

Sixty-fourth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1080

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 sections 54-52-06.4 and 54-52-17 and subsection 1 of  
2 section 54-52-17.2 of the North Dakota Century Code, relating to decreased employee  
3 contributions under the public employees retirement system for peace officers employed by the  
4 bureau of criminal investigation and benefit changes for employees first enrolled in the public  
5 employees retirement system defined benefit retirement plan after December 31, 2015.

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

7 **SECTION 1. AMENDMENT.** Section 54-52-06.4 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **54-52-06.4. Contribution by peace officers employed by the bureau of criminal**  
10 **investigation - Employer contribution.**

11 Each peace officer employed by the bureau of criminal investigation who is a member of the  
12 public employees retirement system is assessed and shall pay monthly four percent of the  
13 employee's monthly salary. Peace officer contributions increase by one percent of the member's  
14 monthly salary beginning with the monthly reporting period of January 2012, and with an  
15 additional increase of one percent, beginning with the reporting period of January 2013. Peace  
16 officer contributions decrease by one-half of one percent of the member's monthly salary  
17 beginning with the monthly reporting period of January 2016. The assessment must be  
18 deducted and retained out of the employee's salary in equal monthly installments. The peace  
19 officer's employer shall contribute an amount determined by the board to be actuarially required  
20 to support the level of benefits specified in section 54-52-17. The employer's contribution must  
21 be paid from funds appropriated for salary or from any other funds available for such purposes.  
22 If the peace officer's assessment is paid by the employer under subsection 3 of section  
23 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace  
24 officer's assessment.

1       **SECTION 2. AMENDMENT.** Section 54-52-17 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **54-52-17. Formulation of plan.**

4       Participating members shall receive benefits according to this section and according to  
5 rules adopted by the board, not inconsistent with this chapter. No person is entitled to receive a  
6 prior service benefit if the person was not continuously employed by a governmental unit in  
7 North Dakota for a period of not less than two years immediately prior to eligibility for retirement.

8       1. Participating members shall receive credit for full-time employment or its equivalent  
9 from the date they attain eligibility until their normal retirement date, postponed  
10 retirement date, or early retirement date, as defined in this section. Part-time  
11 employment will be recognized as full-time employment on a prorated basis as the  
12 board may prescribe.

13       2. Retirement benefits are calculated from the participating member's final average  
14 salary, which is the average of the highest salary received by the member for any  
15 thirty-six months employed during the last one hundred twenty months of employment.  
16 For members who terminate employment on or after August 1, 2010, final average  
17 salary is the average of the highest salary received by the member for any thirty-six  
18 months employed during the last one hundred eighty months of employment. For  
19 members who terminate employment between July 31, 2005, and August 1, 2010, final  
20 average salary is the average of the highest salary received by the member for any  
21 thirty-six months employed during the period for which the board has appropriate and  
22 accurate salary records on its electronic database, but that period may not be more  
23 than the last one hundred eighty months of employment. Except for a national guard  
24 security officer or firefighter, a peace officer or correctional officer employed by the  
25 bureau of criminal investigation or by a political subdivision, or a supreme court or  
26 district court judge, for members first enrolled after December 31, 2015, final average  
27 salary is the average salary earned in the five highest periods of twelve consecutive  
28 months employed during the last one hundred eighty months of employment. Months  
29 not employed without earnings are excluded in arriving at the thirty-six months to be  
30 used for the purpose of computing an average. If the For a participating member first  
31 enrolled before January 1, 2016, who has worked for less than thirty-six months at the

1 normal retirement date, the final average salary is the average salary for the total  
2 months of employment. Except for a national guard security officer or firefighter, a  
3 peace officer or correctional officer employed by the bureau of criminal investigation or  
4 by a political subdivision, or a supreme court or district court judge, for members first  
5 enrolled after December 31, 2015, who worked for less than sixty months at the  
6 normal retirement date, the final average salary is the average salary for the total  
7 months of employment.

8 3. Retirement dates are defined as follows:

9 a. Normal retirement date, except for a national guard security officer or firefighter  
10 or a peace officer or correctional officer employed by the bureau of criminal  
11 investigation or by a political subdivision, is:

12 (1) The first day of the month next following the month in which the member  
13 attains the age of sixty-five years; or

14 (2) When the member has a combined total of years of service credit and years  
15 of age equal to eighty-five and has not received a retirement benefit under  
16 this chapter.

