

**2025 HOUSE GOVERNMENT AND VETERANS AFFAIRS**

**HB 1146**

## 2025 HOUSE STANDING COMMITTEE MINUTES

### GOVERNMENT VETERANS AFFAIRS COMMITTEE

PIONEER ROOM, STATE CAPITOL

HB 1146

1/17/2025

Relating to employer eligibility to participate in the public employees retirement system defined contribution retirement plan, employer contribution requirements for the defined benefit and defined contribution retirement plans, and employee eligibility to elect to transfer to the defined contribution retirement plan; and to provide for retroactive application.

9:44 a.m. Chairman Schauer called the meeting to order.

Members present: Chairman Schauer, Representatives Bahl, Brown, Christy, Grindberg, Karls, McLeod, Rohr, Schneider, Steiner, VanWinkle, Vetter, Wolff

Members absent: Vice Chairman Satrom

#### **Discussion Topics:**

- Definition of state employer
- Identification for incentives

9:45 a.m. House Leader Lefor, District 4, testified in favor and submitted testimony, #29778.

9:52 a.m. Derrick Hohbein, COO and CFO of NDPERS, gave neutral testimony and submitted testimony, #29544.

10:08 a.m. Chairman Schauer closed the hearing.

*Jackson Toman, Committee Clerk*

## **TESTIMONY OF DERRICK HOHBEIN**

### **House Bill 1146 – Main Defined Benefit Plan Cleanup**

Good Morning, Mr. Chairman and members of the committee. My name is Derrick Hohbein and I am the Chief Operating/Financial Officer of the North Dakota Public Employees Retirement System, or NDPERS. I appreciate the committee taking the time to analyze House Bill 1146, which addresses some of the observations that were discovered with the closure of the Main Defined Benefit Plan. I am here today on behalf of the NDPERS Board to provide information in a neutral capacity so the policy makers are able to make an informed decision regarding the bill.

Section 1 and Section 3 are allowing political subdivision employers that are currently not participating in NDPERS the opportunity to join the NDPERS Defined Contribution plan, if they wish. Currently there is not an avenue for a political subdivision not already part of NDPERS to join the NDPERS Defined Contribution Plan, only those who were in the Main Defined Benefit Plan were transitioned into the Defined Contribution Plan.

Section 2, Section 4, and Section 6 are being proposed to address the 21 entities who meet the definition of a “state employer” and “state governmental unit”, but do not receive their appropriation authority through the Legislative process. These terms were used in House Bill 1040 but are not defined terms. It is our understanding these entities are funded through membership fees (as an example) of their participants. Our office had an observation that the Actuarially Determined Employer Contributions, “Spillover” contributions, and incentive payments may create budgetary hardships these entities may not be able to overcome. The following is a list of the employers that would be impacted by this clarification:

Org Code ID	Org Name	Org Type	Employer Type	# of Total Employees	# of employees Eligible for Incentive
020200	Education Standards & Practice	Employer	State	7	0
026100	ND Board of Nursing	Employer	State	12	4
042600	State Board Of Law Examiners	Employer	State	3	0
042700	ND State Board Of Cosmetology	Employer	State	4	4
042800	ND State Plumbing Board	Employer	State	6	0
060300	Dairy Promotion Commission	Employer	State	0	0
060700	Milk Marketing Board	Employer	State	3	1
060800	ND Oilseed Council	Employer	State	1	0
061400	ND Corn Utilization Council	Employer	State	2	0
061600	State Seed Department	Employer	State	23	9
062400	Beef Commission	Employer	State	4	3
062500	ND Wheat Commission	Employer	State	5	0
062600	ND Barley Council	Employer	State	1	0
066500	State Fair Association	Employer	State	10	9
071000	Soil Conservation Committee	Employer	State	0	0
090000	ND State Board Of Accountancy	Employer	State	2	0
090100	ND Board of Medicine	Employer	State	9	0
090200	ND Board Of Pharmacy	Employer	State	3	3
090600	Real Estate Commission	Employer	State	4	1
090900	Electrical Board	Employer	State	20	9
099503	North Dakota State Board of Dental Examiners	Employer	State	1	0
				120	43

Section 6 of the bill is reducing the employers that are responsible for paying the Actuarially Determined Employer Contribution (ADEC) and "spillover" contributions. Because the state employer payroll is reduced, our actuary calculates the remaining payroll needs to be charged an additional 0.1% of pay to make up the difference, effective January 1, 2026. This impact has been analyzed and is included in the Fiscal Note that is attached to the bill.

Section 5 clarifies that the Defined Contribution Plan must include both in-plan and out-of-plan annuities. There are some observations with this section our Board would like highlighted to help the committee understand how these updates may impact our Defined Contribution Plan.

The Board added in-plan annuity options to our Defined Contribution plan, as that was an original requirement of HB 1040. Our Board has fiduciary oversight of these funds. Through the education on annuity options, interest was expressed in an annuity shopping service or out-of-plan annuity option. As the plan sits today, there is nothing that would prevent someone from taking their account balance and annuitizing their portfolio with any provider they choose as they end their employment and move into retirement. The Board has no fiduciary oversight of these selections.

Retirement plans frequently utilize an annuity shopping service to offer participants out-of-plan annuity choice. These solutions are tied to the plan and enable participants to receive income quotes from multiple, pre-approved insurers and to select the best option for them. There are two main avenues to accomplish this kind of offering:



- 1) A custom solution, where the Board selects the insurance providers and can hire/terminate relationships at their discretion. The Board acts as a fiduciary over each insurer.
- 2) An off-the-shelf solution where a third party selects the insurance providers. The Board could make a selection in the solution offered, if it is supported by the recordkeeper, but does not have discretion over the insurers. The monitoring requirements of HB 1040 may make the lack of flexibility in selecting insurers problematic. The Board acts as a fiduciary over the selection of the program.

Our Board has spent a lot of time over the last six months becoming more educated on annuity offerings and what these offerings may look like in the future as participant behavior becomes more clear. While a custom solution might be the most appealing to meet the Board's fiduciary requirements and oversight responsibilities in HB 1040 (outlined in Attachment 1), it may not be feasible given the plan's current asset level and lack of data on participant annuity utilization.

Therefore, likely the best option for our Board today to implement a requirement to offer out-of-plan annuities would be to select one of the off-the-shelf solutions compatible with the recordkeeper. As noted, this may present challenges due to the lack of flexibility in making changes to the insurers.

As a result of these concerns, we are proposing an amendment to update the "must" on page 8 line 17 to "may." Having the "must" amended to say "may" would still give our Board the flexibility of moving forward with this initiative, but not be hamstrung by the limited options that may (or may not) exist given the criteria our Board needs to meet in order to provide an annuity under our DC Plan.

Section 7 is being proposed as an emergency clause with a retroactive effective date of January 1, 2025 for Section 4, since these participants technically today could submit an application to move from the Defined Benefit Plan to the Defined Contribution Plan.

Mr. Chairman, I appreciate the committee taking the time to learn more about the impact this bill will have to our state. This concludes my testimony, and I'd be happy to answer any questions the committee may have.

Representative Mike Lefor

Testimony House Bill 1146

Good morning, Chairman Schauer and members of the Government and Veterans Affairs Committee, for the record, my name is Mike Lefor and I serve District 37 - Dickinson in the House.

I bring HB 1146 to you for your consideration. Last session, the assembly passed HB 1040 which closed the PERS main defined benefit retirement plan to new hires and replaced it with a new defined contribution plan. For the past year and a half, the leadership team and staff with North Dakota PERS has done an outstanding job in meeting all the things that needed to be done to execute on the change.

The bill which I am bringing to you today provides clarification in certain areas. It does the following:

1. Allows Political Subdivisions not currently participating in NDPERS to join the new defined contribution plan and offer the plan to their existing and future employees. Without this change, political subdivisions will not be able to offer NDPERS to employees other than their peace and corrections officers through the Public Safety plan. It allows more portability and competitiveness within political subdivisions as many are part of the NDPERS retirement, so employees moving within subdivisions can maintain their PERS plan.
2. Clarifies the definition of state employer and which state governmental unit applies only to those state entities that receive their budget approval from the legislative assembly. This is important in determining the state entities that will be responsible for paying the actuarially determined employer contribution. (ADEC).
3. It is also necessary to identify the eligible state employees, for the no more than 5 years incentive window and the employers that must pay the required incentive for those that elect to transfer Without this

clarification, the funding of the ADEC and the incentive would result in those state entities that the Legislative Assembly does not provide budget approval could result in budget deficiencies for these small employers without a remedy for providing funding to them.

4. A retroactive emergency clause to section 2 was added in Section 7. The need for this is due to the special election window passed in HB1040. House Bill 1040 required an election window which began January 1, 2025, and ends March 31, 2025. In order for NDPERS to appropriately administer the window to the eligible population, including the appropriate employer, to be required to pay the corresponding incentive, this clarification is necessary. (These items are found in Sections 2, 4, 6 and 7.)
5. In Section 5, it clarifies that the investment options available to members of the Defined Contribution Plan must include both in-plan and out-of-plan annuities. Previously the language was specific to in-plan annuities.

That is a summary of the bill. HB1040 was landmark legislation passed by this assembly last session and provides the clarity needed to move forward. With that I ask the committee to give a "Do Pass" recommendation to the House floor and I will be happy to answer any questions you may have.

**54-52.6-05.1. Annuity provider - Qualifications.**

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.



January 10, 2025

Representative Austen Schauer, Chair  
Legislative Employee Benefits Programs Committee  
North Dakota State Government

**Re: North Dakota Public Employees Retirement System Legislative Studies – Provisions from  
Bill No. 25.0743.01000**

Dear Representative Schauer:

In accordance with your request, we have analyzed the impact of Bill No. 25.0743.01000 on the North Dakota Public Employees Retirement System (NDPERS). Our review is actuarial in nature; we are not attorneys and cannot provide legal advice.

**Systems Affected**

North Dakota Public Employees Retirement System (Main System and Defined Contribution Plan)

**Summary**

Bill No. 25.0743.01000:

- Allows political subdivisions not enrolled in NDPERS retirement to join the Defined Contribution Plan and offer it to their employees.
- Clarifies that participating employers who do not receive budgetary approval from the legislative assembly are not subject to the following "state governmental unit" provisions:
  - Actuarially Determined Employer Contributions (ADEC)
  - "Spillover" contributions to the Main System
  - Eligibility for the special DC transfer in the first quarter of 2025
- For purposes of implementing HB 1040, the employers who do not receive budgetary approval from the legislative assembly are to be treated the same as political subdivision employers.
- Adds out-of-plan options to the lifetime annuity options in the defined contribution plan.

