

Sixty-first  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO. 1121

Introduced by

Government and Veterans Affairs Committee

(At the request of the Public Employees Retirement System Board)

1 A BILL for an Act to amend and reenact sections 39-03.1-10 and 39-03.1-11.3, subsection 9 of  
2 section 52-09-20, sections 54-52-06, 54-52-17.5, 54-52-17.11, and 54-52-17.13, and  
3 subsection 2 of section 54-52.6-09 of the North Dakota Century Code, relating to employer  
4 contributions, cost-of-living adjustments, and supplemental retiree payments under the highway  
5 patrolmen's retirement system, old-age and survivor insurance trust fund, and the public  
6 employees retirement system; and to provide an appropriation.

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

8 **SECTION 1. AMENDMENT.** Section 39-03.1-10 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **39-03.1-10. Contributions by the state.** The state shall contribute to the fund a sum  
11 equal to sixteen and seventy-hundredths percent of the monthly salary or wage of a  
12 participating member; however, the state shall contribute an amount equal to twenty-two and  
13 four-hundredths percent of the monthly salary or wage of a participating member from July 1,  
14 2009, through June 30, 2011. If the member's contribution is paid by the state under  
15 subsection 2 of section 39-03.1-09, the state shall contribute, in addition, an amount equal to  
16 the required member's contribution. The state shall pay the associated employer contribution  
17 for those members who elect to exercise their rights under subsection 3 of section  
18 39-03.1-10.1.

19 **SECTION 2. AMENDMENT.** Section 39-03.1-11.3 of the North Dakota Century Code  
20 is amended and reenacted as follows:

21 **39-03.1-11.3. Supplemental retiree benefit payment.** ~~If the board determines that~~  
22 ~~the fund has obtained a total return on investments of nine and six hundredths percent or higher~~  
23 ~~for the fiscal year ending June 30, 2007, or June 30, 2008, the~~ The board shall ~~authorize an~~  
24 ~~additional~~ increase the monthly payment equal to seventy five percent of the January

~~retirement allowance following the fiscal yearend to each eligible retiree in pay status as of that~~  
~~January, including joint and survivor and term certain beneficiaries, under this chapter. The~~  
~~board may only make one payment under this section. individual or the individual's beneficiary~~  
~~receiving benefit payments under this chapter by two percent of the individual's present benefits~~  
~~with the increase payable beginning January 2011. The board shall also authorize a one-time~~  
~~supplemental retiree benefit to each eligible retiree in pay status as of January 1, 2010,~~  
~~including joint and survivor and term certain beneficiaries, based on one of the following~~  
~~options:~~

1. No additional payment if the board determines that the fund has obtained a total return on investments equal to, or less than, eight percent for the fiscal year ending June 30, 2009, or the highway patrolmen's retirement system funding ratio is equal to or less than a market value of one hundred five percent.
2. An additional payment equal to fifty percent of the January retirement allowance following the fiscal yearend if the board determines that the fund has obtained a total return on investments greater than eight percent for the fiscal year ending June 30, 2009, and the highway patrolmen's retirement system funding ratio is greater than a market value of one hundred five percent.
3. An additional payment equal to seventy-five percent of the January retirement allowance following the fiscal yearend if the board determines that the fund has obtained a total return on investments greater than nine percent for the fiscal year ending June 30, 2009, and the highway patrolmen's retirement system funding ratio is greater than a market value of one hundred ten percent.
4. An additional payment equal to one hundred percent of the January retirement allowance following the fiscal yearend if the board determines that the fund has obtained a total return on investments greater than ten percent for the fiscal year ending June 30, 2009, and the highway patrolmen's retirement system funding ratio is greater than a market value of one hundred fifteen percent.

