effective date of this Act)

1. Every eligible participating political subdivision employee, at the time the political subdivision joins the plan must so state in writing if the employee concurs in the plan and all future eligible employees of the participating political subdivision are participating members in the plan and must be enrolled in the plan within the first month of employment. Except as otherwise provided by law, every other eligible governmental unit employee of a participating governmental unit is a participating member in the plan and must be enrolled in the plan within the first month of employment. An employee who was not enrolled in the retirement system

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

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

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Revenue Code. Contributions paid by the employer under this subsection may not be included as gross income of the member in determining tax treatment under this code and the Internal Revenue Code until the contributions are distributed or made available. Contributions paid by the employer in accordance with this subsection must be treated for the purposes of this chapter in the same manner and to the same extent as member contributions made before the date the contributions were assumed by the employer. The employer shall pay these member contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee. The employer shall continue making payments under this section unless otherwise specifically provided for under the agency's biennial appropriation or by amendment to law.

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

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

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

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

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

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

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

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earned while employed by North Dakota institutions of higher education.

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

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

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

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

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

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

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

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

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

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

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

Page 6, line 17, overstrike "December 31,"

Page 6, line 17, replace "2023" with "the day before the effective date of this Act"

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Page 6, line 27, overstrike "**December 31,**"

Page 6, line 27, replace "**2023**" with "the day before the effective date of this Act"

Page 7, line 27, overstrike "**after December 31,**"

Page 7, line 27, replace "**2023**" with "on the effective date of this Act"

Page 8, line 2, overstrike "December 31,"

Page 8, line 2, replace "2023" with "the day before the effective date of this Act"

Page 8, line 4, overstrike "January 1,"

Page 8, line 4, replace "2024" with "the effective date of this Act"

Page 9, line 1, overstrike "**December 31,**"

Page 9, line 1, replace "**2023**" with "the day before the effective date of this Act"

Page 13, line 1, overstrike "**December 31,**"

Page 13, line 1, replace the first "2023" with "the day before the effective date of this Act"

Page 13, line 1, overstrike "**after December 31,**"

Page 13, line 1, replace the second "2023" with "on the effective date of this Act"

Page 13, line 22, overstrike "January 1,"

Page 13, line 22, replace "2024" with "the effective date of this Act"

Page 13, line 30, overstrike "January 1,"

Page 13, line 30, replace "2024" with "the effective date of this Act"

Page 16, line 25, overstrike "December 31,"

Page 16, line 25, replace "2023" with "the day before the effective date of this Act"

Page 17, line 1, overstrike "**after**"

Page 17, line 2, overstrike "**December 31,**"

Page 17, line 2, replace "**2023**" with "on the effective date of this Act"

Page 17, line 4, overstrike "January 1,"

Page 17, line 4, replace "2024" with "on the effective date of this Act"

Page 17, line 14, overstrike "**December 31,**"

Page 17, line 14, replace "**2023**" with "the day before the effective date of this Act"

Page 17, line 15, overstrike "**after December 31,**"

Page 17, line 15, replace "**2023**" with "on the effective date of this Act"

Page 17, line 17, overstrike "December 31,"

Page 17, line 17, replace "2023" with "the day before the effective date of this Act"

Page 17, line 21, overstrike "from January 1,"

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- Page 17, line 21, replace "2024" with "beginning on the effective date of this Act"
- Page 17, line 22, overstrike "through March 31,"
- Page 17, line 22, remove "2024"
- Page 17, line 22, overstrike the second comma
- Page 18, line 10, overstrike "January 1,"
- Page 18, line 10, replace "2024" with "the effective date of this Act"
- Page 18, line 20, overstrike the first "January"
- Page 18, line 20, replace "2025" with "one year after the effective date of this Act"
- Page 18, line 20, overstrike the second "January"
- Page 18, line 20, replace "2027" with "three years following the effective date of this Act"
- Page 18, line 28, overstrike "**December 31,**"
- Page 18, line 29, replace "**2023**" with "**the day before the effective date of this Act**"
- Page 19, line 19, overstrike "**after December 31,**"
- Page 19, line 19, replace "**2023**" with "**on the effective date of this Act**"
- Page 20, line 10, overstrike "January 1,"
- Page 20, line 10, replace "2024" with "the effective date of this Act"
- Page 20, after line 11, insert:

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

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

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

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

1. Each participating member shall direct the investment of the individual's accumulated employer and employee contributions and earnings to one or more investment choices within available categories of investment provided by the board.
2. The board shall provide an investment menu of investment options. In establishing the investment options, the board shall:
 - a. Include predetermined investment portfolio options constructed to reflect different risk profiles that automatically reallocate and rebalance contributions as a participating member ages.

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- b. Allow a participating member to construct an investment portfolio using some or all of the investment options.
3. The board shall provide a diversified menu of mutual funds and in-plan lifetime annuity options, either fixed, variable, or a combination of both. In selecting an annuity provider the board shall comply with section 54-52.6-05.1.
4. This section applies to all defined contribution retirement plans regardless of the effective date of the plan.

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

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

1. The board shall select one or more annuity providers to provide the annuity options under this chapter.
2. In selecting an annuity provider under this section, the board shall:
 - a. Determine whether the annuity provider and the provider's subsidiaries and affiliates have appropriate financial strength and stability at the time of selection and during the term of contract with the board.
 - (1) The board may require the provider to provide the board with written representation:
 - (a) The provider is in compliance with title 26.1.
 - (b) The provider at the time of selection is and for each of the preceding seven years was in compliance and good standing with the insurance commissioner of the provider's domiciliary state and the provider is not operating under an order of rehabilitation or liquidation.
 - (c) The provider maintains and has maintained reserves that satisfy the statutory requirements of each state in which the provider does business.
 - (2) The board may require a provider selected by the board to provide annuities under this chapter to notify the board of a change of circumstances resulting in the provider failing to meet any of the requirements under paragraph 1.
 - (3) The board must have determined the provider has a claims paying ability rating that meets standards adopted by the board.
 - b. Determine whether the annuity provider is able to provide contracted rights and benefits to a participating member.
 - c. Determine whether the costs, including fees and commissions, of the annuity options in relation to the benefits and product features of the annuity options are reasonable.

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- d. Determine whether the administrative services to be provided under the annuity option are appropriate. At a minimum the administrative services must include periodic reports to the board.
- e. Determine whether the annuity provider is experienced in paying lifetime retirement income through annuities offered to public employee defined contribution retirement plans.
- f. Determine whether the annuity provider offers a menu of annuity options that meet the following conditions:
 - (1) The annuity options are suitable for participating members and beneficiaries.
 - (2) The contract terms and income benefits are clearly stated, based on reasonable assumptions.
 - (3) The menu of annuity options offers a range of lifetime income options.
 - (4) If an annuity is a variable annuity, the annuity offers a fixed account option along with a variable option.
- g. Determine whether the annuity provider offers objective and participant-specific education and tools to help a participating member understand the appropriate use of annuities as a long-term retirement savings vehicle.

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

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

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

Credit of transfers. (Effective after December 31, 2024on the effective date of this Act) The board promptly shall credit the plan account of a participating member who makes an election under section 54-52.6-02 to terminate membership in the public employees retirement system under chapter 54-52 with any amount transferred from the public employees retirement system."

Page 20, line 14, overstrike "**December 31,**"

Page 20, line 14, replace "**2023**" with "**the day before the effective date of this Act**"

Page 22, line 3, overstrike "**after December 31,**"

Page 22, line 3, replace "**2023**" with "**on the effective date of this Act**"

Page 22, line 5, overstrike "January 1,"

Page 22, line 5, replace "**2024**" with "**the effective date of this Act**"

Page 22, line 9, overstrike "December 31,"

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Page 22, line 9, replace "2023" with "the day before the effective date of this Act"

Page 22, line 18, overstrike "January 1,"

Page 22, line 18, replace "2024" with "the effective date of this Act"

Page 22, line 23, overstrike "December 31,"

Page 22, line 23, replace "2023" with "the day before the effective date of this Act"

Page 24, after line 2, insert:

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

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

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

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

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

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

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

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

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

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

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

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

1. A participating member is eligible to receive distribution of that person's accumulated balance in the plan upon becoming a former participating member.
2. Upon the death of a participating member or former participating member, the board shall pay the accumulated account balance of that deceased participant to the deceased participant's refund beneficiary, if any, as provided in this subsection. If the deceased participant designated an alternate refund beneficiary with the surviving spouse's written consent, the board shall distribute the accumulated balance to the named beneficiary. If the deceased participant named more than one primary beneficiary with the surviving spouse's written consent, the board shall pay the accumulated account balance to the named primary beneficiaries in the percentages designated by the deceased participant or, if the deceased participant had not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the deceased participant, the board shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If any beneficiary survives the deceased participant, yet dies before distribution of the beneficiary's share, the beneficiary must be treated as if the beneficiary predeceased the deceased participant. If there is no remaining primary beneficiary, the board shall pay the accumulated account balance

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of that deceased participant to the contingent beneficiaries in the same manner. If there is no remaining designated beneficiary, the board shall pay the accumulated account balance of that deceased participant to the deceased participant's estate. If the deceased participant had not designated an alternate refund beneficiary or the surviving spouse is the refund beneficiary, the surviving spouse of the deceased participant may select a form of payment as provided in subdivision d of subsection 3.