### **Actuarial Impact of Bill 743**

The cost impact calculated in this letter is based on the data for the Main System as of the July 1, 2024 actuarial valuation. The actuarial valuation data as of June 30, 2024 shows 121 employees in the 21 employer codes provided by NDPERS. Of the 121 employees, 119 employees were indicated to be State employees with pay of \$9,521,103.

Bill 743 is expected to have an impact on the actuarial accrued liability as of July 1, 2024 due to a change in the members that are expected to be eligible for the special DC transfer election window. We estimate this change will be immaterial and have not incorporated it into the expected impact of the bill.

The results under Bill 743 increase the expected 2026 payroll for the Political Subdivision employers and subsequently the expected employer contribution under the fixed contribution rate. When the fixed rate amount expected to be paid by political subdivision employers increases, the expected remaining obligation for State Employers decreases. However, because the state employer payroll is also reduced, the state employer contribution rate as a percent of pay increases slightly, from 14.46% of pay to 14.56% of pay.

The table below shows the development of the additional state contribution requirement expected to be needed based on the July 1, 2024 actuarial valuation. The additional state contribution requirement under the baseline scenario is 5.92 percent of total state payroll. Bill 743 increases the additional state contribution requirement to 6.02 percent of total state payroll.

	Baseline	Bill 743
<b>Employer Contribution by Employer Type</b>		
Political Subdivisions (Fixed Rate)	8.49%	8.49%
State Employers (Remaining Obligation)	14.46%	14.56%
Political Subdivisions (Fixed Rate) \$ Amount	\$ 56,075,328	\$ 56,887,471
State Employers (Remaining Obligation) \$ Amount	\$ 107,539,811	\$ 106,727,668
Total \$ Amount	\$ 163,615,139	\$ 163,615,139
<b>Contributions to be Made By State Employers</b>		
State Employer Contribution Rate	14.46%	14.56%
Projected Blended Fixed Rate	8.54%	8.54%
Additional State Contribution Requirement	5.92%	6.02%
Additional State Contribution Requirement \$ Amount	\$ 44,015,783	\$ 44,104,055



## **Policy Issue Analysis**

### **Benefits Policy Issues**

- Adequacy of Retirement Benefits

No impact.

- Competitiveness

Adding out-of-plan options to the lifetime annuity options under the defined contribution plan increases the number of annuity options available and the competitiveness of the plan.

- Benefits Equity and Group Integrity

No impact.

- Purchasing Power

No impact.

- Preservation of Benefits

No impact.

- Portability

Employees of employers who do not receive budgetary approval from the legislative assembly will no longer be eligible for the special DC transfer election window. Defined contribution plan benefits are generally more portable than defined benefit pension plan benefits.

- Ancillary Benefits

No impact.

- Social Security

No impact.

### **Funding Policy Issues**

- Actuarial Impacts

As previously noted, the additional state contribution requirement will need to be increased slightly to cover the reduction in payroll for state employers contributing the ADEC. The bill will also reduce potential "spillover" contributions to the Main System.

- Investment Impacts

No impact.

### **Administration Issues**

- Implementation Issues

No impact.

- Administrative Costs

The only administrative costs are related to the increase in employer contributions.

- Needed Authority

The bill appears to provide appropriate levels of administrative and governance authority to the PERS Board to implement the changes made by the bill.

- Integration

None.

- Employee Communications

No impact.

- Miscellaneous and Drafting Issues

No impact.



**Disclosures and Additional Information**

We have reviewed the bill and provided a policy issue analysis from our perspective as actuaries. However, the policy issue analysis should not be considered to be comprehensive and there may be additional benefits policy, administration issues or legal issues that are not discussed in this letter.

The signing actuary is independent of the plan sponsor.


Bonita J. Wurst and Abra D. Hill are Members of the American Academy of Actuaries (MAAA) and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

Please let us know if you have any questions.

Sincerely,



Bonita J. Wurst, ASA, EA, MAAA, FCA  
Senior Consultant



Abra D. Hill, ASA, MAAA, FCA  
Consultant

cc: Rebecca Fricke, NDPERS  
Joshua Murner, GRS



# 2025 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1146  
1/24/2025

Relating to employer eligibility to participate in the public employees retirement system defined contribution retirement plan, employer contribution requirements for the defined benefit and defined contribution retirement plans, and employee eligibility to elect to transfer to the defined contribution retirement plan; and to provide for retroactive application.

10:46 a.m. Chairman Schauer opened the hearing.

Members present: Chairman Schauer, Vice Chairman Satrom, Representatives Bahl, Brown, Christy, Grindberg, Karls, McLeod, Rohr, Schneider, Steiner, VanWinkle, Vetter, Wolff

### Discussion Topics:

- Committee action

10:46 a.m. Representative Vetter moved to adopt amendment LC# 25.0743.01001, #43782.

10:46 a.m. Vice-Chairman Satrom seconded the motion.

10:47 a.m. Voice vote passed.

10:47 a.m. Vice Chairman Satrom moved to further amend the bill to add an emergency clause.

10:47 a.m. Representative Schneider seconded the motion.

10:47 a.m. Voice vote passed.

10:48 a.m. Representative Vetter moved a Do Pass as Amended.

10:48 a.m. Vice Chairman Satrom seconded the motion.

Representatives	Vote
Representative Austen Schauer	Y
Representative Bernie Satrom	Y
Representative Landon Bahl	Y
Representative Collette Brown	Y
Representative Josh Christy	Y
Representative Karen Grindberg	Y
Representative Karen Karls	AB
Representative Carrie McLeod	Y
Representative Karen Rohr	Y
Representative Mary Schneider	Y

Representative Vicky Steiner	Y
Representative Lori VanWinkle	AB
Representative Steve Vetter	Y
Representative Christina Wolff	Y

10:49 a.m. Motion passed 12-0-2.

Representative Grindberg will carry the bill.

10:51 a.m. Chairman Schauer closed the hearing.

*Jackson Toman, Committee Clerk*

*Bill was reconsidered on 01/30/25.*

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO

### HOUSE BILL NO. 1146

Introduced by

Representatives Lefor, Dockter, Schauer, Stemen, M. Ruby

Senators Davison, Dever, Hogue

1 A BILL for an Act to amend and reenact sections 54-52-02.1, 54-52-06, 54-52.6-01,  
2 54-52.6-02.2, 54-52.6-05, and 54-52.6-09.5 of the North Dakota Century Code, relating to  
3 employer eligibility to participate in the public employees retirement system defined contribution  
4 retirement plan, employer contribution requirements for the defined benefit and defined  
5 contribution retirement plans, and employee eligibility to elect to transfer to the defined  
6 contribution retirement plan; ~~and to provide for retroactive application;~~ and to declare an  
7 emergency.

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

9 **SECTION 1. AMENDMENT.** Section 54-52-02.1 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **54-52-02.1. Political subdivisions authorized to join public employees retirement**  
12 **system.**

13 1. A political subdivision may, on behalf of its permanent employees, on behalf of its  
14 peace officers, firefighters, and correctional officers separately from its other  
15 employees, and permanent noncertified employees only in the case of school districts,  
16 enter agreements with the retirement board for the purpose of extending the benefits  
17 of the public employees retirement system, as provided in this chapter or chapter  
18 54-52.6, to those employees. The agreement may, in accordance with this chapter and  
19 chapter 54-52.6, contain provisions relating to benefits, contributions, effective date,

- 1 modification, administration, and other appropriate provisions as the retirement board
- 2 and the political subdivision agree upon, but the agreement must provide:
- 3 a. The political subdivision will contribute on behalf of each eligible employee an
- 4 amount equal to that provided in section 54-52-06 or 54-52-06.3 for peace
- 5 officers, firefighters, and correctional officers participating separately from other
- 6 political subdivision employees.
- 7 b. A portion of the moneys paid by the political subdivision may be used to pay
- 8 administrative expenses of the retirement board.
- 9 2. Notwithstanding any other provision of law, a political subdivision having an existing
- 10 police or firefighter pension plan may merge that plan into the public employees
- 11 retirement system under rules adopted by and in a manner determined by the board.
- 12 3. Notwithstanding any other provision of this chapter, a political subdivision of this state
- 13 not currently participating in the public employees retirement system may not become
- 14 a participant in the retirement system until an actuarial study is performed under the
- 15 direction of the board to calculate the required employer contribution for any past
- 16 service liability and the required employer contribution must be an amount determined
- 17 sufficient to amortize and fund any past service liability over a period not to exceed
- 18 thirty years as determined by the board. Any fees incurred in performing the actuarial
- 19 study must be paid for by the political subdivision in a manner determined by the
- 20 board.

21 **SECTION 2. AMENDMENT.** Section 54-52-06 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23 **54-52-06. Employer's contribution to retirement plan - Report to the employee**  
24 **benefits programs committee. (Effective through December 31, 2025)**

- 25 1. Each governmental unit shall contribute an amount equal to four and
- 26 twelve-hundredths percent of the monthly salary or wage of a participating member.
- 27 Governmental unit contributions increase by one percent of the monthly salary or
- 28 wage of a participating member beginning with the monthly reporting period of
- 29 January 2012; with an additional increase of one percent, beginning with the reporting
- 30 period of January 2013; with an additional increase of one percent, beginning with the
- 31 monthly reporting period of January 2014; and with an additional increase of



- 1 one percent, beginning with the monthly reporting period of January 2024. For a  
2 participating member who first enrolls after December 31, 2019, the governmental unit  
3 shall contribute an additional amount equal to one and fourteen-hundredths percent of  
4 the monthly salary or wage of the participating member.
- 5 2. For those members who elect to exercise their rights under section 54-52-17.14, the  
6 employing governmental unit, or in the case of a member not presently under covered  
7 employment the most recent employing governmental unit, shall pay the associated  
8 employer contribution. If the employee's contribution is paid by the governmental unit  
9 under subsection 3 of section 54-52-05, the employer unit shall contribute, in addition,  
10 an amount equal to the required employee's contribution. Each governmental unit  
11 shall pay the contribution monthly, or in the case of an election made pursuant to  
12 section 54-52-17.14 a lump sum, into the retirement fund from the governmental unit's  
13 funds appropriated for payroll and salary or any other funds available for these  
14 purposes. Any governmental unit failing to pay the contributions monthly, or in the  
15 case of an election made pursuant to section 54-52-17.14 a lump sum, or failing to  
16 otherwise comply with the board's established wage reporting or payroll reporting  
17 process requirements, is subject to a civil penalty of fifty dollars and, as interest,  
18 one percent of the amount due for each month of delay or fraction of a month after the  
19 payment became due. In lieu of assessing a civil penalty or one percent per month, or  
20 both, interest at the actuarial rate of return may be assessed for each month the  
21 contributions are delinquent. If contributions are paid within ninety days of the date the  
22 contributions became due, penalty and interest to be paid on delinquent contributions  
23 may be waived.
- 24 3. An employer is required to submit contributions for any past eligible employee who  
25 was employed after July 1, 1977, for which contributions were not made if the  
26 employee would have been eligible to become vested had the employee participated  
27 and if the employee elects to join the public employees retirement system. Employer  
28 contributions may not be assessed for eligible service that an employee has waived  
29 pursuant to subsection 1 of section 54-52-05.

