

Introduced by

Government and Veterans Affairs Committee

(At the request of the Public Employees Retirement System)

1 A BILL for an Act to amend and reenact section 54-52-02.9, subsection 2 of section 54-52-05,  
2 section 54-52-06, subsection 6 of section 54-52.6-02, and section 54-52.6-09 of the North  
3 Dakota Century Code, relating to increased employer and employee contributions under the  
4 public employees retirement system defined benefit and defined contribution plans.

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

6 **SECTION 1. AMENDMENT.** Section 54-52-02.9 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **54-52-02.9. Participation by temporary employees.**

9 ~~A temporary employee may elect, within~~Within one hundred eighty days of beginning  
10 employment, a temporary employee may elect to participate in the public employees retirement  
11 system and receive credit for service after enrollment. ~~The~~Monthly, the temporary employee  
12 shall pay ~~monthly~~ to the fund an amount equal to eight and twelve-hundredths percent times the  
13 temporary employee's present monthly salary. The amount required to be paid by ~~at~~the  
14 temporary employee increases by two percent times the temporary employee's present monthly  
15 salary beginning with the monthly reporting period of January 2012,~~and;~~ with an additional two  
16 percent increase, beginning with the reporting period of January 2013,~~and;~~ with an additional  
17 increase of two percent, beginning with the monthly reporting period of January 2014; and with  
18 an additional increase of two percent, beginning with the monthly reporting period of January  
19 20202021. ~~The~~In addition, the temporary employee shall also pay the required monthly  
20 contribution to the retiree health benefit fund established under section 54-52.1-03.2. This  
21 contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An  
22 employer may not pay the temporary employee's contributions. ~~A~~The temporary employee may  
23 continue to participate as a temporary employee in the public employees retirement system until  
24 termination of employment or reclassification of the temporary employee as a permanent

1 employee. ~~A~~The temporary employee may not purchase any additional credit, including  
2 additional credit under section 54-52-17.4 or past service under section 54-52-02.6.

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

5 2. Each member must be assessed and required to pay monthly four percent of the  
6 monthly salary or wage paid to the member, and such assessment must be deducted  
7 and retained out of such salary in equal monthly installments commencing with the  
8 first month of employment. Member contributions increase by one percent of the  
9 monthly salary or wage paid to the member beginning with the monthly reporting  
10 period of January 2012, ~~and~~; with an additional increase of one percent, beginning  
11 with the monthly reporting period of January 2013, ~~and~~; with an additional increase of  
12 one percent, beginning with the monthly reporting period of January 2014; and with an  
13 additional increase of one percent, beginning with the monthly reporting period of  
14 January 20202021.

15 **SECTION 3. AMENDMENT.** Section 54-52-06 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **54-52-06. Employer's contribution to retirement plan - Report to legislative assembly.**

18 1. Each governmental unit shall contribute an amount equal to four and  
19 twelve-hundredths percent of the monthly salary or wage of a participating member.  
20 Governmental unit contributions increase by one percent of the monthly salary or  
21 wage of a participating member beginning with the monthly reporting period of  
22 January 2012, ~~and~~; with an additional increase of one percent, beginning with the  
23 reporting period of January 2013, ~~and~~; with an additional increase of one percent,  
24 beginning with the monthly reporting period of January 2014; and with an additional  
25 increase of one percent, beginning with the monthly reporting period of January  
26 20202021.

27 2. For those members who elect to exercise their rights under section 54-52-17.14, the  
28 employing governmental unit, or in the case of a member not presently under covered  
29 employment the most recent employing governmental unit, shall pay the associated  
30 employer contribution. If the employee's contribution is paid by the governmental unit  
31 under subsection 3 of section 54-52-05, the employer unit shall contribute, in addition,

1 an amount equal to the required employee's contribution. Each governmental unit  
2 shall pay the contribution monthly, or in the case of an election made pursuant to  
3 section 54-52-17.14 a lump sum, into the retirement fund from ~~its~~the governmental  
4 unit's funds appropriated for payroll and salary or any other funds available for these  
5 purposes. Any governmental unit failing to pay the contributions monthly, or in the  
6 case of an election made pursuant to section 54-52-17.14 a lump sum, is subject to a  
7 civil penalty of fifty dollars and, as interest, one percent of the amount due for each  
8 month of delay or fraction thereof ~~thereof~~ a month after the payment became due. In lieu of  
9 assessing a civil penalty or one percent per month, or both, interest at the actuarial  
10 rate of return may be assessed for each month the contributions are delinquent. If  
11 contributions are paid within ninety days of the date ~~they~~the contributions became due,  
12 penalty and interest to be paid on delinquent contributions may be waived.

