Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023

HOUSE BILL NO. 1040
(Legislative Management)
(Retirement Committee)

AN ACT to create and enact sections 54-52-02.15, 54-52.2-09, 54-52.6-02.1, 54-52.6-02.2, 54-52.6-05.1, 54-52.6-09.5, 54-52.6-09.6, 54-52.6-22, and 54-52.6-23 of the North Dakota Century Code, relating to the closure of the public employees retirement system main plan, the deferred compensation program, and expansion of the defined contribution retirement plan; to amend and reenact paragraph 1 of subdivision a of subsection 1 of section 15-39.1-10.3, sections 54-52-01, 54-52-02.5, 54-52-02.9, 54-52-02.11, and 54-52-02.12, subsection 2 of section 54-52-05, sections 54-52-06 and 54-52-14.3, subdivision b of subsection 1 of section 54-52-17.2, and sections 54-52.6-01, 54-52.6-02, 54-52.6-03, 54-52.6-05, 54-52.6-08, 54-52.6-09, 54-52.6-10, 54-52.6-13, 54-52.6-15, 54-52.6-19, and 57-51.1-07.5 of the North Dakota Century Code, relating to the public employees retirement system defined benefit and defined contribution retirement plans and the state share of oil and gas taxes; to repeal sections 54-52-06.5 and 54-52.6-03 of the North Dakota Century Code, relating to public employees retirement system retirement plan contribution rates upon reaching full funding and balance transfer when opting to participate in the defined contribution plan; to provide for a legislative management study; to provide for a transfer; to provide for application; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Paragraph 1 of subdivision a of subsection 1 of section 15-39.1-10.3 of the North Dakota Century Code is amended and reenacted as follows:

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

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

54-52-01. Definition of terms.

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

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

2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.

3. "Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.

4. "Deferred member" means a participating member who is not actively participating in the main plan under this chapter and who has an account intact in the main plan under this chapter.

5. "Eligible employee", except as otherwise provided under section 54-52-02.15, means ~~all~~a permanent ~~employees~~employee who ~~meet~~meets all of the eligibility requirements set by this chapter and who ~~are~~is eighteen years or more of age~~, and~~. The term includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public

instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. ~~Eligible employee~~The term does not include nonclassified state employees who ~~elect~~elected under section 54-52.6-02 to become members of the retirement plan established under chapter 54-52.6 ~~but~~. The term does include employees of the judicial branch and employees of the board of higher education and state institutions under the jurisdiction of the board of higher education.

~~5.~~6. "Employee" means any individual employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.

~~6.~~7. "Employer" means a governmental unit.

~~7.~~8. "Firefighter" means a participating member who is employed as a firefighter by a political subdivision and, notwithstanding subsection 13, for an individual employed after July 31, 2017, is employed at least thirty-two hours per week and at least twenty weeks each year of employment. A firefighter who is a participating member of the law enforcement retirement plan created by this chapter who begins employment after July 31, 2017, is ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system. The term does not include a firefighter employee of the North Dakota national guard.

~~8.~~9. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution which the retirement board may select to hold and invest the employers' and members' contributions.

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

~~10.~~11. "National guard security officer or firefighter" means a participating member who is:

a. A security police employee of the North Dakota national guard; or

b. A firefighter employee of the North Dakota national guard.

~~11.~~12. "Participating member" means an eligible employee who through payment into the plan has established a claim against the plan.

~~12.~~13. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the bureau of criminal investigation or by a political subdivision and, notwithstanding subsection 13, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. A peace officer who is a participating member of the law enforcement retirement plan created by this chapter who begins employment after August 1, 2005, is ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.

~~13.~~14. "Permanent employee" means ~~a governmental unit~~an employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least twenty weeks each year of employment.

~~14.~~15. "Prior service" means service or employment before July 1, 1966.

~~15.~~16. "Prior service credit" means such credit toward a retirement benefit as the retirement board may determine under the provisions of this chapter.