- 1        4.    Annually, the board shall report to the employee benefits programs committee the  
2            contributions necessary, as determined by the actuarial study, to maintain the fund's  
3            actuarial soundness.

4        **Employer's contribution to retirement plan - Report to the employee benefits**  
5 **programs committee. (Effective after December 31, 2025)**

- 6        1.    a.    As determined by actuarial valuations, each state governmental unit that receives  
7            budgetary approval from the legislative assembly shall contribute to the defined  
8            benefit plan an amount on a level percent of compensation basis for all main  
9            system defined benefit retirement plan employees and all defined contribution  
10          retirement plan employees sufficient under the actuarial valuation to meet both  
11          the normal cost plus the actuarially determined amount required to amortize the  
12          unfunded accrued liability of the main plan over a closed period of thirty and  
13          one-half years, beginning January 1, 2026, and continuing through June 30,  
14          2056. By November fifteenth of each even-numbered year the board shall publish  
15          the contribution rate required under this subsection. The board shall calculate this  
16          rate based on the July first actuarial report of that year.
- 17          b.    Each participating political subdivision shall contribute an amount equal to eight  
18          and twelve-hundredths percent of the monthly salary or wage of a participating  
19          member.
- 20          c.    For a participating member who first enrolls after December 31, 2019, a  
21          participating political subdivision shall contribute an additional amount equal to  
22          one and fourteen-hundredths percent of the monthly salary or wage of the  
23          participating member.
- 24        2.    For those members who elect to exercise their rights under section 54-52-17.14, the  
25          employing governmental unit, or in the case of a member not presently under covered  
26          employment the most recent employing governmental unit, shall pay the associated  
27          employer contribution. If the employee's contribution is paid by the governmental unit  
28          under subsection 3 of section 54-52-05, the employer unit shall contribute, in addition,  
29          an amount equal to the required employee's contribution. Each governmental unit  
30          shall pay the contribution monthly, or in the case of an election made pursuant to  
31          section 54-52-17.14 a lump sum, into the retirement fund from the governmental unit's



funds appropriated for payroll and salary or any other funds available for these purposes. Any governmental unit failing to pay the contributions monthly, or in the case of an election made pursuant to section 54-52-17.14 a lump sum, or failing to otherwise comply with the board's established wage reporting or payroll reporting process requirements, is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction of a month after the payment became due. In lieu of assessing a civil penalty or one percent per month, or both, interest at the actuarial rate of return may be assessed for each month the contributions are delinquent. If contributions are paid within ninety days of the date the contributions became due, penalty and interest to be paid on delinquent contributions may be waived.

3. An employer is required to submit contributions for any past eligible employee who was employed after July 1, 1977, for which contributions were not made if the employee would have been eligible to become vested had the employee participated and if the employee elects to join the public employees retirement system. Employer contributions may not be assessed for eligible service that an employee has waived pursuant to subsection 1 of section 54-52-05.

4. Annually, the board shall report to the employee benefits programs committee the contributions necessary, as determined by the actuarial study, to maintain the fund's actuarial soundness.

**SECTION 3. AMENDMENT.** Section 54-52.6-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-01. Definition of terms.**

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

1. "Board" means the public employees retirement system board.
2. "Deferred member" means ~~a person~~ an individual who elected to receive deferred vested retirement benefits under chapter 54-52.
3. "Eligible employee", for employees who become participating members after December 31, 2024, has the same meaning as provided under section 54-52-02.15. For employees who elected to join the defined contribution retirement plan under this chapter before January 1, 2025, the term includes a permanent state employee,



1 except an employee of the judicial branch or an employee of the board of higher  
2 education and state institutions under the jurisdiction of the board of higher education,  
3 who is at least eighteen years of age and who is in a position not classified by the  
4 North Dakota human resource management services.

5 4. "Employee" means ~~any person~~ an individual employed by the state, whose  
6 compensation is paid out of state funds, or funds controlled or administered by the  
7 state or paid by the federal government through any of its executive or administrative  
8 officials.

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

12 6. "Participating member" means an eligible employee who elects to participate in the  
13 defined contribution retirement plan established under this chapter.

14 7. "Permanent employee" means a state employee whose services are not limited in  
15 duration and who is filling an approved and regularly funded position and is employed  
16 twenty hours or more per week and at least five months each year.

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

28 **SECTION 4. AMENDMENT.** Section 54-52.6-02.2 of the North Dakota Century Code is  
29 amended and reenacted as follows:

**54-52.6-02.2. Election after December 31, 2024 - Additional employer contribution.**

1. As used in this section, "eligible employee" means a permanent state employee of a state entity that as of January 1, 2025, receives budgetary approval from the legislative assembly, who on December 31, 2024, is a participating member of the public employees retirement system main system plan under chapter ~~54-42~~54-52, who has been a participating member under chapter 54-52 for no more than five years, and who is at least eighteen years of age.
2. The board shall provide a three-month election period, from January 1, 2025, through March 31, 2025, for an eligible employee to transfer to the defined contribution plan under this chapter pursuant to the rules and policies adopted by the board.
  - a. An election under this section made by a member of the public employees retirement system under chapter 54-52 to transfer to the defined contribution retirement plan under this chapter is irrevocable.
  - b. For an eligible employee who elects to transfer from the public employees retirement system under chapter 54-52 to the defined contribution retirement plan under this chapter, the board shall transfer a lump sum amount from the public employees retirement system fund to the member's account in the defined contribution retirement plan under this chapter. However, if the eligible employee terminates employment before receiving the lump sum transfer under this section, the election made is ineffective and the eligible employee remains a member of the public employees retirement system under chapter 54-52 and retains all the rights and privileges under that chapter.
  - c. The board shall calculate the lump sum amount to be transferred based on the actuarial present value of the eligible employee's accumulated benefit obligation under the public employees retirement system based on the assumption the eligible employee will retire under the earlier applicable normal retirement age, plus interest from January 1, 2025, to the date of transfer, at the rate of one-half of one percent less than the actuarial interest assumption at the time of the election.
  - d. This section does not affect an eligible individual's right to health benefits under chapter 54-52.1.



3. The state employer of an eligible employee who elects under this section to participate in the defined contribution retirement plan under this chapter shall pay an additional annual contribution of three thousand three hundred and thirty-three dollars for up to three years. Under this subsection, the employer shall pay the additional contribution each year the eligible employee continues permanent employment with the state, beginning January 2026, and extending no further than January 2028.
4. If the board receives notification from the internal revenue service that this section or any portion of this section will cause the public employees retirement system or the retirement plan established under this chapter to be disqualified for tax purposes under the Internal Revenue Code, that portion that will cause the disqualification does not apply.

**SECTION 5. 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.**

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 that must may include in-plan and out-of-plan 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 6. AMENDMENT.** Section 54-52.6-09.5 of the North Dakota Century Code is amended and reenacted as follows:

25  
9.06.9

1       **54-52.6-09.5. Employer contribution for defined benefit plan. (Effective after**  
2       **December 31, 2025)**

3       In addition to the employer contribution under section 54-52.6-09, a state employer that  
4       receives budgetary approval from the legislative assembly shall contribute to the defined benefit  
5       retirement plan under chapter 54-52, an amount equal to the contribution rate calculated under  
6       section 54-52-06 less the amount of the required employer contribution under sections  
7       54-52.2-09 and 54-52.6-09. If a state employer uses federal funds to pay any or all of an  
8       employee's wages, the employer shall use state funds to pay this additional contribution.

9       **SECTION 7. RETROACTIVE APPLICATION.** Section 4 of this Act applies retroactively to  
10      January 1, 2025.

11      **SECTION 8. EMERGENCY.** Section 4 of this Act is declared to be an emergency measure.

25.0743.01001  
Title.

Prepared by the Legislative Council  
staff for Representative Schauer  
January 21, 2025

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO

### HOUSE BILL NO. 1146

Introduced by

Representatives Lefor, Dockter, Schauer, Stemen, M. Ruby

Senators Davison, Dever, Hogue

1 A BILL for an Act to amend and reenact sections 54-52-02.1, 54-52-06, 54-52.6-01,  
2 54-52.6-02.2, 54-52.6-05, and 54-52.6-09.5 of the North Dakota Century Code, relating to  
3 employer eligibility to participate in the public employees retirement system defined contribution  
4 retirement plan, employer contribution requirements for the defined benefit and defined  
5 contribution retirement plans, and employee eligibility to elect to transfer to the defined  
6 contribution retirement plan; ~~and~~ to provide for retroactive application; and to declare an  
7 emergency.