17 b. Except for a national guard security officer or firefighter, a peace officer or  
18 correctional officer employed by the bureau of criminal investigation or by a  
19 political subdivision, or a supreme court or district court judge, normal retirement  
20 date for members first enrolled after December 31, 2015 is:

21 (1) The first day of the month next following the month in which the member  
22 attains the age of sixty-five years; or

23 (2) When the member has a combined total of years of service credit and years  
24 of age equal to ninety and the member attains a minimum age of sixty and  
25 has not received a retirement benefit under this chapter.

26 c. Normal retirement date for a national guard security officer or firefighter is the first  
27 day of the month next following the month in which the national guard security  
28 officer or firefighter attains the age of fifty-five years and has completed at least  
29 three eligible years of employment as a national guard security officer or  
30 firefighter.



1 correctional officer attains the age of fifty years and has completed at least three  
2 years of eligible employment.

3 g-h. Disability retirement date is the first day of the month after a member becomes  
4 permanently and totally disabled, according to medical evidence called for under  
5 the rules of the board, and has completed at least one hundred eighty days of  
6 eligible employment. For supreme and district court judges, permanent and total  
7 disability is based solely on a judge's inability to perform judicial duties arising out  
8 of physical or mental impairment, as determined pursuant to rules adopted by the  
9 board or as provided by subdivision a of subsection 3 of section 27-23-03. A  
10 member is eligible to receive disability retirement benefits only if the member:

- 11 (1) Became disabled during the period of eligible employment; and
- 12 (2) Applies for disability retirement benefits within twelve months of the date the  
13 member terminates employment.

14 A member is eligible to continue to receive disability benefits as long as the  
15 permanent and total disability continues and the member submits the necessary  
16 documentation and undergoes medical testing required by the board, or for as  
17 long as the member participates in a rehabilitation program required by the  
18 board, or both. If the board determines that a member no longer meets the  
19 eligibility definition, the board may discontinue the disability retirement benefit.  
20 The board may pay the cost of any medical testing or rehabilitation services it  
21 deems necessary and these payments are appropriated from the retirement fund  
22 for those purposes.

23 4. The board shall calculate retirement benefits as follows:

24 a. ~~Normal retirement benefits for all retirees, except~~ Except supreme and district  
25 court judges, the normal retirement benefits for:

- 26 (1) All retirees first enrolled before January 1, 2016, reaching normal retirement  
27 date equal an annual amount, payable monthly, comprised of a service  
28 benefit and a prior service benefit, as defined in this chapter, which is  
29 determined as follows:

30 ~~(1)~~(a) Service benefit equals two percent of final average salary  
31 multiplied by the number of years of service employment.

- 1                                    (2)(b) Prior service benefit equals two percent of final average salary  
2                                    multiplied by the number of years of prior service employment.
- 3                                    (2) All retirees first enrolled after December 31, 2015, reaching normal  
4                                    retirement date equal an amount, payable monthly, comprised of a service  
5                                    benefit and a prior service benefit, as defined in this chapter, which is  
6                                    determined as follows:
- 7                                    (a) Service benefit equals one and nine-tenths percent of final average  
8                                    salary multiplied by the number of years of service employment.
- 9                                    (b) Prior service benefit equals one and nine-tenths percent of final  
10                                   average salary multiplied by the number of years of prior service  
11                                   employment.
- 12                                   b. Normal retirement benefits for all supreme and district court judges under the  
13                                   public employees retirement system reaching normal retirement date equal an  
14                                   annual amount, payable monthly, comprised of a benefit as defined in this  
15                                   chapter, determined as follows:
- 16                                   (1) Benefits must be calculated from the time of appointment or election to the  
17                                   bench and must equal three and one-half percent of final average salary  
18                                   multiplied by the first ten years of judicial service, two and eighty hundredths  
19                                   percent of final average salary multiplied by the second ten years of judicial  
20                                   service, and one and one-fourth percent of final average salary multiplied by  
21                                   the number of years of judicial service exceeding twenty years.
- 22                                   (2) Service benefits must include, in addition, an amount equal to the percent  
23                                   specified in subdivision a of final average salary multiplied by the number of  
24                                   years of nonjudicial employee service and employment.
- 25                                   c. Postponed retirement benefits are calculated as for single life benefits for those  
26                                   members who retired on or after July 1, 1977.
- 27                                   d. Early retirement benefits are calculated as for single life benefits accrued to the  
28                                   date of termination of employment, but must be actuarially reduced to account for  
29                                   benefit payments beginning prior to the normal retirement date, which is the  
30                                   earlier of age sixty-five or the age at which current service plus age equals  
31                                   eighty-five. Except for a national guard security officer or firefighter, a peace

1           officer or correctional officer employed by the bureau of criminal investigation or  
2           by a political subdivision, or a supreme court or district court judge, early  
3           retirement benefits for members first enrolled after December 31, 2015, are  
4           calculated for single life benefits accrued to the date of termination of  
5           employment, but must be reduced by a fixed rate of eight percent per year to  
6           account for benefit payments beginning before the normal retirement date. A  
7           retiree, other than a supreme or district court judge, is eligible for early retirement  
8           benefits only after having completed three years of eligible employment. A  
9           supreme or district court judge retiree is eligible for early retirement benefits only  
10          after having completed five years of eligible employment.