~~16.~~17. "Public employees retirement system" means the retirement plan and program established by this chapter.

~~17.~~18. "Retirement" means the acceptance of a retirement allowance under this chapter upon either termination of employment or termination of participation in the retirement plan.

~~18.~~19. "Retirement board" or "board" means the governing authority created under section 54-52-03.

~~19.~~20. "Seasonal employee" means a participating member who does not work twelve months a year.

~~20.~~21. "Service" means employment on or after July 1, 1966.

~~21.~~22. "Service benefit" means the credit toward retirement benefits as determined by the retirement board under the provisions of this chapter.

~~22.~~23. "Temporary employee" means ~~a governmental unit~~an employee who is not eligible to participate as a permanent employee, who is at least eighteen years old and not actively contributing to another employer-sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.

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

SECTION 3. AMENDMENT. Section 54-52-02.5 of the North Dakota Century Code is amended and reenacted as follows:

54-52-02.5. Newly elected and appointed state officials.

1. After December 31, 1999, ~~a person~~but before January 1, 2025, an individual elected or appointed to a state office for the first time must, from and after the date that ~~person~~individual qualifies and takes office, be a participating member of the public employees retirement system unless that person makes an election at any time during the first six months after the date the person takes office to participate in the defined contribution retirement plan established under chapter 54-52.6.

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

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

SECTION 4. AMENDMENT. Section 54-52-02.9 of the North Dakota Century Code is amended and reenacted as follows:

54-52-02.9. Participation by temporary employees.

1. ~~Within~~Before January 1, 2025, within one hundred eighty days of beginning employment, a temporary employee may elect to participate in the public employees retirement system under this chapter and receive credit for service after enrollment. Monthly, the temporary employee shall pay to the fund an amount equal to ~~eight~~fourteen and twelve hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by ~~two~~one percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January ~~2012, and with an additional two percent increase, beginning with the reporting period of January 2013, and with an additional increase of two percent, beginning with the monthly reporting period of January 2014~~2025.

2. If the temporary employee first enrolled:

   a. Before January 1, 2020, in addition the temporary employee shall pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2.

   b. After December 31, 2019, the temporary employee shall pay to the fund an additional amount equal to one and fourteen hundredths percent times the temporary employee's present monthly salary.

3. A temporary employee who is a participating member under this chapter due to employment before January 1, 2025, who becomes a permanent employee after December 31, 2024, qualifies to participate in the defined benefit retirement plan under this chapter and receive credit for service after enrollment.

4. After December 31, 2024, and within one hundred eighty days of beginning employment, a temporary employee may elect to participate in the defined contribution retirement plan under chapter 54-52.6.

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

SECTION 5. AMENDMENT. Section 54-52-02.11 of the North Dakota Century Code is amended and reenacted as follows:

54-52-02.11. Participation requirements for nonstate elected officials.

~~Elected~~

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

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

SECTION 6. AMENDMENT. Section 54-52-02.12 of the North Dakota Century Code is amended and reenacted as follows:

54-52-02.12. Participation requirements for nonstate appointed officials.

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

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

SECTION 7. Section 54-52-02.15 of the North Dakota Century Code is created and enacted as follows:

54-52-02.15. Public employees retirement system main plan - Closure to new hires - Multiple plan membership.

1. Under this section "eligible employee" means a permanent employee who:

   a. Meets all the eligibility requirements set by this chapter;

   b. Is at least eighteen years of age;

   c. Becomes a participating member after December 31, 2024; and

   d. Is not eligible to participate in the law enforcement plan, judges' plan, highway patrol plan, teachers' fund for retirement plan, or alternative retirement program established under section 15-10-17 for university system employees.

2. Effective January 1, 2025, the public employees retirement system defined benefit main plan maintained for employees is closed to new eligible employees. However, an employee who becomes a participating or deferred member under this chapter before January 1, 2025, remains in the defined benefit retirement plan under this chapter, regardless of being rehired after December 31, 2024.