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

9 **SECTION 1. AMENDMENT.** Section 54-52-02.1 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **54-52-02.1. Political subdivisions authorized to join public employees retirement**  
12 **system.**

13 1. A political subdivision may, on behalf of its permanent employees, on behalf of its  
14 peace officers, firefighters, and correctional officers separately from its other  
15 employees, and permanent noncertified employees only in the case of school districts,  
16 enter agreements with the retirement board for the purpose of extending the benefits  
17 of the public employees retirement system, as provided in this chapter or chapter  
18 54-52.6, to those employees. The agreement may, in accordance with this chapter and  
19 chapter 54-52.6, contain provisions relating to benefits, contributions, effective date,

modification, administration, and other appropriate provisions as the retirement board and the political subdivision agree upon, but the agreement must provide:

a. The political subdivision will contribute on behalf of each eligible employee an amount equal to that provided in section 54-52-06 or 54-52-06.3 for peace officers, firefighters, and correctional officers participating separately from other political subdivision employees.

b. A portion of the moneys paid by the political subdivision may be used to pay administrative expenses of the retirement board.

2. Notwithstanding any other provision of law, a political subdivision having an existing police or firefighter pension plan may merge that plan into the public employees retirement system under rules adopted by and in a manner determined by the board.

3. Notwithstanding any other provision of this chapter, a political subdivision of this state not currently participating in the public employees retirement system may not become a participant in the retirement system until an actuarial study is performed under the direction of the board to calculate the required employer contribution for any past service liability and the required employer contribution must be an amount determined sufficient to amortize and fund any past service liability over a period not to exceed thirty years as determined by the board. Any fees incurred in performing the actuarial study must be paid for by the political subdivision in a manner determined by the board.

**SECTION 2. AMENDMENT.** Section 54-52-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06. Employer's contribution to retirement plan - Report to the employee benefits programs committee. (Effective through December 31, 2025)**

1. Each governmental unit shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Governmental unit contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012; with an additional increase of one percent, beginning with the reporting period of January 2013; with an additional increase of one percent, beginning with the monthly reporting period of January 2014; and with an additional increase of

one percent, beginning with the monthly reporting period of January 2024. For a participating member who first enrolls after December 31, 2019, the governmental unit shall contribute an additional amount equal to one and fourteen-hundredths percent of the monthly salary or wage of the participating member.

2. For those members who elect to exercise their rights under section 54-52-17.14, the employing governmental unit, or in the case of a member not presently under covered employment the most recent employing governmental unit, shall pay the associated employer contribution. If the employee's contribution is paid by the governmental unit under subsection 3 of section 54-52-05, the employer unit shall contribute, in addition, an amount equal to the required employee's contribution. Each governmental unit shall pay the contribution monthly, or in the case of an election made pursuant to section 54-52-17.14 a lump sum, into the retirement fund from the governmental unit's funds appropriated for payroll and salary or any other funds available for these purposes. Any governmental unit failing to pay the contributions monthly, or in the case of an election made pursuant to section 54-52-17.14 a lump sum, or failing to otherwise comply with the board's established wage reporting or payroll reporting process requirements, is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction of a month after the payment became due. In lieu of assessing a civil penalty or one percent per month, or both, interest at the actuarial rate of return may be assessed for each month the contributions are delinquent. If contributions are paid within ninety days of the date the contributions became due, penalty and interest to be paid on delinquent contributions may be waived.

3. An employer is required to submit contributions for any past eligible employee who was employed after July 1, 1977, for which contributions were not made if the employee would have been eligible to become vested had the employee participated and if the employee elects to join the public employees retirement system. Employer contributions may not be assessed for eligible service that an employee has waived pursuant to subsection 1 of section 54-52-05.

- 1           4.   Annually, the board shall report to the employee benefits programs committee the  
2                   contributions necessary, as determined by the actuarial study, to maintain the fund's  
3                   actuarial soundness.

4           **Employer's contribution to retirement plan - Report to the employee benefits**  
5 **programs committee. (Effective after December 31, 2025)**

- 6           1.   a.   As determined by actuarial valuations, each state governmental unit that receives  
7                   budgetary approval from the legislative assembly shall contribute to the defined  
8                   benefit plan an amount on a level percent of compensation basis for all main  
9                   system defined benefit retirement plan employees and all defined contribution  
10                  retirement plan employees sufficient under the actuarial valuation to meet both  
11                  the normal cost plus the actuarially determined amount required to amortize the  
12                  unfunded accrued liability of the main plan over a closed period of thirty and  
13                  one-half years, beginning January 1, 2026, and continuing through June 30,  
14                  2056. By November fifteenth of each even-numbered year the board shall publish  
15                  the contribution rate required under this subsection. The board shall calculate this  
16                  rate based on the July first actuarial report of that year.
- 17           b.   Each participating political subdivision shall contribute an amount equal to eight  
18                  and twelve-hundredths percent of the monthly salary or wage of a participating  
19                  member.
- 20           c.   For a participating member who first enrolls after December 31, 2019, a  
21                  participating political subdivision shall contribute an additional amount equal to  
22                  one and fourteen-hundredths percent of the monthly salary or wage of the  
23                  participating member.
- 24           2.   For those members who elect to exercise their rights under section 54-52-17.14, the  
25                  employing governmental unit, or in the case of a member not presently under covered  
26                  employment the most recent employing governmental unit, shall pay the associated  
27                  employer contribution. If the employee's contribution is paid by the governmental unit  
28                  under subsection 3 of section 54-52-05, the employer unit shall contribute, in addition,  
29                  an amount equal to the required employee's contribution. Each governmental unit  
30                  shall pay the contribution monthly, or in the case of an election made pursuant to  
31                  section 54-52-17.14 a lump sum, into the retirement fund from the governmental unit's



1 funds appropriated for payroll and salary or any other funds available for these  
2 purposes. Any governmental unit failing to pay the contributions monthly, or in the  
3 case of an election made pursuant to section 54-52-17.14 a lump sum, or failing to  
4 otherwise comply with the board's established wage reporting or payroll reporting  
5 process requirements, is subject to a civil penalty of fifty dollars and, as interest, one  
6 percent of the amount due for each month of delay or fraction of a month after the  
7 payment became due. In lieu of assessing a civil penalty or one percent per month, or  
8 both, interest at the actuarial rate of return may be assessed for each month the  
9 contributions are delinquent. If contributions are paid within ninety days of the date the  
10 contributions became due, penalty and interest to be paid on delinquent contributions  
11 may be waived.

12 3. An employer is required to submit contributions for any past eligible employee who  
13 was employed after July 1, 1977, for which contributions were not made if the  
14 employee would have been eligible to become vested had the employee participated  
15 and if the employee elects to join the public employees retirement system. Employer  
16 contributions may not be assessed for eligible service that an employee has waived  
17 pursuant to subsection 1 of section 54-52-05.

18 4. Annually, the board shall report to the employee benefits programs committee the  
19 contributions necessary, as determined by the actuarial study, to maintain the fund's  
20 actuarial soundness.

21 **SECTION 3. AMENDMENT.** Section 54-52.6-01 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23 **54-52.6-01. Definition of terms.**

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

- 25 1. "Board" means the public employees retirement system board.  
26 2. "Deferred member" means ~~a person~~ an individual who elected to receive deferred  
27 vested retirement benefits under chapter 54-52.  
28 3. "Eligible employee", for employees who become participating members after  
29 December 31, 2024, has the same meaning as provided under section 54-52-02.15.  
30 For employees who elected to join the defined contribution retirement plan under this  
31 chapter before January 1, 2025, the term includes a permanent state employee,

except an employee of the judicial branch or an employee of the board of higher education and state institutions under the jurisdiction of the board of higher education, who is at least eighteen years of age and who is in a position not classified by the North Dakota human resource management services.

4. "Employee" means ~~any person~~ an individual employed by the state, whose compensation is paid out of state funds, or funds controlled or administered by the state or paid by the federal government through any of its executive or administrative officials.
5. "Employer" 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.
6. "Participating member" means an eligible employee who elects to participate in the defined contribution retirement plan established under this chapter.
7. "Permanent employee" means a state employee whose services are not limited in duration and who is filling an approved and regularly funded position and is employed twenty hours or more per week and at least five months each year.
8. "Wages" and "salaries" means earnings in eligible employment under this chapter reported as salary on a federal income tax withholding statement 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 an employee and a participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the board.

**SECTION 4. AMENDMENT.** Section 54-52.6-02.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-02.2. Election after December 31, 2024 - Additional employer contribution.**

1. As used in this section, "eligible employee" means a permanent state employee of a state entity that as of January 1, 2025, receives budgetary approval from the legislative assembly, who on December 31, 2024, is a participating member of the public employees retirement system main system plan under chapter ~~54-42~~54-52, who has been a participating member under chapter 54-52 for no more than five years, and who is at least eighteen years of age.
2. The board shall provide a three-month election period, from January 1, 2025, through March 31, 2025, for an eligible employee to transfer to the defined contribution plan under this chapter pursuant to the rules and policies adopted by the board.
  - a. An election under this section made by a member of the public employees retirement system under chapter 54-52 to transfer to the defined contribution retirement plan under this chapter is irrevocable.
  - b. For an eligible employee who elects to transfer from the public employees retirement system under chapter 54-52 to the defined contribution retirement plan under this chapter, the board shall transfer a lump sum amount from the public employees retirement system fund to the member's account in the defined contribution retirement plan under this chapter. However, if the eligible employee terminates employment before receiving the lump sum transfer under this section, the election made is ineffective and the eligible employee remains a member of the public employees retirement system under chapter 54-52 and retains all the rights and privileges under that chapter.
  - c. The board shall calculate the lump sum amount to be transferred based on the actuarial present value of the eligible employee's accumulated benefit obligation under the public employees retirement system based on the assumption the eligible employee will retire under the earlier applicable normal retirement age, plus interest from January 1, 2025, to the date of transfer, at the rate of one-half of one percent less than the actuarial interest assumption at the time of the election.
  - d. This section does not affect an eligible individual's right to health benefits under chapter 54-52.1.

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

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

**SECTION 5. 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.**

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 that must include in-plan and out-of-plan 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 6. AMENDMENT.** Section 54-52.6-09.5 of the North Dakota Century Code is amended and reenacted as follows:

1       **54-52.6-09.5. Employer contribution for defined benefit plan. (Effective after**  
2       **December 31, 2025)**

3       In addition to the employer contribution under section 54-52.6-09, a state employer that  
4       receives budgetary approval from the legislative assembly shall contribute to the defined benefit  
5       retirement plan under chapter 54-52, an amount equal to the contribution rate calculated under  
6       section 54-52-06 less the amount of the required employer contribution under sections  
7       54-52.2-09 and 54-52.6-09. If a state employer uses federal funds to pay any or all of an  
8       employee's wages, the employer shall use state funds to pay this additional contribution.