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

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

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

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

1. A participating member is eligible to receive distribution of that individual's accumulated balance in the plan upon becoming a former participating member.
2. Upon the death of a participating member or former participating member, the board shall pay the accumulated account balance of that deceased participant to the deceased participant's refund beneficiary, if any, as provided in this subsection. If the deceased participant designated an alternate refund beneficiary with the surviving spouse's written consent, the board shall distribute the accumulated balance to the named beneficiary. If the deceased participant named more than one primary beneficiary with the surviving spouse's written consent, the board shall pay the accumulated account balance to the named primary beneficiaries in the percentages designated by the deceased participant or, if the deceased participant had not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased

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

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

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

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

The board shall provide information to employees who are eligible to elect to become participating members under this chapter. The information must include at a minimum the employee's current account balance, the assumption of investment risk under a defined contribution retirement plan, administrative and investment costs, coordination of benefits information, and a comparison of projected retirement benefits

under the public employees retirement system under chapter 54-52 and the retirement plan established under this chapter. Notwithstanding any other provision of law, the board is not liable for any election or investment decision made by an employee based upon information provided to an employee under this chapter.

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

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

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

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

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

Overpayments. (Effective after December 31, 2024 on the effective date of this Act) The board has the right of setoff to recover overpayments made under this chapter and to satisfy any claims arising from embezzlement or fraud committed by a

participating member, deferred member under this chapter, refund beneficiary, or other person that has a claim to a distribution or any other benefit from a plan governed by this chapter.

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

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

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

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

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

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

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

Page 24, line 6, replace "January 1, 2024, if before that" with "the"

Page 24, line 6, after "date" insert "which must be before January 1, 2025, identified in a certification by"

Page 24, line 6, after "board" insert ", only if the board"

Page 24, line 8, replace "December 31, 2023" with "the day before the date identified by the board"

Page 24, line 9, replace "January 1, 2024" with "the date identified by the board"

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

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

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1548: Joint Policy Committee (Rep. Thomas, Co-Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1548 was placed on the Sixth order on the calendar.

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

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

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

Page 1, line 3, remove "and"

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

Page 1, after line 6, insert:

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

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

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

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

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

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

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

- b. If a teacher terminates eligible employment under the fund, if that teacher has not received a refund of member contributions, and if that teacher begins eligible employment in a plan described in paragraph 1 or 2 of subdivision a, that teacher may elect to remain an inactive member of the fund without refund of contributions. The board shall terminate the inactive status of a teacher under this subdivision if the teacher gains eligible employment under this chapter or if the teacher terminates eligible employment under a plan described in paragraph 1 or 2 of subdivision a.
- c. Pursuant to rules adopted by the board, a teacher who has service credit in the fund and in any number of the alternate plans described in paragraphs 1 and 2 of subdivision a is entitled to benefits under this chapter.
 - (1) A tier one member may elect to have benefits calculated using the benefit formula in subsection 2 of section 15-39.1-10 under either of the following calculation methods:
 - (a) Using the three highest certified fiscal year salaries of this plan in the computation of final average salary and all service credit earned in this plan; or
 - (b) Using the three highest certified fiscal year salaries of this plan combined with the alternate plan in the computation of final average salary and service credit not to exceed one year in any fiscal year when combined with the service credit earned in the alternate retirement plan.
 - (2) A tier two member may elect to have benefits calculated using the benefit formula in subsection 2 of section 15-39.1-10 under either of the following calculation methods:
 - (a) Using the five highest certified fiscal year salaries of this plan in the computation of final average salary and all service credit earned in this plan; or
 - (b) Using the five highest certified fiscal year salaries of this plan combined with the alternate plan in the computation of final average salary and service credit not to exceed one year in any fiscal year when combined with the service credit earned in the alternate retirement plan.
- 2. a. If a teacher, who is eligible to participate in this fund, is also eligible to participate in an alternate retirement system, the employee is a member of the teachers' fund for retirement for duties covered under this fund, and the employee is also a member of the public employees retirement system or highway patrolmen's retirement system for duties covered by those alternate retirement systems. The employers shall pay the member and employer contributions at the rates currently existing for the applicable system.
- b. If a teacher described in subdivision a was employed prior to August 1, 2003, and has dual member rights, the teacher may elect to begin participation in the alternate plan pursuant to the plan provisions on August 1, 2003, or may continue participation pursuant to the plan provisions in effect on July 31, 2003. A plan participation election is required by five p.m. on October 31, 2003. If an election is not received by the retirement plan, the participation and benefit calculation requirements of this chapter as of July 31, 2003, continue to be in effect for the teacher.

3. Under rules adopted by the board, an individual whose service credit was canceled when that individual received a refund of assessments at termination of employment under this chapter may, while that individual participates in a plan described in paragraph 1 or 2 of subdivision a of subsection 1, repurchase that service credit that was canceled.

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

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

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

1. "Account balance" means the total contributions made by the employee, vested employer contributions under section 54-52-11.1, the vested portion of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the board.
2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
3. "Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.
4. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. Eligible employee does not include nonclassified state employees who elect to become members of the retirement plan established under chapter 54-52.6 but does include employees of the judicial branch and employees of the board of higher education and state institutions under the jurisdiction of the board.
5. "Employee" means any individual employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.
6. "Employer" means a governmental unit.
7. "Firefighter" means a participating member who is employed as a firefighter by a political subdivision and, notwithstanding subsection 13, for an individual employed after July 31, 2017, is employed at least thirty-two hours per week and at least twenty weeks each year of employment. A firefighter who is a participating member of the law enforcement retirement plan created by this chapter who begins employment after July 31, 2017, is ineligible to participate concurrently in any other retirement plan administered by the public employees

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

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

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

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

officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.

7. "Employer" means a governmental unit.
8. "Firefighter" means a participating member who is employed as a firefighter by a political subdivision and, notwithstanding subsection 13, for an individual employed after July 31, 2017, is employed at least thirty-two hours per week and at least twenty weeks each year of employment. A firefighter who is a participating member of the law enforcement retirement plan created by this chapter who begins employment after July 31, 2017, is ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system. The term does not include a firefighter employee of the North Dakota national guard.
9. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution which the retirement board may select to hold and invest the employers' and members' contributions.
10. "Governmental unit" means the state of North Dakota, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision of the state.
11. "National guard security officer or firefighter" means a participating member who is:
 - a. A security police employee of the North Dakota national guard; or
 - b. A firefighter employee of the North Dakota national guard.
12. "Participating member" means an eligible employee who through payment into the plan has established a claim against the plan.
13. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the state, except by the highway patrol for members of the retirement plan created under chapter 39-03.1, or is employed by a political subdivision and, notwithstanding subsection 14, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. A peace officer who is a participating member of the law enforcement retirement plan created by this chapter who begins employment after August 1, 2005, is ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.
14. "Permanent employee" means an employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least twenty weeks each year of employment.
15. "Prior service" means service or employment before July 1, 1966.
16. "Prior service credit" means such credit toward a retirement benefit as the retirement board may determine under the provisions of this chapter.
17. "Public employees retirement system" means the retirement plan and program established by this chapter.