**SECTION 3. AMENDMENT.** Subsection 9 of section 52-09-20 of the North Dakota Century Code is amended and reenacted as follows:

9. "Primary insurance benefit" means the sum of the following:

- 1           a.   (1)   Fifty percent of the amount of an individual's average monthly wage if  
2                           the average monthly wage does not exceed seventy-five dollars; or  
3                           (2)   If the average monthly wage exceeds seventy-five dollars, thirty-seven  
4                           dollars and fifty cents, plus fifteen percent of the amount by which the  
5                           average monthly wage exceeds seventy-five dollars and does not  
6                           exceed two hundred fifty dollars;  
7           b.   One percent of the amount computed under subdivision a, multiplied by the  
8                           number of years in which two hundred dollars or more of wages were paid to  
9                           the individual; and  
10          c.   (1)   ~~Effective August 1, 2005, nine hundred thirty-three dollars and~~  
11                           ~~twenty-eight cents; or~~  
12                           (2)   Effective August 1, ~~2006~~ 2009, ~~nine hundred fifty-nine dollars one~~  
13                           thousand seven and ninety-four cents.

14           **SECTION 4. AMENDMENT.** Section 54-52-06 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16           **54-52-06. Employer's contribution to retirement plan.** Each governmental unit shall  
17 contribute an amount equal to four and twelve-hundredths percent of the monthly salary or  
18 wage of a participating member; however, each governmental unit shall contribute an amount  
19 equal to five and forty-two hundredths percent of the monthly salary or wage of a participating  
20 member from July 1, 2009, through June 30, 2011. For those members who elect to exercise  
21 their rights under section 54-52-17.14, the employing governmental unit, or in the case of a  
22 member not presently under covered employment the most recent employing governmental  
23 unit, shall pay the associated employer contribution. If the employee's contribution is paid by  
24 the governmental unit under subsection 3 of section 54-52-05, the employer unit shall  
25 contribute, in addition, an amount equal to the required employee's contribution. Each  
26 governmental unit shall pay the contribution monthly, or in the case of an election made  
27 pursuant to section 54-52-17.14 a lump sum, into the retirement fund from its funds  
28 appropriated for payroll and salary or any other funds available for these purposes. ~~Any A~~  
29 governmental unit failing to pay the contributions monthly, or in the case of an election made  
30 pursuant to section 54-52-17.14 a lump sum, is subject to a civil penalty of fifty dollars and, as  
31 interest, one percent of the amount due for each month of delay or fraction thereof after the

1 payment became due. In lieu of assessing a civil penalty or one percent per month, or both,  
2 interest at the actuarial rate of return may be assessed for each month the contributions are  
3 delinquent. If contributions are paid within ninety days of the date they became due, penalty  
4 and interest to be paid on delinquent contributions may be waived. An employer is required to  
5 submit contributions for any past eligible employee who was employed after July 1, 1977, for  
6 which contributions were not made if the employee would have been eligible to become vested  
7 had the employee participated and if the employee elects to join the public employees  
8 retirement system. Employer contributions may not be assessed for eligible service that an  
9 employee has waived pursuant to subsection 1 of section 54-52-05. The board shall report to  
10 each session of the legislative assembly the contributions necessary, as determined by the  
11 actuarial study, to maintain the fund's actuarial soundness.

12 **SECTION 5. AMENDMENT.** Section 54-52-17.5 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **54-52-17.5. Postretirement adjustments.** An individual or the individual's beneficiary  
15 who, on ~~July 31, 2004~~ January 1, 2011, is receiving retirement benefits under subdivision a, c,  
16 d, or e of subsection 4 of section 54-52-17 and who has three or more years of employment  
17 with an employer that is participating under this section is entitled to receive an increase in  
18 benefits equal to ~~six~~ two percent of the individual's present benefits with the increase payable  
19 beginning ~~August 1, 2004~~ January 2011. Participation by political subdivision employers under  
20 this section is optional, at the discretion of each political subdivision. If a political subdivision  
21 employer participates in more than one plan administered by the public employees retirement  
22 system, that employer must make an election as to participation under each individual plan. If a  
23 political subdivision employer chooses not to participate under this section, the employer  
24 contribution will not increase during the period from July 1, 2009, through June 30, 2011, as  
25 provided under section 54-52-06, and the retirees and beneficiaries of the political subdivision  
26 are not entitled to receive increased benefits under this section. A political subdivision  
27 employer election to participate under this section, before July 1, 2009, is only subject to the  
28 increased employer contribution rates under section 54-52-06. A political subdivision employer  
29 that has not made an election to participate before July 1, 2009, may elect to participate at any  
30 time before July 1, 2010, provided the political subdivision employer agrees to pay contributions  
31 in accordance with section 54-52-06, plus interest at eight percent of contributions on payroll