9       **SECTION 7. RETROACTIVE APPLICATION.** Section 4 of this Act applies retroactively to  
10      January 1, 2025.

11      **SECTION 8. EMERGENCY.** Section 4 of this Act is declared to be an emergency measure.

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1146  
1/30/2025

Relating to employer eligibility to participate in the public employees retirement system defined contribution retirement plan, employer contribution requirements for the defined benefit and defined contribution retirement plans, and employee eligibility to elect to transfer to the defined contribution retirement plan; and to provide for retroactive application.

8:55 a.m. Chairman Schauer opened the meeting.

Members present: Chairman Schauer, Vice Chairman Satrom, Representatives Bahl, Brown, Christy, Grindberg, Karls, McLeod, Rohr, Schneider, Steiner, Vetter, Wolff

Members absent: Representative VanWinkle

### Discussion Topics:

- Committee action

8:55 a.m. Representative Vetter moved to reconsider the bill.

8:55 a.m. Vice Chairman Satrom seconded the motion.

Representatives	Vote
Representative Austen Schauer	Y
Representative Bernie Satrom	Y
Representative Landon Bahl	Y
Representative Collette Brown	Y
Representative Josh Christy	Y
Representative Karen Grindberg	Y
Representative Karen Karls	Y
Representative Carrie McLeod	Y
Representative Karen Rohr	Y
Representative Mary Schneider	Y
Representative Vicky Steiner	Y
Representative Lori VanWinkle	AB
Representative Steve Vetter	Y
Representative Christina Wolff	Y

8:57 a.m. Motion passed 13-0-1.

8:58 a.m. Derrick Hohbein, Chief Financial Officer, Chief Operating Officer of NDPERS, answered committee questions.

9:01 a.m. Vice Chairman Satrom moved to adopt amendment LC#25.0743.01003.

9:01 a.m. Representative McLeod seconded the motion.

9:02 a.m. Voice vote passed.

9:02 a.m. Representative Vetter moved a Do Pass as amended and rerefer to appropriations.

9:02 a.m. Representative Bahl seconded the motion.

<b>Representatives</b>	<b>Vote</b>
Representative Austen Schauer	Y
Representative Bernie Satrom	Y
Representative Landon Bahl	Y
Representative Collette Brown	Y
Representative Josh Christy	Y
Representative Karen Grindberg	Y
Representative Karen Karls	Y
Representative Carrie McLeod	Y
Representative Karen Rohr	Y
Representative Mary Schneider	Y
Representative Vicky Steiner	Y
Representative Lori VanWinkle	AB
Representative Steve Vetter	Y
Representative Christina Wolff	Y

9:04 a.m. Motion passed 13-0-1.

Representative Grindberg will carry the bill.

9:04 a.m. Chairman Schauer closed the meeting.

*Jackson Toman, Committee Clerk*

Sixty-ninth  
Legislative Assembly  
of North Dakota

**PROPOSED AMENDMENTS TO**

**HOUSE BILL NO. 1146**

Introduced by

Representatives Lefor, Dockter, Schauer, Stemen, M. Ruby

Senators Davison, Dever, Hogue

JB 1-30-25  
1489

1 A BILL for an Act to amend and reenact sections 54-52-02.1, 54-52-06, 54-52.6-01,  
2 54-52.6-02.2, 54-52.6-05, and 54-52.6-09.5 of the North Dakota Century Code, relating to  
3 employer eligibility to participate in the public employees retirement system defined contribution  
4 retirement plan, employer contribution requirements for the defined benefit and defined  
5 contribution retirement plans, and employee eligibility to elect to transfer to the defined  
6 contribution retirement plan; ~~and~~ to provide for retroactive application; and to declare an  
7 emergency.

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

9 **SECTION 1. AMENDMENT.** Section 54-52-02.1 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **54-52-02.1. Political subdivisions authorized to join public employees retirement**  
12 **system.**

13 1. A political subdivision may, on behalf of its permanent employees, on behalf of its  
14 peace officers, firefighters, and correctional officers separately from its other  
15 employees, and permanent noncertified employees only in the case of school districts,  
16 enter agreements with the retirement board for the purpose of extending the benefits  
17 of the public employees retirement system, as provided in this chapter or chapter  
18 54-52.6, to those employees. The agreement may, in accordance with this chapter and  
19 chapter 54-52.6, contain provisions relating to benefits, contributions, effective date,



- 1 modification, administration, and other appropriate provisions as the retirement board
- 2 and the political subdivision agree upon, but the agreement must provide:
- 3 a. The political subdivision will contribute on behalf of each eligible employee an
- 4 amount equal to that provided in section 54-52-06 or 54-52-06.3 for peace
- 5 officers, firefighters, and correctional officers participating separately from other
- 6 political subdivision employees.
- 7 b. A portion of the moneys paid by the political subdivision may be used to pay
- 8 administrative expenses of the retirement board.
- 9 2. Notwithstanding any other provision of law, a political subdivision having an existing
- 10 police or firefighter pension plan may merge that plan into the public employees
- 11 retirement system under rules adopted by and in a manner determined by the board.
- 12 3. Notwithstanding any other provision of this chapter, a political subdivision of this state
- 13 not currently participating in the public employees retirement system may not become
- 14 a participant in the retirement system until an actuarial study is performed under the
- 15 direction of the board to calculate the required employer contribution for any past
- 16 service liability and the required employer contribution must be an amount determined
- 17 sufficient to amortize and fund any past service liability over a period not to exceed
- 18 thirty years as determined by the board. Any fees incurred in performing the actuarial
- 19 study must be paid for by the political subdivision in a manner determined by the
- 20 board.

21 **SECTION 2. AMENDMENT.** Section 54-52-06 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23 **54-52-06. Employer's contribution to retirement plan - Report to the employee**  
24 **benefits programs committee. (Effective through December 31, 2025)**

- 25 1. Each governmental unit shall contribute an amount equal to four and
- 26 twelve-hundredths percent of the monthly salary or wage of a participating member.
- 27 Governmental unit contributions increase by one percent of the monthly salary or
- 28 wage of a participating member beginning with the monthly reporting period of
- 29 January 2012; with an additional increase of one percent, beginning with the reporting
- 30 period of January 2013; with an additional increase of one percent, beginning with the
- 31 monthly reporting period of January 2014; and with an additional increase of

1 one percent, beginning with the monthly reporting period of January 2024. For a  
2 participating member who first enrolls after December 31, 2019, the governmental unit  
3 shall contribute an additional amount equal to one and fourteen-hundredths percent of  
4 the monthly salary or wage of the participating member.

5 2. For those members who elect to exercise their rights under section 54-52-17.14, the  
6 employing governmental unit, or in the case of a member not presently under covered  
7 employment the most recent employing governmental unit, shall pay the associated  
8 employer contribution. If the employee's contribution is paid by the governmental unit  
9 under subsection 3 of section 54-52-05, the employer unit shall contribute, in addition,  
10 an amount equal to the required employee's contribution. Each governmental unit  
11 shall pay the contribution monthly, or in the case of an election made pursuant to  
12 section 54-52-17.14 a lump sum, into the retirement fund from the governmental unit's  
13 funds appropriated for payroll and salary or any other funds available for these  
14 purposes. Any governmental unit failing to pay the contributions monthly, or in the  
15 case of an election made pursuant to section 54-52-17.14 a lump sum, or failing to  
16 otherwise comply with the board's established wage reporting or payroll reporting  
17 process requirements, is subject to a civil penalty of fifty dollars and, as interest,  
18 one percent of the amount due for each month of delay or fraction of a month after the  
19 payment became due. In lieu of assessing a civil penalty or one percent per month, or  
20 both, interest at the actuarial rate of return may be assessed for each month the  
21 contributions are delinquent. If contributions are paid within ninety days of the date the  
22 contributions became due, penalty and interest to be paid on delinquent contributions  
23 may be waived.

24 3. An employer is required to submit contributions for any past eligible employee who  
25 was employed after July 1, 1977, for which contributions were not made if the  
26 employee would have been eligible to become vested had the employee participated  
27 and if the employee elects to join the public employees retirement system. Employer  
28 contributions may not be assessed for eligible service that an employee has waived  
29 pursuant to subsection 1 of section 54-52-05.



Ag 4 of 9

- 1       4.   Annually, the board shall report to the employee benefits programs committee the  
2           contributions necessary, as determined by the actuarial study, to maintain the fund's  
3           actuarial soundness.

4       **Employer's contribution to retirement plan - Report to the employee benefits**  
5 **programs committee. (Effective after December 31, 2025)**

- 6       1.   a.   As determined by actuarial valuations, each state governmental unit that receives  
7           budgetary approval from the legislative assembly shall contribute to the defined  
8           benefit plan an amount on a level percent of compensation basis for all main  
9           system defined benefit retirement plan employees and all defined contribution  
10          retirement plan employees sufficient under the actuarial valuation to meet both  
11          the normal cost plus the actuarially determined amount required to amortize the  
12          unfunded accrued liability of the main plan over a closed period of thirty and  
13          one-half years, beginning January 1, 2026, and continuing through June 30,  
14          2056. By November fifteenth of each even-numbered year the board shall publish  
15          the contribution rate required under this subsection. The board shall calculate this  
16          rate based on the July first actuarial report of that year. In lieu of each state  
17          governmental unit that receives budgetary approval from the legislative assembly  
18          contributing the additional actuarially determined rate, the legislative assembly  
19          may authorize a transfer to the public employees retirement system fund in an  
20          amount equal to or greater than the actuarially determined amount as most  
21          recently published by the board for the succeeding biennium.  
22       b.   Each participating political subdivision and state governmental unit that does not  
23          receive budgetary approval from the legislative assembly shall contribute an  
24          amount equal to eight and twelve-hundredths percent of the monthly salary or  
25          wage of a participating member.  
26       c.   For a participating member who first enrolls after December 31, 2019, a  
27          participating political subdivision shall contribute an additional amount equal to  
28          one and fourteen-hundredths percent of the monthly salary or wage of the  
29          participating member.  
30       2.   For those members who elect to exercise their rights under section 54-52-17.14, the  
31          employing governmental unit, or in the case of a member not presently under covered

1 employment the most recent employing governmental unit, shall pay the associated  
2 employer contribution. If the employee's contribution is paid by the governmental unit  
3 under subsection 3 of section 54-52-05, the employer unit shall contribute, in addition,  
4 an amount equal to the required employee's contribution. Each governmental unit  
5 shall pay the contribution monthly, or in the case of an election made pursuant to  
6 section 54-52-17.14 a lump sum, into the retirement fund from the governmental unit's  
7 funds appropriated for payroll and salary or any other funds available for these  
8 purposes. Any governmental unit failing to pay the contributions monthly, or in the  
9 case of an election made pursuant to section 54-52-17.14 a lump sum, or failing to  
10 otherwise comply with the board's established wage reporting or payroll reporting  
11 process requirements, is subject to a civil penalty of fifty dollars and, as interest, one  
12 percent of the amount due for each month of delay or fraction of a month after the  
13 payment became due. In lieu of assessing a civil penalty or one percent per month, or  
14 both, interest at the actuarial rate of return may be assessed for each month the  
15 contributions are delinquent. If contributions are paid within ninety days of the date the  
16 contributions became due, penalty and interest to be paid on delinquent contributions  
17 may be waived.