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

Page 1, line 10, overstrike "**December 31,**"

Page 1, line 10, replace "**2023**" with "**the day before the effective date of this Act**"

Page 1, line 18, overstrike "**after December 31,**"

Page 1, line 18, replace "**2023**" with "**on the effective date of this Act**"

Page 1, line 19, overstrike "January 1,"

Page 1, line 19, replace "**2024**" with "**the effective date of this Act**"

Page 2, line 1, overstrike "December 31,"

Page 2, line 1, replace "**2023**" with "**the day before the effective date of this Act**"

Page 2, line 12, overstrike "**December 31,**"

Page 2, line 13, replace "**2023**" with "**the day before the effective date of this Act**"

Page 3, line 7, overstrike "**after December 31,**"

Page 3, line 7, replace "**2023**" with "**on the effective date of this Act**"

Page 3, line 8, overstrike "January 1,"

Page 3, line 8, replace "2024" with "the effective date of this Act"

Page 3, line 15, remove the overstrike over "2025"

Page 3, line 15, remove "2024"

Page 3, line 25, overstrike "January 1,"

Page 3, line 25, replace "2024" with "the effective date of this Act"

Page 3, line 26, overstrike "December 31,"

Page 3, line 26, replace "2023" with "the day before the effective date of this Act"

Page 3, line 28, overstrike "December 31,"

Page 3, line 28, replace "2023" with "the day before the effective date of this Act"

Page 4, line 10, overstrike "**December 31,**"

Page 4, line 10, replace "2023" with "**the day before the effective date of this Act**"

Page 4, line 13, overstrike "after"

Page 4, line 14, overstrike "**December 31,**"

Page 4, line 14, replace "2023" with "**on the effective date of this Act**"

Page 4, line 15, overstrike "January 1,"

Page 4, line 15, replace "2024" with "the effective date of this Act"

Page 4, line 18, overstrike "December 31,"

Page 4, line 18, replace "2023" with "the day before the effective date of this Act"

Page 4, line 24, overstrike "**December 31,**"

Page 4, line 24, replace "2023" with "**the day before the effective date of this Act**"

Page 4, line 28, overstrike "after"

Page 4, line 29, overstrike "**December 31,**"

Page 4, line 29, replace "2023" with "**on the effective date of this Act**"

Page 4, line 31, overstrike "January 1,"

Page 4, line 31, replace "2024" with "the effective date of this Act"

Page 5, line 3, overstrike "December 31,"

Page 5, line 3, replace "2023" with "the day before the effective date of this Act"

Page 5, line 9, overstrike "**after December 31,**"

Page 5, line 9, replace "2023" with "**on the effective date of this Act**"

Page 5, line 13, overstrike "December 31,"

Page 5, line 13, replace "2023" with "the day before the effective date of this Act"

Page 5, line 17, overstrike "January 1,"

Page 5, line 17, replace "2024" with "on the effective date of this Act"

Page 5, line 20, overstrike "January 1,"

Page 5, line 20, replace "2024" with "the effective date of this Act"

Page 5, line 21, overstrike "December 31,"

Page 5, line 21, replace "2023" with "the day before the effective date of this Act"

Page 5, line 22, overstrike "January 1,"

Page 5, line 22, replace "2024" with "on the effective date of this Act"

Page 6, line 9, overstrike "January 1,"

Page 6, line 9, replace "2024" with "the effective date of this Act"

Page 6, after line 12, insert:

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

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

1. Every eligible participating political subdivision employee, at the time the political subdivision joins the plan must so state in writing if the employee concurs in the plan and all future eligible employees of the participating political subdivision are participating members in the plan and must be enrolled in the plan within the first month of employment. Except as otherwise provided by law, every other eligible governmental unit employee of a participating governmental unit is a participating member in the plan and must be enrolled in the plan within the first month of employment. An employee who was not enrolled in the retirement system when eligible to participate must be enrolled immediately upon notice of the employee's eligibility, unless the employee waives in writing the employee's right to participate for the previous time of eligibility, to avoid contributing to the fund for past service. An employee who is eligible for normal retirement who accepts a retirement benefit under this chapter and who subsequently becomes employed with a participating employer other than the employer with which the employee was employed at the time the employee retired under this chapter may, before being re-enrolled in the retirement plan within the first month of employment, elect to permanently waive future participation in the retirement plan and the retiree health program and maintain that employee's retirement status. An employee making this election is not required to make any future employee contributions to the public employees retirement system nor is the employee's employer required to make any further contributions on behalf of that employee.
2. Each member must be assessed and required to pay monthly four percent of the monthly salary or wage paid to the member, and such assessment must be deducted and retained out of such salary in equal monthly installments commencing with the first month of employment. Member contributions increase by one percent of the monthly salary or wage paid to the member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning

with the monthly reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014.

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

Membership and assessments - Employer payment of employee contributions. (Effective after December 31, 2024 on the effective date of this Act)

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

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

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

under this subsection may not be included as gross income of the member in determining tax treatment under this code and the Internal Revenue Code until the contributions are distributed or made available. Contributions paid by the employer in accordance with this subsection must be treated for the purposes of this chapter in the same manner and to the same extent as member contributions made before the date the contributions were assumed by the employer. The employer shall pay these member contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee. The employer shall continue making payments under this section unless otherwise specifically provided for under the agency's biennial appropriation or by amendment to law.

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

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

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

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

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

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

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

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

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

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

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

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

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

earned while employed by North Dakota institutions of higher education.

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

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

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

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

Page 6, line 17, overstrike "December 31,"

Page 6, line 17, replace "2023" with "the day before the effective date of this Act"

Page 6, line 27, overstrike "**December 31,**"

Page 6, line 27, replace "**2023**" with "**the day before the effective date of this Act**"

Page 7, line 27, overstrike "**after December 31,**"

Page 7, line 27, replace "**2023**" with "**on the effective date of this Act**"

Page 8, line 2, overstrike "December 31,"

Page 8, line 2, replace "2023" with "the day before the effective date of this Act"

Page 8, line 4, overstrike "January 1,"

Page 8, line 4, replace "2024" with "the effective date of this Act"

Page 9, line 1, overstrike "**December 31,**"

Page 9, line 1, replace "**2023**" with "**the day before the effective date of this Act**"

Page 13, line 1, overstrike "**December 31,**"

Page 13, line 1, replace the first "**2023**" with "**the day before the effective date of this Act**"

Page 13, line 1, overstrike "**after December 31,**"

Page 13, line 1, replace the second "**2023**" with "**on the effective date of this Act**"

Page 13, line 22, overstrike "January 1,"

Page 13, line 22, replace "2024" with "the effective date of this Act"

Page 13, line 30, overstrike "January 1,"

Page 13, line 30, replace "2024" with "the effective date of this Act"

Page 16, line 25, overstrike "December 31,"

Page 16, line 25, replace "2023" with "the day before the effective date of this Act"

Page 17, line 1, overstrike "**after**"

Page 17, line 2, overstrike "**December 31,**"

Page 17, line 2, replace "**2023**" with "**on the effective date of this Act**"

Page 17, line 4, overstrike "January 1,"

Page 17, line 4, replace "2024" with "on the effective date of this Act"

Page 17, line 14, overstrike "**December 31,**"

Page 17, line 14, replace "**2023**" with "**the day before the effective date of this Act**"

Page 17, line 15, overstrike "**after December 31,**"

Page 17, line 15, replace "**2023**" with "**on the effective date of this Act**"

Page 17, line 17, overstrike "December 31,"

Page 17, line 17, replace "2023" with "the day before the effective date of this Act"

Page 17, line 21, overstrike "from January 1,"

Page 17, line 21, replace "2024" with "beginning on the effective date of this Act"

Page 17, line 22, overstrike "through March 31,"

Page 17, line 22, remove "2024"

Page 17, line 22, overstrike the second comma

Page 18, line 10, overstrike "January 1,"

Page 18, line 10, replace "2024" with "the effective date of this Act"

Page 18, line 20, overstrike the first "January"

Page 18, line 20, replace "2025" with "one year after the effective date of this Act"

Page 18, line 20, overstrike the second "January"

Page 18, line 20, replace "2027" with "three years following the effective date of this Act"

Page 18, line 28, overstrike "**December 31,**"

Page 18, line 29, replace "**2023**" with "**the day before the effective date of this Act**"

Page 19, line 19, overstrike "**after December 31,**"

Page 19, line 19, replace "**2023**" with "**on the effective date of this Act**"

Page 20, line 10, overstrike "January 1,"

Page 20, line 10, replace "2024" with "the effective date of this Act"

Page 20, after line 11, insert:

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

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

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

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

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

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

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

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

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

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

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

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

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

Credit of transfers. (Effective after December 31, 2024on the effective date of this Act) The board promptly shall credit the plan account of a participating member who makes an election under section 54-52.6-02 to terminate membership in the public employees retirement system under chapter 54-52 with any amount transferred from the public employees retirement system."

Page 20, line 14, overstrike "**December 31,**"

Page 20, line 14, replace "**2023**" with "**the day before the effective date of this Act**"

Page 22, line 3, overstrike "**after December 31,**"

Page 22, line 3, replace "**2023**" with "**on the effective date of this Act**"

Page 22, line 5, overstrike "January 1,"

Page 22, line 5, replace "**2024**" with "**the effective date of this Act**"

Page 22, line 9, overstrike "December 31,"

Page 22, line 9, replace "**2023**" with "**the day before the effective date of this Act**"

Page 22, line 18, overstrike "January 1,"

Page 22, line 18, replace "**2024**" with "**the effective date of this Act**"

Page 22, line 23, overstrike "December 31,"

Page 22, line 23, replace "**2023**" with "**the day before the effective date of this Act**"

Page 24, after line 2, insert:

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

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

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

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

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

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

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

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

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

1. A participating member is immediately one hundred percent vested in that member's contributions made to that member's account under this chapter. A participating member vests in the employer contributions made on that member's behalf to an account under this chapter according to the following schedule:
 - a. Upon completion of two years of service, fifty percent.
 - b. Upon completion of three years of service, seventy-five percent.
 - c. Upon completion of four years of service, one hundred percent.
2. A participating member also becomes one hundred percent vested in the employer contributions upon reaching age sixty-five. A participating

member who was a member or deferred member of the public employees retirement system under chapter 54-52 who makes an election to participate in the defined contribution retirement plan under section 54-52.6-02 or 54-52.6-02.2 must be credited with the years of service accrued under the public employees retirement system on the effective date of participation in the defined contribution retirement plan for the purpose of meeting vesting requirements for benefits under this section. Any forfeiture as a result of the failure of a participating member to vest in the employer contribution must be deposited in the administrative expenses account.