11          e. Except for supreme and district court judges, disability retirement benefits are  
12          twenty-five percent of the member's final average salary. Disability retirement  
13          benefits for supreme and district court judges are seventy percent of final  
14          average salary reduced by the member's primary social security benefits and by  
15          any workforce safety and insurance benefits paid. The minimum monthly  
16          disability retirement benefit under this section is one hundred dollars.

17          5. Upon termination of employment after completing three years of eligible employment,  
18          except for supreme and district court judges, who must complete five years of eligible  
19          employment, but before normal retirement date, a member who does not elect to  
20          receive early retirement benefits is eligible to receive deferred vested retirement  
21          benefits payable commencing on the member's normal retirement date in one of the  
22          optional forms provided in subsection 9. Members who have delayed or inadvertently  
23          failed to apply for retirement benefits to commence on their normal retirement date  
24          may choose to receive either a lump sum payment equal to the amount of missed  
25          payments, or an actuarial increase to the form of benefit the member has selected,  
26          which increase must reflect the missed payments.

27          6. If before retiring a member dies after completing three years of eligible employment,  
28          except for supreme and district court judges, who must have completed five years of  
29          eligible employment, the board shall pay the member's account balance to the  
30          member's designated beneficiary as provided in this subsection. If the member has  
31          designated an alternate beneficiary with the surviving spouse's written consent, the

1 board shall pay the member's account balance to the named beneficiary. If the  
2 member has named more than one primary beneficiary, the board shall pay the  
3 member's account balance to the named primary beneficiaries in the percentages  
4 designated by the member or, if the member has not designated a percentage for the  
5 beneficiaries, in equal percentages. If one or more of the primary beneficiaries has  
6 predeceased the member, the board shall pay the predeceased beneficiary's share to  
7 the remaining primary beneficiaries. If any beneficiary survives the member, yet dies  
8 before distribution of the beneficiary's share, the beneficiary must be treated as if the  
9 beneficiary predeceased the member. If there are no remaining primary beneficiaries,  
10 the board shall pay the member's account balance to the contingent beneficiaries in  
11 the same manner. If there are no remaining designated beneficiaries, the board shall  
12 pay the member's account balance to the member's estate. If the member has not  
13 designated an alternate beneficiary or the surviving spouse is the beneficiary, the  
14 surviving spouse of the member may select a form of payment as follows:

15 a. If the member was a supreme or district court judge, the surviving spouse may  
16 select one of the following optional forms of payment:

17 (1) A lump sum payment of the member's retirement account as of the date of  
18 death.

19 (2) Payments as calculated for the deceased member as if the member was of  
20 normal retirement age at the date of death, payable until the spouse dies.

21 b. The surviving spouse of all other members may select one of the following  
22 options:

23 (1) A lump sum payment of the member's retirement account as of the date of  
24 death.

25 (2) Payment of a monthly retirement benefit equal to fifty percent of the  
26 deceased member's accrued single life retirement benefits until the spouse  
27 dies.

28 (3) If the member dies on or after the member's normal retirement date, the  
29 payment of a monthly retirement benefit equal to an amount that would have  
30 been paid to the surviving spouse if the member had retired on the day of  
31 the member's death and had selected a one hundred percent joint and



1 survivor annuity, payable until the spouse dies. A surviving spouse who  
2 received a benefit under this subsection as of July 31, 1995, is entitled to  
3 the higher of that person's existing benefit or the equivalent of the accrued  
4 benefit available under the one hundred percent joint and survivor provision  
5 as if the deceased member were of normal retirement age, with the increase  
6 payable beginning August 1, 1995.

7 7. If a member not coming under the provisions of subsection 6 terminates employment  
8 because of death, permanent and total disability, or any voluntary or involuntary  
9 reason prior to retirement, the member or the member's designated beneficiary is  
10 entitled to the member's account balance at termination. The board automatically shall  
11 refund a member's account balance if the member has completed less than three  
12 years of eligible employment, has an account balance of less than one thousand  
13 dollars, and was not a supreme or district court judge. If the member was a supreme  
14 or district court judge, the board automatically shall refund a member's account  
15 balance if the member completed less than five years of eligible employment. A  
16 member may waive the refund if the member submits a written statement to the board,  
17 within thirty days after termination, requesting that the member's account balance  
18 remain in the fund.

