

**OPINION
66-248**

July 19, 1966 (OPINION)

General James O. Guthrie, Chairman

Employees Retirement Board

RE: State - Retirement System - Contribution

Re: Section 54-52-06, of the North Dakota Century Code,

agency contribution to state employee retirement plan

This office has been questioned by a number of state agencies concerning the proper limitation insofar as the agency contribution is concerned for the remaining portion of calendar year 1966.

It is possible of course to construe section 54-52-06 of the North Dakota Century Code when applying the limitation to the period less than a full calendar year, in either of two ways, to-wit: Cutting off the state's participation when it reaches \$300 before the end of calendar year 1966, or cutting it off at \$150 when it reaches that amount prior to the end of calendar year 1966.

It would appear obvious that an employee could be hired in January at a monthly wage of \$1500 and the state's contribution to the retirement plan would be \$60 monthly for the first five months. Assuming that the employee terminates his employment with the state during the sixth month, it would appear obvious that the state's contribution for the period of his employment would be limited to \$300 even though the employee was employed by the state less than six months.

However, insofar as the legislature had no opportunity to know when the state employee retirement plan would be implemented by the retirement board, it had no opportunity to specify a limitation other than on an annual basis. It is a normal interpretation that when the term "annual" is used in a statute, unless otherwise specified, it means calendar year.

It therefore follows as a natural presumption that by implementing the state employee retirement plan on July 1, 1966, the first period is one-half of an annual period, and therefore the state's contribution should not exceed \$150, or one-half of the limitation which would apply in a full annual period.

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