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

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

1. A participating member is eligible to receive distribution of that person's accumulated balance in the plan upon becoming a former participating member.
2. Upon the death of a participating member or former participating member, the board shall pay the accumulated account balance of that deceased participant to the deceased participant's refund beneficiary, if any, as provided in this subsection. If the deceased participant designated an alternate refund beneficiary with the surviving spouse's written consent, the board shall distribute the accumulated balance to the named beneficiary. If the deceased participant named more than one primary beneficiary with the surviving spouse's written consent, the board shall pay the accumulated account balance to the named primary beneficiaries in the percentages designated by the deceased participant or, if the deceased participant had not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the deceased participant, the board shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If any beneficiary survives the deceased participant, yet dies before distribution of the beneficiary's share, the beneficiary must be treated as if the beneficiary predeceased the deceased participant. If there is no remaining primary beneficiary, the board shall pay the accumulated account balance of that deceased participant to the contingent beneficiaries in the same manner. If there is no remaining designated beneficiary, the board shall pay the accumulated account balance of that deceased participant to the deceased participant's estate. If the deceased participant had not designated an alternate refund beneficiary or the surviving spouse is the refund beneficiary, the surviving spouse of the deceased participant may select a form of payment as provided in subdivision d of subsection 3.
3. A former participating member may elect one or a combination of several of the following methods of distribution of the accumulated balance:
 - a. A lump sum distribution to the recipient.
 - b. A lump sum direct rollover to another qualified plan, to the extent allowed by federal law.
 - c. Periodic distributions, as authorized by the board.
 - d. No current distribution, in which case the accumulated balance must remain in the plan until the former participating member or refund

beneficiary elects a method or methods of distribution under this section, to the extent allowed by federal law.

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

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

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

1. A participating member is eligible to receive distribution of that individual's accumulated balance in the plan upon becoming a former participating member.
2. Upon the death of a participating member or former participating member, the board shall pay the accumulated account balance of that deceased participant to the deceased participant's refund beneficiary, if any, as provided in this subsection. If the deceased participant designated an alternate refund beneficiary with the surviving spouse's written consent, the board shall distribute the accumulated balance to the named beneficiary. If the deceased participant named more than one primary beneficiary with the surviving spouse's written consent, the board shall pay the accumulated account balance to the named primary beneficiaries in the percentages designated by the deceased participant or, if the deceased participant had not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the deceased participant, the board shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If any beneficiary survives the deceased participant, yet dies before distribution of the beneficiary's share, the beneficiary must be treated as if the beneficiary predeceased the deceased participant. If there is no remaining primary beneficiary, the board shall pay the accumulated account balance of that deceased participant to the contingent beneficiaries in the same manner. If there is no remaining designated beneficiary, the board shall pay the accumulated account balance of that deceased participant to the deceased participant's estate. If the deceased participant had not designated an alternate refund beneficiary or the surviving spouse is the refund beneficiary, the surviving spouse of the deceased participant may select a form of payment as provided in subdivision d of subsection 3.
3. a. A former participating member may elect one or a combination of several of the following methods of distribution of the accumulated balance:
 - (1) A lump sum distribution to the recipient.
 - (2) A lump sum direct rollover to another qualified plan, to the extent allowed by federal law.
 - (3) Periodic distributions, including annuities, as authorized by the board.

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

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

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

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

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

1. The board shall provide information to employees who are eligible under section 54-52.6-02 or 54-52.6-02.2 to elect to become participating members under this chapter. The information must include at a minimum the employee's current account balance, the assumption of investment risk under a defined contribution retirement plan, administrative and investment costs, coordination of benefits information, and a comparison of projected retirement benefits under the public employees retirement system under chapter 54-52 and the retirement plan established under this chapter.
2. The board, or the board's vendor, shall provide to all participating members of the defined contribution retirement plan, including individuals who elected to become participating members under section 54-52.6-02 or 54-52.6-02.2:
 - a. Enrollment information that includes benefits of the defined contribution retirement plan, investment options available, the assumption of risk, and administrative and investment costs.
 - b. Ongoing investment and retirement income planning, including education on how to set, measure, and adjust income and saving goals based on desired retirement income and financial objectives, actual behavior, and changing circumstances.

- c. Retirement income education, including distribution options available and in-plan annuitization options.
 - d. Advice and guidance information, tools, and services primarily focused on long-term planning and investing and life events that potentially influence and impact retirement savings.
3. Notwithstanding any other provision of law, the board is not liable for any election or investment decision made by an ~~employee~~individual based upon information provided to an ~~employee~~individual under this chapter.

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

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

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

Overpayments. (Effective after December 31, 2024on the effective date of this Act) The board has the right of setoff to recover overpayments made under this chapter and to satisfy any claims arising from embezzlement or fraud committed by a participating member, deferred member under this chapter, refund beneficiary, or other person that has a claim to a distribution or any other benefit from a plan governed by this chapter.

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

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

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

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

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

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

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

Page 24, line 6, replace "January 1, 2024, if before that" with "the"

Page 24, line 6, after "date" insert "which must be before January 1, 2025, identified in a certification by"

Page 24, line 6, after "board" insert ", only if the board"

Page 24, line 8, replace "December 31, 2023" with "the day before the date identified by the board"

Page 24, line 9, replace "January 1, 2024" with "the date identified by the board"

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

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

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1548: Joint Policy Committee (Sen. Klein, Co-Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1548 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

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

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

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

Page 1, line 3, remove "and"

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

Page 1, after line 6, insert:

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

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

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

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

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

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

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

- b. If a teacher terminates eligible employment under the fund, if that teacher has not received a refund of member contributions, and if that teacher begins eligible employment in a plan described in paragraph 1 or 2 of subdivision a, that teacher may elect to remain an inactive member of the fund without refund of contributions. The board shall terminate the inactive status of a teacher under this subdivision if the teacher gains eligible employment under this chapter or if the teacher terminates eligible employment under a plan described in paragraph 1 or 2 of subdivision a.
- c. Pursuant to rules adopted by the board, a teacher who has service credit in the fund and in any number of the alternate plans described in paragraphs 1 and 2 of subdivision a is entitled to benefits under this chapter.
 - (1) A tier one member may elect to have benefits calculated using the benefit formula in subsection 2 of section 15-39.1-10 under either of the following calculation methods:
 - (a) Using the three highest certified fiscal year salaries of this plan in the computation of final average salary and all service credit earned in this plan; or
 - (b) Using the three highest certified fiscal year salaries of this plan combined with the alternate plan in the computation of final average salary and service credit not to exceed one year in any fiscal year when combined with the service credit earned in the alternate retirement plan.
 - (2) A tier two member may elect to have benefits calculated using the benefit formula in subsection 2 of section 15-39.1-10 under either of the following calculation methods:
 - (a) Using the five highest certified fiscal year salaries of this plan in the computation of final average salary and all service credit earned in this plan; or
 - (b) Using the five highest certified fiscal year salaries of this plan combined with the alternate plan in the computation of final average salary and service credit not to exceed one year in any fiscal year when combined with the service credit earned in the alternate retirement plan.
- 2. a. If a teacher, who is eligible to participate in this fund, is also eligible to participate in an alternate retirement system, the employee is a member of the teachers' fund for retirement for duties covered under this fund, and the employee is also a member of the public employees retirement system or highway patrolmen's retirement system for duties covered by those alternate retirement systems. The employers shall pay the member and employer contributions at the rates currently existing for the applicable system.
- b. If a teacher described in subdivision a was employed prior to August 1, 2003, and has dual member rights, the teacher may elect to begin participation in the alternate plan pursuant to the plan provisions on August 1, 2003, or may continue participation pursuant to the plan provisions in effect on July 31, 2003. A plan participation election is required by five p.m. on October 31, 2003. If an election is not received by the retirement plan, the participation and benefit calculation requirements of this chapter as of July 31, 2003, continue to be in effect for the teacher.