3. Except as otherwise provided under this section, effective January 1, 2025, an eligible employee who begins employment with an employer shall participate in the defined contribution retirement plan under chapter 54-52.6 as provided under section 54-52.6-02.1.

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

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

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

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

SECTION 8. AMENDMENT. Subsection 2 of section 54-52-05 of the North Dakota Century Code is amended and reenacted as follows:

2. Each member must be assessed and required to pay monthly ~~four~~seven percent of the monthly salary or wage paid to the member, and such assessment must be deducted and retained out of such salary in equal monthly installments commencing with the first month of employment. ~~Member contributions increase by one percent of the monthly salary or wage paid to the member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014.~~

SECTION 9. 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 ~~legislative assembly~~employee benefits programs committee.

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; ~~and~~ 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.

4. ~~The~~Annually, the board shall report to ~~each session of the legislative assembly~~the employee benefits programs committee the contributions necessary, as determined by the actuarial study, to maintain the fund's actuarial soundness.

SECTION 10. 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.

~~1.~~ ~~Each~~

1. a. As determined by actuarial valuations, each state governmental unit shall contribute to the defined benefit plan 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~~on a level percent of compensation basis for all main system defined benefit retirement plan employees and all defined contribution retirement plan employees sufficient under the actuarial valuation to meet both the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability of the main plan over a closed period of thirty and one-half years, beginning January 1, 2026, and continuing through June 30, 2056. By November fifteenth of each even-numbered year the board shall publish the contribution rate required under this subsection. The board shall calculate this rate based on the July first actuarial report of that year.

   b. Each participating political subdivision shall contribute an amount equal to eight and twelve-hundredths percent of the monthly salary or wage of a participating member.

   c. For a participating member who first enrolls after December 31, 2019, ~~the governmental unit~~a participating political subdivision 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.

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

54-52-14.3. Public employee retirement funds - Use and investment.

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

SECTION 12. AMENDMENT. Subdivision b of subsection 1 of section 54-52-17.2 of the North Dakota Century Code is amended and reenacted as follows:

b. ~~Pursuant~~Subject to section 54-52-02.15 and pursuant to rules adopted by the board, an employee who has service credit in the system and in any of the plans described in paragraphs 1 and 2 of subdivision a is entitled to benefits under this chapter. The benefits of a temporary employee employed after July 31, 2015, must be calculated using the benefit formula in section 54-52-17. A permanent employee or a temporary employee employed before August 1, 2015, may elect to have benefits calculated using the benefit formula in section 54-52-17 under either of the following methods:

(1) The final average salary as calculated in section 54-52-17. If the participating member has worked for less than thirty-six months at retirement, the final average salary is the average salary for the total months of employment.

(2) The final average salary as calculated in section 54-52-17 for employment with any of the three eligible employers under this subdivision, with service credit not to exceed one month in any month when combined with the service credit earned in the alternate retirement system.

SECTION 13. Section 54-52.2-09 of the North Dakota Century Code is created and enacted as follows:

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

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

SECTION 14. 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 who elected to receive deferred vested retirement benefits~~an individual who is not actively participating in the main plan under chapter 54-52 who has an account intact in the main plan under chapter 54-52.

3. "Eligible employee" ~~means 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, who is eighteen years or more of age and who is in a position not classified by North Dakota human resource management services. If a participating member loses permanent employee status and becomes a temporary employee, the member may still participate in the defined contribution retirement plan~~, 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, 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~~a governmental unit, whose compensation is paid out of ~~state~~the governmental unit's funds, or funds controlled or administered by ~~the state~~a governmental unit or paid by the federal government through any of its executive or administrative officials.

5. "Employer" means ~~the state of North Dakota~~a governmental unit.

6. "Governmental unit" means the state of North Dakota or a participating political subdivision of the state.