18 3. An employer is required to submit contributions for any past eligible employee who  
19 was employed after July 1, 1977, for which contributions were not made if the  
20 employee would have been eligible to become vested had the employee participated  
21 and if the employee elects to join the public employees retirement system. Employer  
22 contributions may not be assessed for eligible service that an employee has waived  
23 pursuant to subsection 1 of section 54-52-05.

24 4. Annually, the board shall report to the employee benefits programs committee the  
25 contributions necessary, as determined by the actuarial study, to maintain the fund's  
26 actuarial soundness.

27 **SECTION 3. AMENDMENT.** Section 54-52.6-01 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29 **54-52.6-01. Definition of terms.**

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

31 1. "Board" means the public employees retirement system board.



- 1        2. "Deferred member" means ~~a person~~ an individual who elected to receive deferred  
2        vested retirement benefits under chapter 54-52.
- 3        3. "Eligible employee", for employees who become participating members after  
4        December 31, 2024, has the same meaning as provided under section 54-52-02.15.  
5        For employees who elected to join the defined contribution retirement plan under this  
6        chapter before January 1, 2025, the term includes a permanent state employee,  
7        except an employee of the judicial branch or an employee of the board of higher  
8        education and state institutions under the jurisdiction of the board of higher education,  
9        who is at least eighteen years of age and who is in a position not classified by the  
10       North Dakota human resource management services.
- 11       4. "Employee" means ~~any person~~ an individual employed by the state, whose  
12       compensation is paid out of state funds, or funds controlled or administered by the  
13       state or paid by the federal government through any of its executive or administrative  
14       officials.
- 15       5. "Employer" means the state of North Dakota, except the highway patrol for members  
16       of the retirement plan created under chapter 39-03.1, or a participating political  
17       subdivision of the state.
- 18       6. "Participating member" means an eligible employee who elects to participate in the  
19       defined contribution retirement plan established under this chapter.
- 20       7. "Permanent employee" means a state employee whose services are not limited in  
21       duration and who is filling an approved and regularly funded position and is employed  
22       twenty hours or more per week and at least five months each year.
- 23       8. "Wages" and "salaries" means earnings in eligible employment under this chapter  
24       reported as salary on a federal income tax withholding statement plus any salary  
25       reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or  
26       457. "Salary" does not include fringe benefits such as payments for unused sick leave,  
27       personal leave, vacation leave paid in a lump sum, overtime, housing allowances,  
28       transportation expenses, early retirement, incentive pay, severance pay, medical  
29       insurance, workforce safety and insurance benefits, disability insurance premiums or  
30       benefits, or salary received by a member in lieu of previously employer-provided fringe  
31       benefits under an agreement between an employee and a participating employer.

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

3 **SECTION 4. AMENDMENT.** Section 54-52.6-02.2 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **54-52.6-02.2. Election after December 31, 2024 - Additional employer contribution.**

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



1 of one percent less than the actuarial interest assumption at the time of the  
2 election.

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

5 3. The state employer of an eligible employee who elects under this section to participate  
6 in the defined contribution retirement plan under this chapter shall pay an additional  
7 annual contribution of three thousand three hundred and thirty-three dollars for up to  
8 three years. Under this subsection, the employer shall pay the additional contribution  
9 each year the eligible employee continues permanent employment with the state,  
10 beginning January 2026, and extending no further than January 2028.

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

18 **54-52.6-05. Direction of investments.**

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~~ investment solutions and  
30 ~~in-plan lifetime annuity options that must~~ may include in-plan and out-of-plan options,



Job 9089

1           either fixed, variable, or a combination of both. In selecting an annuity provider the  
2           board shall comply with section 54-52.6-05.1.

3           **SECTION 6. AMENDMENT.** Section 54-52.6-09.5 of the North Dakota Century Code is  
4           amended and reenacted as follows:

5           **54-52.6-09.5. Employer contribution for defined benefit plan. (Effective after**  
6           **December 31, 2025)**

7           In addition to the employer contribution under section 54-52.6-09, a state employer that  
8           receives budgetary approval from the legislative assembly shall contribute to the defined benefit  
9           retirement plan under chapter 54-52, an amount equal to the contribution rate calculated under  
10          section 54-52-06 less the amount of the required employer contribution under sections  
11          54-52.2-09 and 54-52.6-09. If a state employer uses federal funds to pay any or all of an  
12          employee's wages, the employer shall use state funds to pay this additional contribution.

13          **SECTION 7. RETROACTIVE APPLICATION.** Section 4 of this Act applies retroactively to  
14          January 1, 2025.

15          **SECTION 8. EMERGENCY.** Section 4 of this Act is declared to be an emergency measure.

**REPORT OF STANDING COMMITTEE  
HB 1146**

**Government and Veterans Affairs Committee (Rep. Schauer, Chairman)** recommends **AMENDMENTS** ([25.0743.01003](#)) and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1146 was placed on the Sixth order on the calendar.

**2025 HOUSE APPROPRIATIONS**

**HB 1146**

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Appropriations Committee Roughrider Room, State Capitol

HB 1146  
2/10/2025

A BILL for an Act to amend and reenact sections 54-52-02.1, 54-52-06, 54-52.6-01, 54-52.6-02.2, 54-52.6-05, and 54-52.6-09.5 of the North Dakota Century Code, relating to employer eligibility to participate in the public employees retirement system defined contribution retirement plan, employer contribution requirements for the defined benefit and defined contribution retirement plans, and employee eligibility to elect to transfer to the defined contribution retirement plan; to provide for retroactive application; and to declare an emergency.

2:30 p.m. Chairman Vigesaa called the meeting to order.

Members Present: Chairman Vigesaa, Vice Chairman Kempenich, Representatives Berg, Bosch, Brandenburg, Fisher, Hanson, Louser, Martinson, Meier, Monson, Murphy, Nathe, Nelson, O'Brien, Pyle, Richter, Sanford, Stemen, Swiontek, Wagner

Members Absent: Representatives Anderson, Mitskog

### Discussion Topics:

- Benefit Plan
- Political Subdivisions
- Excess Funds

2:30 p.m. Austen Schauer, North Dakota Senator, introduced Bill and submitted testimony #36783.

2:38 p.m. Derrick Hohbein, NDPERS Chief Operating Officer, testified in support and continued testimony.

2:46 p.m. Representative Stemen motioned Do Pass

2:46 p.m. Representative O'Brien seconded

2:46 p.m. Roll Call Vote

Representatives	Vote
Representative Don Vigesaa	Y
Representative Keith Kempenich	Y
Representative Bert Anderson	A
Representative Mike Berg	Y
Representative Glen Bosch	Y
Representative Mike Brandenburg	Y
Representative Jay Fisher	Y
Representative Karla Rose Hanson	Y

Representative Scott Louser	Y
Representative Bob Martinson	Y
Representative Lisa Meier	Y
Representative Alisa Mitskog	A
Representative David Monson	Y
Representative Eric J. Murphy	Y
Representative Mike Nathe	Y
Representative Jon O. Nelson	Y
Representative Emily O'Brien	Y
Representative Brandy L. Pyle	Y
Representative David Richter	Y
Representative Mark Sanford	Y
Representative Gregory Stemen	Y
Representative Steve Swiontek	Y
Representative Scott Wagner	Y

2:46 p.m. Motion passed 21-0-2.

2:46 p.m. Representative Grindberg will carry the Bill.

2:46 p.m. p.m. Chairman Vigesaa closed the meeting.

*Sierra Schartz, Committee Clerk*

**REPORT OF STANDING COMMITTEE  
ENGROSSED HB 1146 ([25.0743.03000](#))**

**Appropriations Committee (Rep. Vigesaa, Chairman)** recommends **DO PASS** (21 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1146 was placed on the Eleventh order on the calendar.

Good afternoon, Mr. Chairman and members of the Appropriations Committee.

My name is Austen Schauer, District 13, West Fargo.

**HB 1146** is a clean-up bill following the closure of the Main Defined Benefit Plan for new employees approved last session.

Those from NDPERS who have implemented our decision are here to answer follow-up questions.

- Right now, only political subdivisions that were part of the Main Defined Benefit Plan are part of the Defined Contribution Plan.

**HB 1040** from last session did not allow new political subs not currently participating in NDPERS the opportunity to join the NDPERS DC plan.

Sections 1 and 3 of **HB 1146** addresses this concern and will allow new political subdivisions to join this plan in the future.

- Sections 2, 4, and 6 address terminology used in **HB 1040** (“State Employer” and “State Governmental Unit”) that were not defined terms.

There are 21 “State” entities identified that do not receive budgetary approval from the Legislative Assembly, and there are concerns with how these entities would pay for some of the provisions in **HB 1040**.

- Section 2 would give the Legislative Assembly the ability to infuse cash deposits that would be equal or greater than the Actuarially Determined Employer Contribution (ADEC) in lieu of charging state employers the additional contributions being made to pay off the unfunded liability of the Main Plan.



- Section 2 and 6 address the employers that are charged the ADEC and “**Spillover**” rates.

**HB 1040** committed to paying the **\$1.9 Billion liability** by 2056, and the two main funding mechanisms were charging State employers an ADEC contribution increase as well as charging State employers' “Spillover” rates.