3. Under rules adopted by the board, an individual whose service credit was canceled when that individual received a refund of assessments at termination of employment under this chapter may, while that individual participates in a plan described in paragraph 1 or 2 of subdivision a of subsection 1, repurchase that service credit that was canceled.

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

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

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

1. "Account balance" means the total contributions made by the employee, vested employer contributions under section 54-52-11.1, the vested portion of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the board.
2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
3. "Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.
4. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. Eligible employee does not include nonclassified state employees who elect to become members of the retirement plan established under chapter 54-52.6 but does include employees of the judicial branch and employees of the board of higher education and state institutions under the jurisdiction of the board.
5. "Employee" means any individual employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.
6. "Employer" means a governmental unit.
7. "Firefighter" means a participating member who is employed as a firefighter by a political subdivision and, notwithstanding subsection 13, for an individual employed after July 31, 2017, is employed at least thirty-two hours per week and at least twenty weeks each year of employment. A firefighter who is a participating member of the law enforcement retirement plan created by this chapter who begins employment after July 31, 2017, is ineligible to participate concurrently in any other retirement plan administered by the public employees

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

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

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

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

officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.

7. "Employer" means a governmental unit.
8. "Firefighter" means a participating member who is employed as a firefighter by a political subdivision and, notwithstanding subsection 13, for an individual employed after July 31, 2017, is employed at least thirty-two hours per week and at least twenty weeks each year of employment. A firefighter who is a participating member of the law enforcement retirement plan created by this chapter who begins employment after July 31, 2017, is ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system. The term does not include a firefighter employee of the North Dakota national guard.
9. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution which the retirement board may select to hold and invest the employers' and members' contributions.
10. "Governmental unit" means the state of North Dakota, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision of the state.
11. "National guard security officer or firefighter" means a participating member who is:
 - a. A security police employee of the North Dakota national guard; or
 - b. A firefighter employee of the North Dakota national guard.
12. "Participating member" means an eligible employee who through payment into the plan has established a claim against the plan.
13. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the state, except by the highway patrol for members of the retirement plan created under chapter 39-03.1, or is employed by a political subdivision and, notwithstanding subsection 14, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. A peace officer who is a participating member of the law enforcement retirement plan created by this chapter who begins employment after August 1, 2005, is ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.
14. "Permanent employee" means an employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least twenty weeks each year of employment.
15. "Prior service" means service or employment before July 1, 1966.
16. "Prior service credit" means such credit toward a retirement benefit as the retirement board may determine under the provisions of this chapter.
17. "Public employees retirement system" means the retirement plan and program established by this chapter.

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

Page 1, line 10, overstrike "**December 31,**"

Page 1, line 10, replace "**2023**" with "**the day before the effective date of this Act**"

Page 1, line 18, overstrike "**after December 31,**"

Page 1, line 18, replace "**2023**" with "**on the effective date of this Act**"

Page 1, line 19, overstrike "January 1,"

Page 1, line 19, replace "**2024**" with "**the effective date of this Act**"

Page 2, line 1, overstrike "December 31,"

Page 2, line 1, replace "**2023**" with "**the day before the effective date of this Act**"

Page 2, line 12, overstrike "**December 31,**"

Page 2, line 13, replace "**2023**" with "**the day before the effective date of this Act**"

Page 3, line 7, overstrike "**after December 31,**"

Page 3, line 7, replace "**2023**" with "**on the effective date of this Act**"

Page 3, line 8, overstrike "January 1,"

Page 3, line 8, replace "2024" with "the effective date of this Act"

Page 3, line 15, remove the overstrike over "2025"

Page 3, line 15, remove "2024"

Page 3, line 25, overstrike "January 1,"

Page 3, line 25, replace "2024" with "the effective date of this Act"

Page 3, line 26, overstrike "December 31,"

Page 3, line 26, replace "2023" with "the day before the effective date of this Act"

Page 3, line 28, overstrike "December 31,"

Page 3, line 28, replace "2023" with "the day before the effective date of this Act"

Page 4, line 10, overstrike "**December 31,**"

Page 4, line 10, replace "2023" with "**the day before the effective date of this Act**"

Page 4, line 13, overstrike "after"

Page 4, line 14, overstrike "**December 31,**"

Page 4, line 14, replace "2023" with "**on the effective date of this Act**"

Page 4, line 15, overstrike "January 1,"

Page 4, line 15, replace "2024" with "the effective date of this Act"

Page 4, line 18, overstrike "December 31,"

Page 4, line 18, replace "2023" with "the day before the effective date of this Act"

Page 4, line 24, overstrike "**December 31,**"

Page 4, line 24, replace "2023" with "**the day before the effective date of this Act**"

Page 4, line 28, overstrike "after"

Page 4, line 29, overstrike "**December 31,**"

Page 4, line 29, replace "2023" with "**on the effective date of this Act**"

Page 4, line 31, overstrike "January 1,"

Page 4, line 31, replace "2024" with "the effective date of this Act"

Page 5, line 3, overstrike "December 31,"

Page 5, line 3, replace "2023" with "the day before the effective date of this Act"

Page 5, line 9, overstrike "**after December 31,**"

Page 5, line 9, replace "2023" with "**on the effective date of this Act**"

Page 5, line 13, overstrike "December 31,"

Page 5, line 13, replace "2023" with "the day before the effective date of this Act"

Page 5, line 17, overstrike "January 1,"

Page 5, line 17, replace "2024" with "on the effective date of this Act"

Page 5, line 20, overstrike "January 1,"

Page 5, line 20, replace "2024" with "the effective date of this Act"

Page 5, line 21, overstrike "December 31,"

Page 5, line 21, replace "2023" with "the day before the effective date of this Act"

Page 5, line 22, overstrike "January 1,"

Page 5, line 22, replace "2024" with "on the effective date of this Act"

Page 6, line 9, overstrike "January 1,"

Page 6, line 9, replace "2024" with "the effective date of this Act"

Page 6, after line 12, insert:

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

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

1. Every eligible participating political subdivision employee, at the time the political subdivision joins the plan must so state in writing if the employee concurs in the plan and all future eligible employees of the participating political subdivision are participating members in the plan and must be enrolled in the plan within the first month of employment. Except as otherwise provided by law, every other eligible governmental unit employee of a participating governmental unit is a participating member in the plan and must be enrolled in the plan within the first month of employment. An employee who was not enrolled in the retirement system when eligible to participate must be enrolled immediately upon notice of the employee's eligibility, unless the employee waives in writing the employee's right to participate for the previous time of eligibility, to avoid contributing to the fund for past service. An employee who is eligible for normal retirement who accepts a retirement benefit under this chapter and who subsequently becomes employed with a participating employer other than the employer with which the employee was employed at the time the employee retired under this chapter may, before being re-enrolled in the retirement plan within the first month of employment, elect to permanently waive future participation in the retirement plan and the retiree health program and maintain that employee's retirement status. An employee making this election is not required to make any future employee contributions to the public employees retirement system nor is the employee's employer required to make any further contributions on behalf of that employee.
2. Each member must be assessed and required to pay monthly four percent of the monthly salary or wage paid to the member, and such assessment must be deducted and retained out of such salary in equal monthly installments commencing with the first month of employment. Member contributions increase by one percent of the monthly salary or wage paid to the member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning

with the monthly reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014.

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

Membership and assessments - Employer payment of employee contributions. (Effective after ~~December 31, 2024~~ on the effective date of this Act)

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

- enrolled in the plan within the first month of employment. Except as otherwise provided by law, every other eligible governmental unit employee of a participating governmental unit is a participating member in the plan and must be enrolled in the plan within the first month of employment. An employee who was not enrolled in the retirement system when eligible to participate must be enrolled immediately upon notice of the employee's eligibility, unless the employee waives in writing the employee's right to participate for the previous time of eligibility, to avoid contributing to the fund for past service. An employee who is eligible for normal retirement who accepts a retirement benefit under this chapter and who subsequently becomes employed with a participating employer other than the employer with which the employee was employed at the time the employee retired under this chapter may, before being re-enrolled in the retirement plan within the first month of employment, elect to permanently waive future participation in the retirement plan and the retiree health program and maintain that employee's retirement status. An employee making this election is not required to make any future employee contributions to the public employees retirement system nor is the employee's employer required to make any further contributions on behalf of that employee.
2. Each member must be assessed and required to pay monthly seven percent of the monthly salary or wage paid to the member, and such assessment must be deducted and retained out of such salary in equal monthly installments commencing with the first month of employment.
 3. Each employer, at its option, may pay all or a portion of the employee contributions required by subsection 2 and sections 54-52-06.1, 54-52-06.2, 54-52-06.3, and 54-52-06.4 or the employee contributions required to purchase service credit on a pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not receive the contributed amounts directly once the employer has elected to pay the employee contributions. The amount paid must be paid by the employer in lieu of contributions by the employee. If the state determines not to pay the contributions, the amount that would have been paid must continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the employer, they may not be included as gross income of the employee in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a contribution of a reduction in gross salary and offset against future salary increases. If employee contributions are paid by the employer, they must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made prior to the date on which employee contributions were assumed by the employer. An employer exercising its option under this subsection shall report its choice to the board in writing.
 4. For compensation earned after August 1, 2009, all employee contributions required under section 54-52-06.1 and the job service North Dakota retirement plan, and not otherwise paid under subsection 3, must be paid by the employer in lieu of contributions by the member. All contributions paid by the employer under this subsection must be treated as employer contributions in determining tax treatment under this code and the Internal Revenue Code. Contributions paid by the employer

under this subsection may not be included as gross income of the member in determining tax treatment under this code and the Internal Revenue Code until the contributions are distributed or made available. Contributions paid by the employer in accordance with this subsection must be treated for the purposes of this chapter in the same manner and to the same extent as member contributions made before the date the contributions were assumed by the employer. The employer shall pay these member contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee. The employer shall continue making payments under this section unless otherwise specifically provided for under the agency's biennial appropriation or by amendment to law.