7. "Normal retirement date" is determined based on subsection 3 of section 54-52-17.

8. "Participating member" means an eligible employee who ~~elects to participate~~participates in the defined contribution retirement plan established under this chapter.

~~7.~~9. "Permanent employee" means ~~a state~~an 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.~~10. "Temporary employee" means a governmental unit employee who is not an eligible employee due to not meeting the qualification of being a permanent employee, and who is not actively contributing to another employer-sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.

11. "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 15. AMENDMENT. Section 54-52.6-02 of the North Dakota Century Code is amended and reenacted as follows:

54-52.6-02. Election through December 31, 2024.

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

2. If an individual who is a deferred member of the public employees retirement system on September 30, 2001, is re-employed before January 1, 2025, and by virtue of that employment is again eligible for membership in the public employees retirement system under chapter 54-52, the individual may elect in writing to remain a member of the public employees retirement system or if eligible to participate in the defined contribution retirement plan established under this chapter to terminate membership in the public employees retirement system and become a participating member in the defined contribution retirement plan established under this chapter. An election made by a deferred member under this section is irrevocable. The board shall accept written elections under this section from a deferred member during the period beginning on the date of the individual's re-employment and ending upon the expiration of six months after the date of that re-employment. If the board, in its sole discretion, determines that the employee was not adequately notified of the employee's option to participate in the defined contribution retirement plan, the board may provide the employee a reasonable time within which to make that election, which may extend beyond the original six-month decision window. A deferred member who makes and files a written election to remain a member of the public employees retirement system retains all rights and is subject to all conditions as a member of that retirement system. A deferred member who does not make a written election or who does not file the election during the period specified in this section continues to be a member of the public employees retirement system. A deferred member who makes and files a written election to terminate membership in the public employees retirement system ceases to be a member of the public employees retirement system effective on the last day of the payroll period that includes the date of the election; becomes a participating

member in the defined contribution retirement plan under this chapter effective the first day of the payroll immediately following the date of the election; and waives all of that person's rights to a pension, an annuity, a retirement allowance, insurance benefit, or any other benefit under the public employees retirement system effective the last day of the payroll that includes the date of the election. This section does not affect any right to health benefits or retiree health benefits to which the deferred member may otherwise be entitled.

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

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

5. 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, then the portion that will cause the disqualification does not apply.

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

   a. The temporary employee electing to participate in the defined contribution retirement plan shall pay ~~monthly to the fund an amount equal to eight and twelve hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by two percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of two percent, beginning with the monthly reporting period of January 2013, and with an additional increase of two percent, beginning with the monthly reporting period of January 2014. The temporary employee~~

~~shall also pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2~~into the plan as provided under section 54-52.6-09.6.

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

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

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

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

SECTION 16. Section 54-52.6-02.1 of the North Dakota Century Code is created and enacted as follows:

54-52.6-02.1. Participation in defined contribution retirement plan.

1. Except as otherwise provided under section 54-52-02.5 or 54-52-02.15 or this chapter, effective January 1, 2025, an eligible employee who is first enrolled shall participate in the defined contribution retirement plan under this chapter.

2. A temporary employee may elect to participate in the defined contribution retirement plan as provided under section 54-52.6-09.6.

3. A county elected official may elect to participate in the defined contribution retirement plan as provided under section 54-52-02.11.

4. A nonstate appointed official shall participate in the defined contribution retirement plan as provided under section 54-52-02.12.

SECTION 17. Section 54-52.6-02.2 of the North Dakota Century Code is created and enacted 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 who on December 31, 2024, is a participating member of the public employees retirement system main system plan under chapter 54-42, 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 18. AMENDMENT. Section 54-52.6-03 of the North Dakota Century Code is amended and reenacted as follows:

54-52.6-03. Transfer of accumulated fund balances.