19 8. The surviving spouse of a member receiving retirement benefits must be the  
20 member's primary beneficiary unless there is no surviving spouse or the surviving  
21 spouse designates an alternate beneficiary in writing. If a member receiving retirement  
22 benefits or the member's surviving spouse receiving retirement benefits dies before  
23 the total amount of benefits paid to either or both equals the amount of the member's  
24 account balance at retirement, the difference must be paid to the named beneficiary of  
25 the recipient or, if there is no named beneficiary, to the recipient's estate.

26 9. The board shall adopt rules providing for the receipt of retirement benefits in the  
27 following optional forms:

- 28 a. Single life.
- 29 b. An actuarially equivalent joint and survivor option, with fifty percent or one  
30 hundred percent options.
- 31 c. Actuarially equivalent life with ten-year or twenty-year certain options.

1           d. An actuarially equivalent partial lump sum distribution option with a twelve-month  
2           maximum lump sum distribution.

3           e. An actuarially equivalent graduated benefit option with either a one percent or  
4           two percent increase to be applied the first day of January of each year.

5           Except for supreme and district court judges, unless a member specifically requests  
6           that the member receive benefits according to one of these options at the time of  
7           applying for retirement, all retirement benefits must be in the form of a single life  
8           benefit. For supreme and district court judges, unless a member specifically requests  
9           that the member receive benefits according to one of these options at the time of  
10          applying for retirement, all retirement benefits must be in the form of a lifetime monthly  
11          pension with fifty percent of the benefit continuing for the life of the surviving spouse, if  
12          any.

13          10. The fund may accept rollovers from other eligible plans under rules adopted by the  
14          board for the purchase of additional service credit, but only to the extent the transfer is  
15          a rollover contribution that meets the requirement of section 408 of the Internal  
16          Revenue Code.

17          11. The board may accept trustee-to-trustee transfers as permitted by Internal Revenue  
18          Code section 403(b)(13) and section 457(e)(17) from an Internal Revenue Code  
19          section 403(b) annuity or Internal Revenue Code section 457 deferred compensation  
20          plan for the purchase of permissive service credit, as defined in Internal Revenue  
21          Code section 415(n)(3)(A) or as repayment of a cashout from a governmental plan  
22          under Internal Revenue Code section 415(k)(3).

23          12. The board may establish individual retirement accounts and individual retirement  
24          annuities as permitted under section 408(q) of the Internal Revenue Code to allow  
25          employees to make voluntary employee contributions. The board may adopt rules to  
26          implement and administer the accounts and annuities under this section.

27          **SECTION 3. AMENDMENT.** Subsection 1 of section 54-52-17.2 of the North Dakota  
28          Century Code is amended and reenacted as follows:

29            1.   a. For the purpose of determining eligibility for benefits under this chapter, an  
30            employee's years of service credit is the total of the years of service credit earned

1 in the public employees retirement system and the years of service credit earned  
2 in any number of the following:

- 3 (1) The teachers' fund for retirement.  
4 (2) The highway patrolmen's retirement system.  
5 (3) The teachers' insurance and annuity association of America - college  
6 retirement equities fund (TIAA-CREF), for service credit earned while  
7 employed by North Dakota institutions of higher education.

8 Service credit may not exceed twelve months of credit per year.

9 b. Pursuant to rules adopted by the board, an employee who has service credit in  
10 the system and in any of the plans described in paragraphs 1 and 2 of  
11 subdivision a is entitled to benefits under this chapter. The employee may elect to  
12 have benefits calculated using the benefit formula in section 54-52-17 under  
13 either of the following methods:

14 (1) The average of the highest salary received by the member for any thirty-six  
15 months employed during the last one hundred twenty months of  
16 employment in the public employees retirement system. If the participating  
17 member has worked for less than thirty-six months at retirement, the final  
18 average salary is the average salary for the total months of employment. If  
19 the participating member was first enrolled after December 31, 2015, and  
20 worked for less than sixty months at retirement, the final average salary is  
21 the average salary for the total months of employment.

22 (2) The average of the highest salary received by the member for any thirty-six  
23 consecutive months during the last one hundred twenty months of  
24 employment with any of the three eligible employers under this subdivision,  
25 with service credit not to exceed one month in any month when combined  
26 with the service credit earned in the alternate retirement system.

27 The board shall calculate benefits for an employee under this subsection by using only  
28 those years of service credit earned under this chapter.