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

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

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

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

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

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

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

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

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

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

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

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

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

earned while employed by North Dakota institutions of higher education.

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

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

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

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

Page 6, line 17, overstrike "December 31,"

Page 6, line 17, replace "2023" with "the day before the effective date of this Act"

Page 6, line 27, overstrike "**December 31,**"

Page 6, line 27, replace "**2023**" with "**the day before the effective date of this Act**"

Page 7, line 27, overstrike "**after December 31,**"

Page 7, line 27, replace "**2023**" with "**on the effective date of this Act**"

Page 8, line 2, overstrike "December 31,"

Page 8, line 2, replace "2023" with "the day before the effective date of this Act"

Page 8, line 4, overstrike "January 1,"

Page 8, line 4, replace "2024" with "the effective date of this Act"

Page 9, line 1, overstrike "**December 31,**"

Page 9, line 1, replace "**2023**" with "**the day before the effective date of this Act**"

Page 13, line 1, overstrike "**December 31,**"

Page 13, line 1, replace the first "**2023**" with "**the day before the effective date of this Act**"

Page 13, line 1, overstrike "**after December 31,**"

Page 13, line 1, replace the second "**2023**" with "**on the effective date of this Act**"

Page 13, line 22, overstrike "January 1,"

Page 13, line 22, replace "2024" with "the effective date of this Act"

Page 13, line 30, overstrike "January 1,"

Page 13, line 30, replace "2024" with "the effective date of this Act"

Page 16, line 25, overstrike "December 31,"

Page 16, line 25, replace "2023" with "the day before the effective date of this Act"

Page 17, line 1, overstrike "**after**"

Page 17, line 2, overstrike "**December 31,**"

Page 17, line 2, replace "**2023**" with "**on the effective date of this Act**"

Page 17, line 4, overstrike "January 1,"

Page 17, line 4, replace "2024" with "on the effective date of this Act"

Page 17, line 14, overstrike "**December 31,**"

Page 17, line 14, replace "**2023**" with "**the day before the effective date of this Act**"

Page 17, line 15, overstrike "**after December 31,**"

Page 17, line 15, replace "**2023**" with "**on the effective date of this Act**"

Page 17, line 17, overstrike "December 31,"

Page 17, line 17, replace "2023" with "the day before the effective date of this Act"

Page 17, line 21, overstrike "from January 1,"

Page 17, line 21, replace "2024" with "beginning on the effective date of this Act"

Page 17, line 22, overstrike "through March 31,"

Page 17, line 22, remove "2024"

Page 17, line 22, overstrike the second comma

Page 18, line 10, overstrike "January 1,"

Page 18, line 10, replace "2024" with "the effective date of this Act"

Page 18, line 20, overstrike the first "January"

Page 18, line 20, replace "2025" with "one year after the effective date of this Act"

Page 18, line 20, overstrike the second "January"

Page 18, line 20, replace "2027" with "three years following the effective date of this Act"

Page 18, line 28, overstrike "**December 31,**"

Page 18, line 29, replace "**2023**" with "**the day before the effective date of this Act**"

Page 19, line 19, overstrike "**after December 31,**"

Page 19, line 19, replace "**2023**" with "**on the effective date of this Act**"

Page 20, line 10, overstrike "January 1,"

Page 20, line 10, replace "2024" with "the effective date of this Act"

Page 20, after line 11, insert:

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

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

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

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

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

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

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

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

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

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

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

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

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

Credit of transfers. (Effective after December 31, 2024on the effective date of this Act) The board promptly shall credit the plan account of a participating member who makes an election under section 54-52.6-02 to terminate membership in the public employees retirement system under chapter 54-52 with any amount transferred from the public employees retirement system."

Page 20, line 14, overstrike "**December 31,**"

Page 20, line 14, replace "**2023**" with "**the day before the effective date of this Act**"

Page 22, line 3, overstrike "**after December 31,**"

Page 22, line 3, replace "**2023**" with "**on the effective date of this Act**"

Page 22, line 5, overstrike "January 1,"

Page 22, line 5, replace "**2024**" with "**the effective date of this Act**"

Page 22, line 9, overstrike "December 31,"

Page 22, line 9, replace "**2023**" with "**the day before the effective date of this Act**"

Page 22, line 18, overstrike "January 1,"

Page 22, line 18, replace "**2024**" with "**the effective date of this Act**"

Page 22, line 23, overstrike "December 31,"

Page 22, line 23, replace "**2023**" with "**the day before the effective date of this Act**"

Page 24, after line 2, insert:

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

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

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

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

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

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

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

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

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

1. A participating member is immediately one hundred percent vested in that member's contributions made to that member's account under this chapter. A participating member vests in the employer contributions made on that member's behalf to an account under this chapter according to the following schedule:
 - a. Upon completion of two years of service, fifty percent.
 - b. Upon completion of three years of service, seventy-five percent.
 - c. Upon completion of four years of service, one hundred percent.
2. A participating member also becomes one hundred percent vested in the employer contributions upon reaching age sixty-five. A participating

member who was a member or deferred member of the public employees retirement system under chapter 54-52 who makes an election to participate in the defined contribution retirement plan under section 54-52.6-02 or 54-52.6-02.2 must be credited with the years of service accrued under the public employees retirement system on the effective date of participation in the defined contribution retirement plan for the purpose of meeting vesting requirements for benefits under this section. Any forfeiture as a result of the failure of a participating member to vest in the employer contribution must be deposited in the administrative expenses account.

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

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

1. A participating member is eligible to receive distribution of that person's accumulated balance in the plan upon becoming a former participating member.
2. Upon the death of a participating member or former participating member, the board shall pay the accumulated account balance of that deceased participant to the deceased participant's refund beneficiary, if any, as provided in this subsection. If the deceased participant designated an alternate refund beneficiary with the surviving spouse's written consent, the board shall distribute the accumulated balance to the named beneficiary. If the deceased participant named more than one primary beneficiary with the surviving spouse's written consent, the board shall pay the accumulated account balance to the named primary beneficiaries in the percentages designated by the deceased participant or, if the deceased participant had not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the deceased participant, the board shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If any beneficiary survives the deceased participant, yet dies before distribution of the beneficiary's share, the beneficiary must be treated as if the beneficiary predeceased the deceased participant. If there is no remaining primary beneficiary, the board shall pay the accumulated account balance of that deceased participant to the contingent beneficiaries in the same manner. If there is no remaining designated beneficiary, the board shall pay the accumulated account balance of that deceased participant to the deceased participant's estate. If the deceased participant had not designated an alternate refund beneficiary or the surviving spouse is the refund beneficiary, the surviving spouse of the deceased participant may select a form of payment as provided in subdivision d of subsection 3.
3. A former participating member may elect one or a combination of several of the following methods of distribution of the accumulated balance:
 - a. A lump sum distribution to the recipient.
 - b. A lump sum direct rollover to another qualified plan, to the extent allowed by federal law.
 - c. Periodic distributions, as authorized by the board.
 - d. No current distribution, in which case the accumulated balance must remain in the plan until the former participating member or refund

beneficiary elects a method or methods of distribution under this section, to the extent allowed by federal law.