1 from July 1, 2009, to the date of election. If an election is not made by July 1, 2010, the political  
2 subdivision employer is presumed to have made an election not to participate.

3 **SECTION 6. AMENDMENT.** Section 54-52-17.11 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **54-52-17.11. Judges postretirement adjustments.** A supreme or district court judge  
6 or that person's beneficiary who, on ~~December 31, 2007~~ January 1, 2011, is receiving  
7 retirement benefits under subdivision b of subsection 4 of section 54-52-17, is entitled to  
8 receive an increase in benefits equal to two percent of the individual's present benefits with the  
9 increase payable beginning January 1, 2008. ~~A supreme or district court judge or that person's~~  
10 ~~beneficiary who, on December 31, 2008, is receiving retirement benefits under subdivision b of~~  
11 ~~subsection 4 of section 54-52-17, is entitled to receive an increase in benefits equal to two~~  
12 ~~percent of the individual's present benefits with the increase payable beginning January 1, 2009~~  
13 January 2011. The increases allowed by this section may only be given if the public employees  
14 retirement board determines there is actuarial margin sufficient to pay the increases.

15 **SECTION 7. AMENDMENT.** Section 54-52-17.13 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **54-52-17.13. Supplemental retiree benefit payment.** ~~If the board determines that the~~  
18 ~~fund has obtained a total return on investments of nine and six hundredths percent or higher for~~  
19 ~~the fiscal year ending June 30, 2007, or June 30, 2008, the board shall authorize an additional~~  
20 ~~payment equal to seventy five percent of the January retirement allowance following the fiscal~~  
21 ~~yearend to each eligible retiree in pay status as of that January, excluding judicial retirees and~~  
22 ~~beneficiaries, but including joint and survivor and term certain beneficiaries, under this chapter.~~  
23 ~~The board may only make one payment to each retiree under this section.~~ The board shall  
24 authorize a one-time supplemental retiree benefit to each eligible retiree in pay status as of  
25 January 1, 2010, including judicial retirees and beneficiaries, and also including joint and  
26 survivor and term certain beneficiaries, based on one of the following options:

- 27 1. No additional payment if the board determines that the fund has obtained a total  
28 return on investments equal to, or less than, eight percent for the fiscal year ending  
29 June 30, 2009, or the public employees retirement system funding ratio is equal to  
30 or less than a market value of one hundred five percent.

2. An additional payment equal to fifty percent of the January retirement allowance following the fiscal yearend if the board determines that the fund has obtained a total return on investments greater than eight percent for the fiscal year ending June 30, 2009, and the public employees retirement system funding ratio is greater than a market value of one hundred five percent.
3. An additional payment equal to seventy-five percent of the January retirement allowance following the fiscal yearend if the board determines that the fund has obtained a total return on investments greater than nine percent for the fiscal year ending June 30, 2009, and the public employees retirement system funding ratio is greater than a market value of one hundred ten percent.
4. An additional payment equal to one hundred percent of the January retirement allowance following the fiscal yearend if the board determines that the fund has obtained a total return on investments greater than ten percent for the fiscal year ending June 30, 2009, and the public employees retirement system funding ratio is greater than a market value of one hundred fifteen percent.