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

~~1.~~a. The actuarial present value of the individual's accumulated benefit obligation under the public employees retirement system based on the assumption that the individual will retire under the earliest applicable normal retirement age, plus interest from January 1, 2001, 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; or

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

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

SECTION 19. 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, 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 20. Section 54-52.6-05.1 of the North Dakota Century Code is created and enacted as follows:

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.

SECTION 21. AMENDMENT. Section 54-52.6-08 of the North Dakota Century Code is amended and reenacted as follows:

54-52.6-08. Credit of transfers.

The board ~~shall~~ promptly shall credit the plan account of a participating member who makes an election under ~~this chapter~~section 54-52.6-02 to terminate membership in the public employees retirement system under chapter 54-52 with any amount transferred from the public employees retirement system.

SECTION 22. AMENDMENT. Section 54-52.6-09 of the North Dakota Century Code is amended and reenacted as follows:

54-52.6-09. Contributions - Penalty.

1. ~~Each~~

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

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

c. This assessment must be deducted from the participant's salary in equal monthly installments commencing with the first month of participation in the defined contribution retirement plan established under this chapter. ~~Participating member contributions increase by one percent of the monthly salary or wage paid to the participant beginning with the monthly reporting period of January 2012; with an additional increase of one percent, beginning with the reporting period of January 2013; and with an additional increase of one percent, beginning with the monthly reporting period of January 2014.~~

2. ~~The~~

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

b. For a participating member who first joined the defined contribution retirement plan after December 31, 2024, except for an employee who elects to participate in the defined contribution plan under section 54-52.6-02.2, the employer shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member, plus up to an additional three percent as an employer matching contribution calculated based on the participating member's election under subdivision b of subsection 1. ~~Employer 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 monthly reporting period of January 2013; and with an additional increase of one percent, beginning with the monthly reporting period of January 2014.~~

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

d. If the employee's contribution is paid by the employer under subsection 3, the employer shall contribute, in addition, an amount equal to the required employee's contribution. Monthly, the employer shall pay such contribution into the participating member's account from the employer's funds appropriated for payroll and salary or any other funds available for such purposes.

e. If the employer fails to pay the contributions monthly, or fails to otherwise comply with the board's established wage reporting or payroll reporting process requirements, the employer 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. Each employer, at its option, may pay the employee contributions required by this section for all compensation earned after December 31, 1999. The amount paid must be paid by the employer in lieu of contributions by the employee. If the employer decides not to pay the contributions, the amount that would have been paid will continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. Contributions paid by the employer may not be included as gross income of the employee in determining tax treatment under this code and the federal Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee.

The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a combination of a reduction in gross salary and offset against future salary increases. Employee contributions paid by the employer must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made before the date on which employee contributions were assumed by the employer. An employer shall exercise its option under this subsection by reporting its choice to the board in writing.

SECTION 23. Section 54-52.6-09.5 of the North Dakota Century Code is created and enacted as follows:

54-52.6-09.5. Employer contribution for defined benefit plan.

In addition to the employer contribution under section 54-52.6-09, a state employer shall contribute to the defined benefit retirement plan under chapter 54-52, an amount equal to the contribution rate calculated under section 54-52-06 less the amount of the required employer contribution under sections 54-52.2-09 and 54-52.6-09. If a state employer uses federal funds to pay any or all of an employee's wages, the employer shall use state funds to pay this additional contribution.

SECTION 24. Section 54-52.6-09.6 of the North Dakota Century Code is created and enacted as follows:

54-52.6-09.6. Participation by temporary employees.

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

SECTION 25. AMENDMENT. Section 54-52.6-10 of the North Dakota Century Code is amended and reenacted as follows:

54-52.6-10. Vesting.

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

   ~~1.~~a. Upon completion of two years of service, fifty percent.

   ~~2.~~b. Upon completion of three years of service, seventy-five percent.

   ~~3.~~c. Upon completion of four years of service, one hundred percent.