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

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

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

1. A participating member is eligible to receive distribution of that individual's accumulated balance in the plan upon becoming a former participating member.
2. Upon the death of a participating member or former participating member, the board shall pay the accumulated account balance of that deceased participant to the deceased participant's refund beneficiary, if any, as provided in this subsection. If the deceased participant designated an alternate refund beneficiary with the surviving spouse's written consent, the board shall distribute the accumulated balance to the named beneficiary. If the deceased participant named more than one primary beneficiary with the surviving spouse's written consent, the board shall pay the accumulated account balance to the named primary beneficiaries in the percentages designated by the deceased participant or, if the deceased participant had not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the deceased participant, the board shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If any beneficiary survives the deceased participant, yet dies before distribution of the beneficiary's share, the beneficiary must be treated as if the beneficiary predeceased the deceased participant. If there is no remaining primary beneficiary, the board shall pay the accumulated account balance of that deceased participant to the contingent beneficiaries in the same manner. If there is no remaining designated beneficiary, the board shall pay the accumulated account balance of that deceased participant to the deceased participant's estate. If the deceased participant had not designated an alternate refund beneficiary or the surviving spouse is the refund beneficiary, the surviving spouse of the deceased participant may select a form of payment as provided in subdivision d of subsection 3.
3. a. A former participating member may elect one or a combination of several of the following methods of distribution of the accumulated balance:
 - (1) A lump sum distribution to the recipient.
 - (2) A lump sum direct rollover to another qualified plan, to the extent allowed by federal law.
 - (3) Periodic distributions, including annuities, as authorized by the board.

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

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

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

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

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

1. The board shall provide information to employees who are eligible under section 54-52.6-02 or 54-52.6-02.2 to elect to become participating members under this chapter. The information must include at a minimum the employee's current account balance, the assumption of investment risk under a defined contribution retirement plan, administrative and investment costs, coordination of benefits information, and a comparison of projected retirement benefits under the public employees retirement system under chapter 54-52 and the retirement plan established under this chapter.
2. The board, or the board's vendor, shall provide to all participating members of the defined contribution retirement plan, including individuals who elected to become participating members under section 54-52.6-02 or 54-52.6-02.2:
 - a. Enrollment information that includes benefits of the defined contribution retirement plan, investment options available, the assumption of risk, and administrative and investment costs.
 - b. Ongoing investment and retirement income planning, including education on how to set, measure, and adjust income and saving goals based on desired retirement income and financial objectives, actual behavior, and changing circumstances.

- c. Retirement income education, including distribution options available and in-plan annuitization options.
 - d. Advice and guidance information, tools, and services primarily focused on long-term planning and investing and life events that potentially influence and impact retirement savings.
3. Notwithstanding any other provision of law, the board is not liable for any election or investment decision made by an ~~employee~~individual based upon information provided to an ~~employee~~individual under this chapter.

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

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

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

Overpayments. (Effective after December 31, 2024on the effective date of this Act) The board has the right of setoff to recover overpayments made under this chapter and to satisfy any claims arising from embezzlement or fraud committed by a participating member, deferred member under this chapter, refund beneficiary, or other person that has a claim to a distribution or any other benefit from a plan governed by this chapter.

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

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

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

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

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

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

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

Page 24, line 6, replace "January 1, 2024, if before that" with "the"

Page 24, line 6, after "date" insert "which must be before January 1, 2025, identified in a certification by"

Page 24, line 6, after "board" insert ", only if the board"

Page 24, line 8, replace "December 31, 2023" with "the day before the date identified by the board"

Page 24, line 9, replace "January 1, 2024" with "the date identified by the board"

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

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

Renumber accordingly

TESTIMONY

HB 1548



North Dakota Legislative Council

Prepared for the Legislative Management
LC# 25.9140.01000
October 2023

SUMMARY OF REENACTMENT OF PROVISIONS RELATING TO THE EFFECTIVE DATE FOR THE PUBLIC EMPLOYEES RETIREMENT SYSTEM DEFINED CONTRIBUTION PLAN TRANSITION - LC# 23.1138.01000

This memorandum describes the bill draft [23.1138.01000], which reenacts the following sections of Senate Bill No. 2015 (2023):

- Sections 36 through 40 and 44 through 50, relating to the January 1, 2024, effective date of the transition from the Public Employees Retirement System (PERS) defined benefit retirement plan to a defined contribution retirement plan;
- Part of Section 59, relating to the exemption from the requirements of the Employee Benefits Programs Committee; and
- Section 66, providing for a contingent effective date. ([appendix](#))

SECTION 1

Section 1 reenacts Section 36 of Senate Bill No. 2015, which provides for the transition of newly elected and appointed state officials from the PERS defined benefit retirement plan to the defined contribution retirement plan effective January 1, 2024. This section, as well as Sections 2 through 12, do not become effective unless the contingency of Section 14 is met. If the contingency is not met, the transition to the defined contribution retirement plan occurs January 1, 2025.

SECTION 2

Section 2 reenacts Section 37 of Senate Bill No. 2015, which provides the opportunity for temporary employees to participate in the PERS defined contribution retirement plan effective January 1, 2024.

SECTION 3

Section 3 reenacts Section 38 of Senate Bill No. 2015, which provides for the transition of nonstate elected officials of participating counties from the PERS defined benefit retirement plan to the defined contribution retirement plan effective January 1, 2024.

SECTION 4

Section 4 reenacts Section 39 of Senate Bill No. 2015, which provides for the transition of nonstate appointed officials of participating employers from the PERS defined benefit retirement plan to the defined contribution retirement plan effective January 1, 2024.

SECTION 5

Section 5 reenacts Section 40 of Senate Bill No. 2015, which provides for the closure of the PERS defined benefit retirement plan to new hires and the transition of new hires to the defined contribution retirement plan effective January 1, 2024.

SECTION 6

Section 6 reenacts Section 44 of Senate Bill No. 2015, which provides for the PERS deferred compensation plan to provide for employer matching of certain employee contributions effective January 1, 2024.

SECTION 7

Section 7 reenacts Section 45 of Senate Bill No. 2015, which amends the definition of "eligible employee" used in the PERS defined contribution retirement plan law to provide for a distinction between employees who participated in the PERS defined contribution retirement plan before January 1, 2024, and after December 31, 2023.

SECTION 8

Section 8 reenacts Section 46 of Senate Bill No. 2015, which provides for closure of the existing PERS defined contribution retirement plan to new hires effective December 31, 2023.

SECTION 9

Section 9 reenacts Section 47 of Senate Bill No. 2015, which provides for new hires of eligible employees to transition into the new PERS defined contribution retirement plan effective January 1, 2024.

SECTION 10

Section 10 reenacts Section 48 of Senate Bill No. 2015, which provides an opportunity for recently hired state employees to elect to participate in the existing PERS defined contribution retirement plan effective December 31, 2023.

SECTION 11

Section 11 reenacts Section 49 of Senate Bill No. 2015, which provides for closure of the opportunity for eligible state employees to opt to participate in the existing PERS defined contribution retirement plan effective December 31, 2023.

SECTION 12

Section 12 reenacts Section 50 of Senate Bill No. 2015, which provides for a January 1, 2024, distinction between the contribution rates for eligible employees under the new and the existing PERS defined contribution retirement plans.

SECTION 13

Section 13 reenacts part of Section 59 of Senate Bill No. 2015, which provides the Act is not subject to the requirements of North Dakota Century Code Section 54-35-02.4, which establishes the powers and duties of the Employee Benefits Programs Committee. In effect, this section exempts the Act from the actuarial analysis requirement of Section 54-35-02.4.

SECTION 14

Section 14 reenacts Section 66 of Senate Bill No. 2015, which provides a contingent effective date for Sections 1 through 12 of the Act. This contingent effective date provides if before January 1, 2024, the PERS Board certifies to the Legislative Council that PERS is prepared to close the main system defined benefit retirement plan on December 31, 2023, the defined benefit plan will close December 31, 2023, and new hires will be transitioned to the defined contribution retirement plan effective January 1, 2024.

SECTION 15

Section 15 provides Sections 13 and 14, the provisions regarding the exemption of the Employee Benefits Programs Committee requirements and the contingent effective date, become effective on the date the Act is filed with the Secretary of State.

ATTACH:1

SECTION 66. CONTINGENT EFFECTIVE DATE. Sections 36 through 40 and sections 44 through 50 of this Act become effective on January 1, 2024, if before that date the retirement board certifies to the legislative council that the public employees retirement system is prepared to close the main system defined benefit retirement plan on December 31, 2023, and to open the new defined contribution retirement plan on January 1, 2024.

23.1172.01002
Title.

Prepared by the Legislative Council staff for
Representative Stemen
October 23, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1548

Page 1, line 3, replace "and" with "54-52.6-05,"

Page 1, line 3, after "54-52.6-09" insert ", and 54-52.6-15"

Page 20, after line 11, insert:

"SECTION 12. AMENDMENT. Section 54-52.6-05 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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

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

Page 24, after line 2, insert:

"SECTION 14. AMENDMENT. Section 54-52.6-15 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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

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

Page 24, line 5, replace "12" with "14"

Page 24, line 10, replace "13" with "15"

Page 24, line 10, replace "14" with "16"

Renumber accordingly

23.1172.01003
Title.

Prepared by the Legislative Council staff for
the Joint Policy Committee
October 23, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1548

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

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

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

Page 1, line 3, remove "and"

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

Page 1, after line 6, insert:

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

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

1. a. For the purpose of determining vesting of rights and eligibility for benefits under this chapter, a teacher's years of service credit is the total of the years of service credit earned in the fund and the years, with twelve months of compensation equal to a year, of service employment earned in any number of the following alternate plans:
 - (1) The public employees retirement system.
 - (2) The highway patrol troopers' retirement system.