**SECTION 8. AMENDMENT.** Subsection 2 of section 54-52.6-09 of the North Dakota Century Code is amended and reenacted as follows:

2. The employer shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member; however, an employer shall contribute an amount equal to five and forty-two hundredths percent of the monthly salary or wage of a participating member from July 1, 2009, through June 30, 2011. 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. The employer shall pay monthly such contribution into the participating member's account from its funds appropriated for payroll and salary or any other funds available for such purposes. If the employer fails to pay the contributions monthly, it 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 thereof after the payment became due.

**SECTION 9. APPROPRIATION.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state

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1 treasury, not otherwise appropriated, and from special funds derived from federal funds and  
2 other income, to the following agencies for the purpose of funding benefit enhancements  
3 contained in this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011, as  
4 follows:

<u>Agency</u>	<u>General Fund</u>	<u>Special Funds</u>	<u>Total</u>
Governor	\$17,696		\$17,696
Secretary of state	24,568	\$1,056	25,624
Office of management and budget	101,424	24,599	126,023
Information technology department	24,110	359,860	383,970
State auditor	49,592	22,862	72,454
State treasurer	7,922		7,922
Attorney general	185,072	37,621	222,693
Tax commissioner	145,370		145,370
Office of administrative hearings		8,906	8,906
Legislative council	28,931		28,931
Judicial branch	356,034	9,426	365,460
Commission on legal counsel	29,810		29,810
for indigents			
Retirement and investment office		24,844	24,844
Public employees retirement system		39,302	39,302
Department of public instruction	30,041	70,250	100,291
Land department		23,117	23,117
State library	22,478	3,552	26,030
School for the deaf	24,913	1,274	26,187
North Dakota vision services -	9,272	2,787	12,059
School for the blind			
Department of career and	32,305	2,542	34,847
technical education			
State department of health	116,362	261,842	378,204
Veterans' home	21,655	50,845	72,500
Indian affairs commission	5,208		5,208

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1	Department of veterans' affairs	6,553		6,553
2	Department of human services	1,346,021	786,786	2,132,807
3	Protection and advocacy project	6,423	26,277	32,700
4	Job service North Dakota	1,073	239,130	240,203
5	Insurance commissioner		43,176	43,176
6	Industrial commission	63,681	7,381	71,062
7	Labor commissioner	5,774	2,305	8,079
8	Public service commission	36,200	18,844	55,044
9	Aeronautics commission		5,786	5,786
10	Department of financial		38,584	38,584
11	institutions			
12	Securities department	11,434		11,434
13	Bank of North Dakota		190,681	190,681
14	Housing finance agency		49,078	49,078
15	Mill and elevator association		173,146	173,146
16	Workforce safety and insurance		130,714	130,714
17	Highway patrol	556,129	286,488	842,617
18	Department of corrections and	709,544	41,510	751,054
19	rehabilitation			
20	Adjutant general	67,675	125,691	193,366
21	Department of commerce	50,421	18,474	68,895
22	Agriculture commissioner	40,959	36,157	77,116
23	State seed department		26,059	26,059
24	Upper great plains		101,347	101,347
25	transportation institute			
26	Branch research centers		101,911	101,911
27	NDSU extension service		295,785	295,785
28	Northern crops institute		14,477	14,477
29	Main research center		433,282	433,282
30	Agronomy seed farm		4,341	4,341
31	Racing commission	481	2,290	2,771



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1	State historical society	59,351	7,407	66,758
2	Council on the arts	6,287		6,287
3	Game and fish department		200,256	200,256
4	Parks and recreation	52,589	2,792	55,381
5	department			
6	State water commission	106,508	10,728	117,236
7	Department of transportation	<hr/>	<u>1,206,478</u>	<u>1,206,478</u>
8	Total	\$4,359,866	\$5,572,046	\$9,931,912