Sections 2 and 6 remove these 21 entities from being included in the two funding mechanisms, which means they will be treated like political subdivisions.

- ADEC is the rate we need to charge the applicable employers to pay off the unfunded liability in 30 and a half years. It's like a ***variable rate mortgage*** being charged to state employers, while political subdivisions make a flat contribution into the plan.
- “**Spillover**” essentially means that State employers do not recognize budgetary savings if an employee does not take full advantage of their matching contributions into the Defined Contribution Plan, as the shortfall of State employers is redirected to fund the Main Defined Benefit Plan.
- The fiscal note before you is a result of Sections 2 and 6 in this bill. The \$1.9 Billion liability doesn't change, but the employer base collecting ADEC & Spillover is reduced, resulting in an overall contribution increase of 0.1% of all remaining State employees.
- Please note there is proposed legislation (HB 1234) that would infuse a lump sum deposit into the Main Defined Benefit Plan. If that bill were to pass both

chambers, the fiscal note attached to this bill would not be needed.

- Section 4 addresses the special election window for eligible State employees with less than 5 years of service and the ability for their employees who elect to move from Defined Benefit to Defined Contribution.

Because Section 4 is removing these entities from being treated like a State employer, it also removes the ability for any of their 43 total employees to transfer from Defined Benefit to Defined Contribution or to receive a **\$9,999** incentive.

- Section 7 includes a retroactive application date to Section 4, because these employees theoretically are eligible right now to transfer.
  - Section 8 includes an emergency clause to Section 4, because the special election ends March 31, 2025.
  - Both the retroactive application and emergency clause are critical for PERS to properly administer the special election window, which is currently underway.
- Section 5 was amended to allow the PERS Board the authority to explore out-of-plan annuities through an annuity shopping service.

There are **in-plan** annuities in the Defined Contribution Plan, but Section 5 was added to allow the Board the opportunity to explore **out-of-plan** annuities to possibly make the Investment Lineup more attractive to those in the Defined Contribution Plan.

In addition, it clarifies what investment solutions may be part of the plan.

That concludes my report on HB 1146.

Thank you, Mr. Chairman.

**2025 SENATE STATE AND LOCAL GOVERNMENT**

**HB 1146**

# 2025 SENATE STANDING COMMITTEE MINUTES

## State and Local Government Committee Room JW216, State Capitol

HB 1146  
3/6/2025

Relating to employer eligibility to participate in the public employees retirement system defined contribution retirement plan, employer contribution requirements for the defined benefit and defined contribution retirement plans, and employee eligibility to elect to transfer to the defined contribution plan; to provide for retroactive application; and to declare an emergency.

10:06 a.m. Chair Roers called the hearing to order.

Members Present: Chairman Roers; Vice Chair Castaneda; Senators: Braunberger, Lee and Walen.

Members Absent: Senator Barta

### Discussion Topics:

- Committee Action
- Funding flexibility

10:06 a.m. Representative Lefor, District #37, introduced the bill and submitted testimony #39232.

10:15 a.m. Derrick Hohbein, Chief Operating/Financial Officer NDPERS, testified neutral and submitted testimony #38417.

10:26 a.m. Senator Walen moved Do Pass and Rerefer to Appropriations.

10:26 a.m. Senator Lee seconded the motion.

Senators	Vote
Senator Kristin Roers	Y
Senator Jose L. Castaneda	Y
Senator Jeff Barta	AB
Senator Ryan Braunberger	Y
Senator Judy Lee	Y
Senator Chuck Walen	Y

Motion Passed 5-0-1

Senator Roers will carry the bill.

10:30 a.m. Chair Roers closed the hearing.

*Susan Helbling, Committee Clerk*

**REPORT OF STANDING COMMITTEE  
ENGROSSED HB 1146 ([25.0743.03000](#))**

**State and Local Government Committee (Sen. Roers, Chairman)** recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 0 NAYS, 1 ABSENT OR EXCUSED AND NOT VOTING). Engrossed HB 1146 was rereferred to the **Appropriations Committee**. This bill does not affect workforce development.



## TESTIMONY OF DERRICK HOHBEIN

### House Bill 1146 – Main Defined Benefit Plan Cleanup

Good Morning, Madam Chair and members of the committee. My name is Derrick Hohbein and I am the Chief Operating/Financial Officer of the North Dakota Public Employees Retirement System, or NDPERS. I appreciate the committee taking the time to analyze House Bill 1146, which addresses some of the observations that were discovered with the closure of the Main Defined Benefit Plan. I am here today on behalf of the NDPERS Board to provide information in a neutral capacity so the policy makers are able to make an informed decision regarding the bill.

Section 1 and Section 3 are allowing political subdivision employers that are currently not participating in NDPERS the opportunity to join the NDPERS Defined Contribution plan, if they wish. Currently there is not an avenue for a political subdivision not already part of NDPERS to join the NDPERS Defined Contribution Plan; only those who were in the Main Defined Benefit Plan were transitioned into the Defined Contribution Plan.

Section 2, Section 4, and Section 6 are being proposed to address the 21 entities who meet the definition of a “state employer” and “state governmental unit”, but do not receive their appropriation authority through the Legislative process. These terms were used in House Bill 1040 but are not defined terms. It is our understanding these entities are funded through membership fees (as an example) of their participants. Our office had an observation that the Actuarially Determined Employer Contributions, “Spillover” contributions, and incentive payments may create budgetary hardships these entities may not be able to overcome. The following is a list of the employers that would be impacted by this clarification:

Org Code ID	Org Name	Org Type	Employer Type	# of Total Employees	# of employees Eligible for Incentive
020200	Education Standards & Practice	Employer	State	7	0
026100	ND Board of Nursing	Employer	State	12	4
042600	State Board Of Law Examiners	Employer	State	3	0
042700	ND State Board Of Cosmetology	Employer	State	4	4
042800	ND State Plumbing Board	Employer	State	6	0
060300	Dairy Promotion Commission	Employer	State	0	0
060700	Milk Marketing Board	Employer	State	3	1
060800	ND Oilseed Council	Employer	State	1	0
061400	ND Corn Utilization Council	Employer	State	2	0
061600	State Seed Department	Employer	State	23	9
062400	Beef Commission	Employer	State	4	3
062500	ND Wheat Commission	Employer	State	5	0
062600	ND Barley Council	Employer	State	1	0
066500	State Fair Association	Employer	State	10	9
071000	Soil Conservation Committee	Employer	State	0	0
090000	ND State Board Of Accountancy	Employer	State	2	0
090100	ND Board of Medicine	Employer	State	9	0
090200	ND Board Of Pharmacy	Employer	State	3	3
090600	Real Estate Commission	Employer	State	4	1
090900	Electrical Board	Employer	State	20	9
099503	North Dakota State Board of Dental Examiners	Employer	State	1	0
				120	43



In addition, Section 2 gives the Legislature more flexibility in how to fund the Actuarially Determined Employer Contribution (ADEC), adding language that the Legislative Assembly can authorize lump sum cash infusions in lieu of charging State employers the ADEC rate for a given biennium.

Section 6 of the bill is reducing the employers that are responsible for paying the ADEC and "spillover" contributions. Because the state employer payroll is reduced, our actuary calculates the remaining payroll needs to be charged an additional 0.1% of pay to make up the difference, effective January 1, 2026. This impact has been analyzed and is included in the Fiscal Note that is attached to the bill.

Section 5 defines the investment options the Defined Contribution Plan should provide, including expanding the ability to offer out-of-plan annuity options.

Section 7 and Section 8 are being proposed as an emergency clause with a retroactive effective date of January 1, 2025 for Section 4, since these participants technically today could submit an application to move from the Defined Benefit Plan to the Defined Contribution Plan.

Madam Chair, I appreciate the committee taking the time to learn more about the impact this bill will have to our state. This concludes my testimony, and I'd be happy to answer any questions the committee may have.



January 10, 2025

Representative Austen Schauer, Chair  
Legislative Employee Benefits Programs Committee  
North Dakota State Government

**Re: North Dakota Public Employees Retirement System Legislative Studies – Provisions from  
Bill No. 25.0743.01000**

Dear Representative Schauer:

In accordance with your request, we have analyzed the impact of Bill No. 25.0743.01000 on the North Dakota Public Employees Retirement System (NDPERS). Our review is actuarial in nature; we are not attorneys and cannot provide legal advice.

**Systems Affected**

North Dakota Public Employees Retirement System (Main System and Defined Contribution Plan)

**Summary**

Bill No. 25.0743.01000:

- Allows political subdivisions not enrolled in NDPERS retirement to join the Defined Contribution Plan and offer it to their employees.
- Clarifies that participating employers who do not receive budgetary approval from the legislative assembly are not subject to the following "state governmental unit" provisions:
  - Actuarially Determined Employer Contributions (ADEC)
  - "Spillover" contributions to the Main System
  - Eligibility for the special DC transfer in the first quarter of 2025
- For purposes of implementing HB 1040, the employers who do not receive budgetary approval from the legislative assembly are to be treated the same as political subdivision employers.
- Adds out-of-plan options to the lifetime annuity options in the defined contribution plan.

### **Actuarial Impact of Bill 743**

The cost impact calculated in this letter is based on the data for the Main System as of the July 1, 2024 actuarial valuation. The actuarial valuation data as of June 30, 2024 shows 121 employees in the 21 employer codes provided by NDPERS. Of the 121 employees, 119 employees were indicated to be State employees with pay of \$9,521,103.

Bill 743 is expected to have an impact on the actuarial accrued liability as of July 1, 2024 due to a change in the members that are expected to be eligible for the special DC transfer election window. We estimate this change will be immaterial and have not incorporated it into the expected impact of the bill.

The results under Bill 743 increase the expected 2026 payroll for the Political Subdivision employers and subsequently the expected employer contribution under the fixed contribution rate. When the fixed rate amount expected to be paid by political subdivision employers increases, the expected remaining obligation for State Employers decreases. However, because the state employer payroll is also reduced, the state employer contribution rate as a percent of pay increases slightly, from 14.46% of pay to 14.56% of pay.

The table below shows the development of the additional state contribution requirement expected to be needed based on the July 1, 2024 actuarial valuation. The additional state contribution requirement under the baseline scenario is 5.92 percent of total state payroll. Bill 743 increases the additional state contribution requirement to 6.02 percent of total state payroll.