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

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

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

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

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

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

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

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

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

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

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

54-52-01. Definition of terms. (Effective through December 31, 20242023)

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

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

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

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

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

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

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

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

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

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

Page 6, after line 12, insert:

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

54-52-05. Membership and assessments - Employer payment of employee contributions. (Effective through December 31, 20242023)

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

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

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

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

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

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

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

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

54-52-14.3. Public employee retirement funds - Use and investment. (Effective through December 31, 2024~~2023~~)

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

Public employee retirement funds - Use and investment. (Effective after December 31, 2024~~2023~~) Any provision of law relating to the use and investment of public employee retirement funds must be deemed a part of the employment contracts of the employees participating in any public employee retirement system. All moneys from any source paid into any public employee retirement system fund created by the laws of this state must be used and invested only for the exclusive benefit of the members, retirees, and beneficiaries of the retirement system, including the payment of system administrative costs.

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

54-52-17.2. Multiple plan membership - Eligibility for benefits - Amount of benefits. (Effective through December 31, 20242023)

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

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

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

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

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

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

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

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

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

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

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

Page 20, after line 11, insert:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Page 24, after line 2, insert:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Renumber accordingly

23.1172.01005

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~~2023 the 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~~2023 on**
19 **the effective date of this Act)**

20 1. After December 31, 1999, but before ~~January 1, 2025~~2024**the 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~~²⁰²³ on the**
11 **effective date of this Act)**

- 12 1. Before ~~January 1, 2025~~²⁰²⁴the 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~~²⁰²⁴.
- 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~~²⁰²⁴the effective date of this Act, who becomes a
30 permanent employee after ~~December 31, 2024~~²⁰²³the 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~~2023the 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~~2023the 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**~~**2023****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~~2024on 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~~²⁰²³the day before the effective date of**
2 **this Act - Additional employer contribution. (Effective ~~after December 31, 2024~~²⁰²³on 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~~²⁰²³the 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~~²⁰²⁴,
10 ~~through March 31, 2025~~²⁰²⁴beginning 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~~²⁰²⁴the 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~~2025 one year after the effective date of this Act, and
9 extending no further than ~~January 2028~~2027 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~~2023the 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~~2023 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~~2024**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~~²⁰²³the 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~~²⁰²⁴the 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~~²⁰²³the 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.

23.1172.01002

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 54-52.6-05,~~ 54-52.6-09, ~~and 54-52.6-15~~ of the North Dakota Century Code,
4 relating to the public employees retirement system retirement plans; to provide an exemption; to
5 provide a contingent effective 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~~2023~~)**

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~~2023~~)**

19 1. After December 31, 1999, but before January 1, ~~2025~~2024, 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, 20242023)**

- 8 1. Before January 1, 20252024, 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 20252024.
- 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, 20252024, who becomes a permanent employee after
26 December 31, 20242023, 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, 20242023, 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, ~~2024~~2023)** 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, ~~2024~~2023)**

- 3 1. Except as otherwise provided under section 54-52-02.5 or 54-52-02.15 or this chapter,
4 effective January 1, ~~2025~~2024, 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, ~~2024~~2023 - Additional employer**
15 **contribution. (Effective after December 31, ~~2024~~2023)**

- 16 1. As used in this section, "eligible employee" means a permanent state employee who
17 on December 31, ~~2024~~2023, 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, ~~2025~~2024,
22 through March 31, ~~2025~~2024, 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 54-52.6-05 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **54-52.6-05. Direction of investments. (Effective through December 31, ~~2024~~2023)**

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

18 **Direction of investments. (Effective after December 31, ~~2024~~2023)**

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

22 2. The board shall provide an investment menu of investment options. In establishing the
23 investment options, the board shall:

24 a. Include predetermined investment portfolio options constructed to reflect different
25 risk profiles that automatically reallocate and rebalance contributions as a
26 participating member ages.

27 b. Allow a participating member to construct an investment portfolio using some or
28 all of the investment options.

29 3. The board shall provide a diversified menu of mutual funds and in-plan lifetime annuity
30 options, either fixed, variable, or a combination of both. In selecting an annuity
31 provider the board shall comply with section 54-52.6-05.1.

1 4. This section applies to all defined contribution retirement plans regardless of the
2 effective date of the plan.

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

5 **54-52.6-09. Contributions - Penalty. (Effective through December 31, 2024~~2023~~)**

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

1 civil penalty or one percent per month, or both, interest at the actuarial rate of return
2 may be assessed for each month the contributions are delinquent. If contributions are
3 paid within ninety days of the date the contributions became due, penalty and interest
4 to be paid on delinquent contributions may be waived.

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

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

- 25 1. a. A participating member who first joined the defined contribution retirement plan
26 before January 1, 2025~~2024~~, and an employee who elects to participate in the
27 defined contribution plan under section 54-52.6-02.2, shall contribute monthly
28 seven percent of the monthly salary or wage paid to the participant.
- 29 b. A participating member who first joined the defined contribution retirement plan
30 after December 31, 2024~~2023~~, except for an employee who elects to participate
31 in the defined contribution plan under section 54-52.6-02.2, shall contribute

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

1 percent per month, or both, interest at the actuarial rate of return may be
2 assessed for each month the contributions are delinquent. If contributions are
3 paid within ninety days of the date the contributions became due, penalty and
4 interest to be paid on delinquent contributions may be waived.

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

24 **SECTION 14. AMENDMENT.** Section 54-52.6-15 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **54-52.6-15. Board to provide information. (Effective through December 31, ~~2024~~2023)**

27 The board shall provide information to employees who are eligible to elect to become
28 participating members under this chapter. The information must include at a minimum the
29 employee's current account balance, the assumption of investment risk under a defined
30 contribution retirement plan, administrative and investment costs, coordination of benefits
31 information, and a comparison of projected retirement benefits under the public employees

1 retirement system under chapter 54-52 and the retirement plan established under this chapter.
2 Notwithstanding any other provision of law, the board is not liable for any election or investment
3 decision made by an employee based upon information provided to an employee under this
4 chapter.

5 **Board to provide information. (Effective after December 31, 2024~~2023~~)**

- 6 1. The board shall provide information to employees who are eligible under section
7 54-52.6-02 or 54-52.6-02.2 to elect to become participating members under this
8 chapter. The information must include at a minimum the employee's current account
9 balance, the assumption of investment risk under a defined contribution retirement
10 plan, administrative and investment costs, coordination of benefits information, and a
11 comparison of projected retirement benefits under the public employees retirement
12 system under chapter 54-52 and the retirement plan established under this chapter.
- 13 2. The board, or the board's vendor, shall provide to all participating members of the
14 defined contribution retirement plan, including individuals who elected to become
15 participating members under section 54-52.6-02 or 54-52.6-02.2:
- 16 a. Enrollment information that includes benefits of the defined contribution
17 retirement plan, investment options available, the assumption of risk, and
18 administrative and investment costs.
- 19 b. Ongoing investment and retirement income planning, including education on how
20 to set, measure, and adjust income and saving goals based on desired
21 retirement income and financial objectives, actual behavior, and changing
22 circumstances.
- 23 c. Retirement income education, including distribution options available and in-plan
24 annuitization options.
- 25 d. Advice and guidance information, tools, and services primarily focused on long-
26 term planning and investing and life events that potentially influence and impact
27 retirement savings.
- 28 3. Notwithstanding any other provision of law, the board is not liable for any election or
29 investment decision made by an employee individual based upon information provided
30 to an employee individual under this chapter.

1 **SECTION 15. EXEMPTION - EMPLOYEE BENEFITS PROGRAMS COMMITTEE.** This Act
2 is exempt from the requirements of section 54-35-02.4.

3 **SECTION 16. CONTINGENT EFFECTIVE DATE.** Sections 1 through ~~12~~14 of this Act
4 become effective on January 1, 2024, if before that date the retirement board certifies to the
5 legislative council that the public employees retirement system is prepared to close the main
6 system defined benefit retirement plan on December 31, 2023, and to open the new defined
7 contribution retirement plan on January 1, 2024.

8 **SECTION 17. EFFECTIVE DATE.** Sections ~~13~~15 and ~~14~~16 of this Act become effective on
9 the date this Act is filed with the secretary of state.