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

19 4. The board shall report to each session of the legislative assembly the contributions  
20 necessary, as determined by the actuarial study, to maintain the fund's actuarial  
21 soundness.

22 **SECTION 4. AMENDMENT.** Subsection 6 of section 54-52.6-02 of the North Dakota  
23 Century Code is amended and reenacted as follows:

24 6. A participating member who becomes a temporary employee may still participate in  
25 the defined contribution retirement plan upon filing an election with the board within  
26 one hundred eighty days of transferring to temporary employee status. The  
27 participating member may not become a member of the defined benefit plan as a  
28 temporary employee. The temporary employee electing to participate in the defined  
29 contribution retirement plan shall pay monthly to the fund an amount equal to eight  
30 and twelve-hundredths percent times the temporary employee's present monthly  
31 salary. The amount required to be paid by ~~at~~the temporary employee increases by two

1 percent times the temporary employee's present monthly salary beginning with the  
2 monthly reporting period of January 2012, ~~and~~; with an additional increase of two  
3 percent, beginning with the monthly reporting period of January 2013, ~~and~~; with an  
4 additional increase of two percent, beginning with the monthly reporting period of  
5 January 2014; and with an additional increase of two percent, beginning with the  
6 monthly reporting period of January 20202021. TheIn addition, the temporary  
7 employee shall ~~also~~ pay the required monthly contribution to the retiree health benefit  
8 fund established under section 54-52.1-03.2. This contribution must be recorded as a  
9 member contribution pursuant to section 54-52.1-03.2. An employer may not pay the  
10 temporary employee's contributions. AThe temporary employee may continue to  
11 participate as a temporary employee until termination of employment or  
12 reclassification of the temporary employee as a permanent employee.

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

15 **54-52.6-09. Contributions - Penalty.**

- 16 1. Each participating member shall contribute monthly four percent of the monthly salary  
17 or wage paid to the participant, and this assessment must be deducted from the  
18 participant's salary in equal monthly installments commencing with the first month of  
19 participation in the defined contribution retirement plan established under this chapter.  
20 Participating member contributions increase by one percent of the monthly salary or  
21 wage paid to the participant beginning with the monthly reporting period of  
22 January 2012, ~~and~~; with an additional increase of one percent, beginning with the  
23 reporting period of January 2013, ~~and~~; with an additional increase of one percent,  
24 beginning with the monthly reporting period of January 2014; and with an additional  
25 increase of one percent, beginning with the monthly reporting period of January  
26 20202021.
- 27 2. The employer shall contribute an amount equal to four and twelve-hundredths percent  
28 of the monthly salary or wage of a participating member. Employer contributions  
29 increase by one percent of the monthly salary or wage of a participating member  
30 beginning with the monthly reporting period of January 2012, ~~and~~; with an additional  
31 increase of one percent, beginning with the monthly reporting period of January 2013, ~~and~~

1           and; with an additional increase of one percent, beginning with the monthly reporting  
2           period of January 2014; and with an additional increase of one percent, beginning with  
3           the monthly reporting period of January 20202021. If the employee's contribution is  
4           paid by the employer under subsection 3, the employer shall contribute, in addition, an  
5           amount equal to the required employee's contribution. Monthly, the employer shall pay  
6           such contribution into the participating member's account from the employer's funds  
7           appropriated for payroll and salary or any other funds available for such purposes. If  
8           the employer fails to pay the contributions monthly, the employer is subject to a civil  
9           penalty of fifty dollars and, as interest, one percent of the amount due for each month  
10          of delay or fraction thereof after the payment became due. In lieu of assessing a civil  
11          penalty or one percent per month, or both, interest at the actuarial rate of return may  
12          be assessed for each month the contributions are delinquent. If contributions are paid  
13          within ninety days of the date the contributions became due, penalty and interest to be  
14          paid on delinquent contributions may be waived.

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

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1           employee contributions were assumed by the employer. An employer shall exercise  
2           ~~itsthe employer's~~ option under this subsection by reporting ~~itsthe employer's~~ choice to  
3           the board in writing.