2. A participating member also becomes one hundred percent vested in the employer contributions upon reaching age sixty-five. A participating member who was a member or deferred member of the public employees retirement system under chapter 54-52 who makes an election to participate in the defined contribution retirement plan ~~pursuant to this chapter~~under section 54-52.6-02 or 54-52.6-02.2 must be credited with the years of service accrued under the public employees retirement system on the effective date of participation in the defined contribution retirement plan for the purpose of meeting vesting requirements for benefits under this section. Any forfeiture as a result of the failure of a participating member to vest in the employer contribution must be deposited in the administrative expenses account.

SECTION 26. AMENDMENT. Section 54-52.6-13 of the North Dakota Century Code is amended and reenacted as follows:

54-52.6-13. Distributions.

1. A participating member is eligible to receive distribution of that ~~person's~~individual's accumulated balance in the plan upon becoming a former participating member.

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

3. a. A former participating member may elect one or a combination of several of the following methods of distribution of the accumulated balance:

   ~~a.~~ (1) A lump sum distribution to the recipient.

   ~~b.~~ (2) A lump sum direct rollover to another qualified plan, to the extent allowed by federal law.

   ~~c.~~ (3) Periodic distributions, including annuities, as authorized by the board.

   ~~d.~~ (4) No current distribution, in which case the accumulated balance must remain in the plan until the former participating member or refund beneficiary elects a method or methods of distribution under this section, to the extent allowed by federal law.

   b. A surviving spouse beneficiary may elect one or a combination of several of the methods of distribution provided in ~~subdivisions a, b, or c~~paragraph 1, 2, or 3 of subdivision a if the surviving spouse is the sole refund beneficiary. If the surviving spouse is not the sole refund beneficiary, the refund beneficiary may only choose a lump sum distribution of the accumulated balance.

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

SECTION 27. AMENDMENT. Section 54-52.6-15 of the North Dakota Century Code is amended and reenacted as follows:

54-52.6-15. Board to provide information.

1. The board shall provide information to employees who are eligible under section 54-52.6-02 or 54-52.6-02.2 to elect to become participating members under this chapter. The information must include at a minimum the employee's current account balance, the assumption of investment risk under a defined contribution retirement plan, administrative and investment costs, coordination of benefits information, and a comparison of projected retirement benefits under the public employees retirement system under chapter 54-52 and the retirement plan established under this chapter.

2. The board, or the board's vendor, shall provide to participating members:

   a. Enrollment information that includes benefits of the defined contribution retirement plan, investment options available, the assumption of risk, and administrative and investment costs.

   b. Ongoing investment and retirement income planning, including education on how to set, measure, and adjust income and saving goals based on desired retirement income and financial objectives, actual behavior, and changing circumstances.

   c. Retirement income education, including distribution options available and in-plan annuitization options.

   d. Advice and guidance information, tools, and services primarily focused on long-term planning and investing and life events that potentially influence and impact retirement savings.

3. Notwithstanding any other provision of law, the board is not liable for any election or investment decision made by an employee based upon information provided to an employee under this chapter.

SECTION 28. AMENDMENT. Section 54-52.6-19 of the North Dakota Century Code is amended and reenacted as follows:

54-52.6-19. Overpayments.

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

SECTION 29. Section 54-52.6-22 of the North Dakota Century Code is created and enacted as follows:

54-52.6-22. Report to employee benefits programs committee.

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

SECTION 30. Section 54-52.6-23 of the North Dakota Century Code is created and enacted as follows:

54-52.6-23. Savings clause - Plan modification.

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

of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

SECTION 31. AMENDMENT. Section 57-51.1-07.5 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-07.5. State share of oil and gas taxes - Deposits.