	Baseline	Bill 743
<b>Employer Contribution by Employer Type</b>		
Political Subdivisions (Fixed Rate)	8.49%	8.49%
State Employers (Remaining Obligation)	14.46%	14.56%
Political Subdivisions (Fixed Rate) \$ Amount	\$ 56,075,328	\$ 56,887,471
State Employers (Remaining Obligation) \$ Amount	\$ 107,539,811	\$ 106,727,668
Total \$ Amount	\$ 163,615,139	\$ 163,615,139
<b>Contributions to be Made By State Employers</b>		
State Employer Contribution Rate	14.46%	14.56%
Projected Blended Fixed Rate	8.54%	8.54%
Additional State Contribution Requirement	5.92%	6.02%
Additional State Contribution Requirement \$ Amount	\$ 44,015,783	\$ 44,104,055



## **Policy Issue Analysis**

### **Benefits Policy Issues**

- Adequacy of Retirement Benefits

No impact.

- Competitiveness

Adding out-of-plan options to the lifetime annuity options under the defined contribution plan increases the number of annuity options available and the competitiveness of the plan.

- Benefits Equity and Group Integrity

No impact.

- Purchasing Power

No impact.

- Preservation of Benefits

No impact.

- Portability

Employees of employers who do not receive budgetary approval from the legislative assembly will no longer be eligible for the special DC transfer election window. Defined contribution plan benefits are generally more portable than defined benefit pension plan benefits.

- Ancillary Benefits

No impact.

- Social Security

No impact.

### **Funding Policy Issues**

- Actuarial Impacts

As previously noted, the additional state contribution requirement will need to be increased slightly to cover the reduction in payroll for state employers contributing the ADEC. The bill will also reduce potential "spillover" contributions to the Main System.

- Investment Impacts

No impact.

### **Administration Issues**

- Implementation Issues

No impact.

- Administrative Costs

The only administrative costs are related to the increase in employer contributions.

- Needed Authority

The bill appears to provide appropriate levels of administrative and governance authority to the PERS Board to implement the changes made by the bill.

- Integration

None.

- Employee Communications

No impact.

- Miscellaneous and Drafting Issues

No impact.



**Disclosures and Additional Information**

We have reviewed the bill and provided a policy issue analysis from our perspective as actuaries. However, the policy issue analysis should not be considered to be comprehensive and there may be additional benefits policy, administration issues or legal issues that are not discussed in this letter.

The signing actuary is independent of the plan sponsor.

Bonita J. Wurst and Abra D. Hill are Members of the American Academy of Actuaries (MAAA) and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

Please let us know if you have any questions.

Sincerely,



Bonita J. Wurst, ASA, EA, MAAA, FCA  
Senior Consultant



Abra D. Hill, ASA, MAAA, FCA  
Consultant

cc: Rebecca Fricke, NDPERS  
Joshua Murner, GRS



Representative Mike Lefor

HB 1146 Testimony

Good morning, Chair Roers and members of the Senate State and Local Government committee, my name is Mike Lefor and I represent District 37 - Dickinson in the North Dakota House. Today, I bring HB 1146 for your consideration.

Last session, the assembly passed HB 1040 which closed the PERS main defined benefit retirement plan to new hires and replaced it with a new defined contribution plan. For the past year and a half, the leadership team and staff with North Dakota PERS have done an outstanding job in meeting all the requirements that were needed to be completed to execute on the change.

The bill which I am bringing to you today provides clarification in certain areas of code. It does the following:

1. Allows political subdivisions not currently participating in NDPERS to join the new defined contribution plan and offer the plan to their existing and future employees. Without this change, political subdivisions will not be able to offer NDPERS to employees other than their peace and corrections officers through the Public Safety plan. It allows more portability and competitiveness within political subdivisions as many are part of the NDPERS retirement, so employees moving within subdivisions can maintain their PERS plan.
2. Clarifies the definition of state employer and which state governmental unit applies only to those state entities that receive their budget approval from the legislative assembly. This is important in determining the state entities that will be responsible for paying the actuarially determined employer contribution. (ADEC)
3. It is also necessary to identify the eligible state employees, for the no more than five-year incentive window and the employers that must pay the required incentive for those that elect to transfer. Without this clarification, the funding of the ADEC and the incentive would result in those state entities that the legislative assembly does not provide budgetary approval could result in deficiencies for these small employers without a remedy for providing funding for them.



4. I would direct your attention to page 7 lines 2 through 4, which provides the language I discussed. Section 7 of the bill provides for a retroactive application to January 1, 2025, as that was the beginning date of the new defined contribution plan.
5. For PERS to appropriately administer this to the eligible population, including the appropriate employer, this clarification is necessary.
6. On page 8, lines 25 and 26, it updates code to reflect that ability for PERS to offer both in-plan and out-of-plan options for annuities giving state employees more options in this area.

HB 1040 was landmark legislation passed by the assembly last session and this bill provides the clarity needed to move forward. With that, I ask your committee to consider a "do pass" recommendation and I would be happy to answer your questions.

## Lefor, Mike

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**From:** Fricke, Rebecca D. <rfricke@nd.gov>  
**Sent:** Thursday, January 2, 2025 2:48 PM  
**To:** Lefor, Mike  
**Cc:** Hohbein, Derrick L.  
**Subject:** RE: (Rep. Lefor) Relating to employer eligibility to participate in the public employees retirement system defined... – LC# 25.0743.01000

Good afternoon, Leader Lefor

The entities impacted are below under Org Name:

Org Code ID	Org Name	Org Type	Employer Type
020200	Education Standards & Practice	Employer	State
026100	ND Board of Nursing	Employer	State
042600	State Board Of Law Examiners	Employer	State
042700	ND State Board Of Cosmetology	Employer	State
042800	ND State Plumbing Board	Employer	State
060300	Dairy Promotion Commission	Employer	State
060700	Milk Marketing Board	Employer	State
060800	ND Oilseed Council	Employer	State
061400	ND Corn Utilization Council	Employer	State
061600	State Seed Department	Employer	State
062400	Beef Commission	Employer	State
062500	ND Wheat Commission	Employer	State
062600	ND Barley Council	Employer	State
066500	State Fair Association	Employer	State
071000	Soil Conservation Committee	Employer	State
090000	ND State Board Of Accountancy	Employer	State
090100	ND Board of Medicine	Employer	State
090200	ND Board Of Pharmacy	Employer	State

As far as your question on "what is an out-of-plan annuity", I'll need to get input from our Investment Consultant, Callan, to provide clarity. This was a request of Representative Stemen from what I understand. However, we have reached out to Callan to ask for additional information so we fully understand what that option would mean and how it would be implemented.

Yes, either Derrick or myself will be in attendance for testimony related to the bill. If we don't have a conflict with another hearing, we both will attend.

Please let me know if you have additional questions.

**2025 SENATE APPROPRIATIONS**

**HB 1146**

# 2025 SENATE STANDING COMMITTEE MINUTES

## Appropriations - Human Resources Division Harvest Room, State Capitol

HB 1146 8:52 a.m.  
3/20/2025

Relating to employee eligibility to participate in the public employees retirement system defined contribution retirement plan, employer contribution requirements for the defined benefit and defined contribution retirement plans and employee eligibility to elect to transfer to the defined plan.

8:52 a.m. Chairman Dever opened the hearing.

Members present: Chairman Dever and Senators Cleary, Davison, Magrum and Mathern.

### Discussion Topics:

- Defined Contribution Plan
- Participation Qualifications
- Committee Action

8:52 a.m. Derrick Hohbein, Chief Operating Financial Operator, ND Public Employee Retirement System (ND PERS), testified in favor.

9:04 a.m. Senator Davison moved Do Pass.

9:05 a.m. Senator Mathern seconded the motion.

Senators	Vote
Senator Dick Dever	Y
Senator Sean Cleary	A
Senator Kyle Davison	Y
Senator Jeffrey J. Magrum	Y
Senator Tim Mathern	Y

Motion passed 4-0-1

Senator Dever will carry the bill.

9:05 a.m. Chairman Dever closed the hearing.

*Joan Bares, Committee Clerk*

# 2025 SENATE STANDING COMMITTEE MINUTES

## Appropriations Committee Harvest Room, State Capitol

HB 1146  
3/20/2025

Relating to employer eligibility to participate in the public employees retirement system defined contribution retirement plan, employer contribution requirements for the defined benefit and defined contribution retirement plans, and employee eligibility to elect to transfer to the defined contribution retirement plan; to provide for retroactive application; and to declare an emergency.

3:37 p.m. Vice-Chairman Erbele opened the hearing.

Members Present: Vice-Chairman Erbele, and Senators Burckhard, Cleary, Conley, Davison, Dever, Dwyer, Magrum, Mathern, Meyer, Schaible, Sickler, Sorvaag, Thomas, Wanzek.

Members Absent: Chairman Bekkedahl.

### Discussion Topics:

- Committee Action

3:37 p.m. Senator Dever introduced the bill.

3:42 p.m. Senator Dever moved a Do Pass.

3:42 p.m. Senator Davison seconded the motion.

Senators	Vote
Senator Brad Bekkedahl	A
Senator Robert Erbele	Y
Senator Randy A. Burckhard	Y
Senator Sean Cleary	Y
Senator Cole Conley	Y
Senator Kyle Davison	Y
Senator Dick Dever	Y
Senator Michael Dwyer	Y
Senator Jeffery J. Magrum	Y
Senator Tim Mathern	Y
Senator Scott Meyer	Y
Senator Donald Schaible	Y
Senator Jonathan Sickler	Y
Senator Ronald Sorvaag	Y
Senator Paul J. Thomas	Y
Senator Terry M. Wanzek	Y

Motion Passed 15-0-1.

Senate Appropriations Committee

HB 1146

03/20/2025

Page 2

Senator Roers will carry the bill.

3:44 p.m. Vice-Chairman Erbele closed the hearing.

*Elizabeth Reiten, Committee Clerk*

**REPORT OF STANDING COMMITTEE  
ENGROSSED HB 1146 ([25.0743.03000](#))**

**Appropriations Committee (Sen. Bekkedahl, Chairman)** recommends **DO PASS** (15 YEAS, 0 NAYS, 1 ABSENT OR EXCUSED AND NOT VOTING). HB 1146 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.