From the revenues designated for deposit in the state general fund under chapters 57-51 and 57-51.1, the state treasurer shall deposit the revenues received each biennium in the following order:

1. The first two hundred million dollars into the state general fund;
2. The next two hundred million dollars into the tax relief fund;
3. The next seventy-five million dollars into the budget stabilization fund, but not in an amount that would bring the balance in the fund to more than the limit in section 54-27.2-01;
4. The next two hundred million dollars into the state general fund;
5. The next ten million dollars into the lignite research fund;
6. The next twenty million dollars into the state disaster relief fund, but not in an amount that would bring the unobligated balance in the fund to more than twenty million dollars;
7. The next four hundred million dollars into the strategic investment and improvements fund;
8. The next sixty-five million dollars to the public employees retirement fund for the main system plan;
9. The next fifty-nine million seven hundred fifty thousand dollars, or the amount necessary to provide for twice the amount of the distributions under subsection 2 of section 57-51.1-07.7, into the funds designated for infrastructure development in non-oil-producing counties under sections 57-51.1-07.7 and 57-51.1-07.8 with fifty percent deposited into the municipal infrastructure fund and fifty percent deposited into the county and township infrastructure fund;

~~9.~~10. The next one hundred seventy million two hundred fifty thousand dollars or the amount necessary to provide a total of two hundred thirty million dollars into the funds designated for infrastructure development in non-oil-producing counties under sections 57-51.1-07.7 and 57-51.1-07.8 with fifty percent deposited into the municipal infrastructure fund and fifty percent deposited into the county and township infrastructure fund;

~~10.~~11. The next twenty million dollars into the airport infrastructure fund; and

~~11.~~12. Any additional revenues into the strategic investment and improvements fund.

SECTION 32. REPEAL. Sections 54-52-06.5 and 54-52.6-03 of the North Dakota Century Code are repealed.

SECTION 33. LEGISLATIVE MANAGEMENT STUDY - PUBLIC EMPLOYEES RETIREMENT SYSTEM RETIREMENT PLAN. During the 2023-24 interim, the legislative management shall study the public employees retirement system main system plan, including funding options and contributions by political subdivisions. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

SECTION 34. LEGISLATIVE MANAGEMENT STUDY - PUBLIC EMPLOYEES RETIREMENT SYSTEM MAIN RETIREMENT PLAN. During the 2023-24 interim, the legislative management shall study best practices for public employee retirement plans, including defined benefit plans, defined

contribution plans, and hybrid plans such as side-by-side hybrid plans, cash benefit plans, and stacked hybrid plans. The study must include development of legislation to implement the retirement plan best suited to meet the needs of the state, political subdivisions, and public employees. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

SECTION 35. TRANSFER - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND TO PUBLIC EMPLOYEES RETIREMENT SYSTEM FUND. The office of management and budget shall transfer $135,000,000 from the strategic investment and improvements fund to the public employees retirement system fund, for the purpose of reducing the unfunded liability of the public employees retirement system main system plan, during the biennium beginning July 1, 2023, and ending June 30, 2025.

SECTION 36. APPLICATION. Subdivision a of subsection 1 of section 54-52-06, as amended under section 10 of this Act, applies to employer contributions beginning January 2026, using a contribution rate based on the July 1, 2024, actuarial analysis.

SECTION 37. EFFECTIVE DATE. Sections 9, 31, 33, 34, and 35 of this Act become effective August 1, 2023; sections 1 through 8, sections 11 through 22, sections 24 through 30, and section 32 of this Act become effective January 1, 2025; and sections 10, 23, and 36 of this Act become effective January 1, 2026.

Dennis E Johnson
Speaker of the House

Tammy Miller
President of the Senate

Brent J. Reich
Chief Clerk of the House

Shandi Morgan
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1040.

House Vote:	Yeas 76	Nays 17	Absent 1
Senate Vote:	Yeas 28	Nays 19	Absent 0

Brent J. Reich
Chief Clerk of the House

Received by the Governor at 11:30 AM. on April 26, 2023.

Approved at 4:43 PM. on April 29, 2023.

Doug Burgum
Governor

Filed in this office this 1 day of May, 2023,

at 11:28 o'clock A M.

Michael Howe
Secretary of State