

90112.0200

Sixty-first  
Legislative Assembly  
of North Dakota

Introduced by

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

1 A BILL for an Act to create and enact a new subsection to section 54-52-17.4 of the North  
2 Dakota Century Code, relating to purchase of service credit under the public employees  
3 retirement system; to amend and reenact section 39-03.1-10, subsection 9 of section  
4 39-03.1-11, section 39-03.1-11.3, subsection 9 of section 52-09-20, sections 54-52-06,  
5 54-52-17.5, 54-52-17.11, and 54-52-17.13, and subsection 2 of section 54-52.6-09 of the North  
6 Dakota Century Code, relating to employer contributions, cost-of-living adjustments, and  
7 supplemental retiree payments under the highway patrolmen's retirement system, old-age and  
8 survivor insurance trust fund, and the public employees retirement system; and to provide an  
9 effective date.

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

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

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

21 **SECTION 2. AMENDMENT.** Subsection 9 of section 39-03.1-11 of the North Dakota  
22 Century Code is amended and reenacted as follows:

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

- 1 a. An actuarially equivalent joint and survivor one hundred percent option.
- 2 b. An actuarially equivalent life with ten-year or twenty-year certain options.
- 3 c. An actuarially equivalent partial lump sum distribution option with a
- 4 twelve-month maximum lump sum distribution.

5 Unless a contributor requests that the contributor receive benefits according to one  
6 of these options at the time of applying for retirement, all retirement benefits must  
7 be in the form of a lifetime monthly pension, with a ~~fifty~~ one hundred percent option  
8 to the surviving spouse.

9 **SECTION 3. AMENDMENT.** Section 39-03.1-11.3 of the North Dakota Century Code  
10 is amended and reenacted as follows:

11 **39-03.1-11.3. Supplemental retiree benefit payment.** ~~If the board determines that~~  
12 ~~the fund has obtained a total return on investments of nine and six hundredths percent or higher~~  
13 ~~for the fiscal year ending June 30, 2007, or June 30, 2008, the~~ The board shall authorize an  
14 additional increase the monthly payment equal to seventy five percent of the January  
15 retirement allowance following the fiscal yearend to each eligible retiree in pay status as of that  
16 January, including joint and survivor and term certain beneficiaries, under this chapter. The  
17 board may only make one payment under this section. individual or the individual's beneficiary  
18 receiving benefit payments under this chapter by two percent of the individual's present benefits  
19 with the increase payable beginning January 2011. The board shall also authorize a one-time  
20 supplemental retiree benefit to each eligible retiree in pay status as of January 1, 2010,  
21 including joint and survivor and term certain beneficiaries, based on one of the following  
22 options:

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

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

6           4. An additional payment equal to one hundred percent of the January retirement  
7           allowance following the fiscal yearend if the board determines that the fund has  
8           obtained a total return on investments greater than ten percent for the fiscal year  
9           ending June 30, 2009, and the highway patrolmen's retirement system funding  
10          ratio is greater than a market value of one hundred fifteen percent.

11          **SECTION 4. AMENDMENT.** Subsection 9 of section 52-09-20 of the North Dakota  
12 Century Code is amended and reenacted as follows:

- 13          9. "Primary insurance benefit" means the sum of the following:
- 14           a. (1) Fifty percent of the amount of an individual's average monthly wage if  
15           the average monthly wage does not exceed seventy-five dollars; or  
16           (2) If the average monthly wage exceeds seventy-five dollars, thirty-seven  
17           dollars and fifty cents, plus fifteen percent of the amount by which the  
18           average monthly wage exceeds seventy-five dollars and does not  
19           exceed two hundred fifty dollars;
- 20           b. One percent of the amount computed under subdivision a, multiplied by the  
21           number of years in which two hundred dollars or more of wages were paid to  
22           the individual; and
- 23           c. ~~(1) Effective August 1, 2005, nine hundred thirty three dollars and~~  
24           ~~twenty eight cents; or~~  
25           (2) Effective August 1, ~~2006~~ 2009, ~~nine hundred fifty nine one thousand~~  
26           seven dollars and ninety-four cents.

27          **SECTION 5. AMENDMENT.** Section 54-52-06 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29          **54-52-06. Employer's contribution to retirement plan.** Each governmental unit shall  
30 contribute an amount equal to four and twelve-hundredths percent of the monthly salary or  
31 wage of a participating member; however, each governmental unit shall contribute an amount

1 equal to five and twenty-five hundredths percent of the monthly salary or wage of a participating  
2 member from July 1, 2009, through June 30, 2011. For those members who elect to exercise  
3 their rights under section 54-52-17.14, the employing governmental unit, or in the case of a  
4 member not presently under covered employment the most recent employing governmental  
5 unit, shall pay the associated employer contribution. If the employee's contribution is paid by  
6 the governmental unit under subsection 3 of section 54-52-05, the employer unit shall  
7 contribute, in addition, an amount equal to the required employee's contribution. Each  
8 governmental unit shall pay the contribution monthly, or in the case of an election made  
9 pursuant to section 54-52-17.14 a lump sum, into the retirement fund from its funds  
10 appropriated for payroll and salary or any other funds available for these purposes. ~~Any A~~  
11 governmental unit failing to pay the contributions monthly, or in the case of an election made  
12 pursuant to section 54-52-17.14 a lump sum, is subject to a civil penalty of fifty dollars and, as  
13 interest, one percent of the amount due for each month of delay or fraction thereof after the  
14 payment became due. In lieu of assessing a civil penalty or one percent per month, or both,  
15 interest at the actuarial rate of return may be assessed for each month the contributions are  
16 delinquent. If contributions are paid within ninety days of the date they became due, penalty  
17 and interest to be paid on delinquent contributions may be waived. An employer is required to  
18 submit contributions for any past eligible employee who was employed after July 1, 1977, for  
19 which contributions were not made if the employee would have been eligible to become vested  
20 had the employee participated and if the employee elects to join the public employees  
21 retirement system. Employer contributions may not be assessed for eligible service that an  
22 employee has waived pursuant to subsection 1 of section 54-52-05. The board shall report to  
23 each session of the legislative assembly the contributions necessary, as determined by the  
24 actuarial study, to maintain the fund's actuarial soundness.

25 **SECTION 6.** A new subsection to section 54-52-17.4 of the North Dakota Century Code  
26 is created and enacted as follows:

27 A member who possesses vested employer contributions in accordance with  
28 section 54-52-11.1 may purchase one month of service credit for each year of  
29 vested employer contributions at termination of employment. The employee shall  
30 pay nine and twelve hundredths percent of salary for a purchase made under this  
31 subsection. Purchases under this subsection are limited to two years of service

1           credit. Service credit purchased under this subsection will not be recognized as  
2           service credit for the purpose of computing retirement dates under section  
3           54-52-17. Purchases under this subsection may be accepted only for credit  
4           accumulated after January 1, 2000.

5           **SECTION 7. AMENDMENT.** Section 54-52-17.5 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7           **54-52-17.5. Postretirement adjustments.** An individual or the individual's beneficiary  
8 who, on ~~July 31, 2004~~ January 1, 2011, is receiving retirement benefits under subdivision a, c,  
9 d, or e of subsection 4 of section 54-52-17 is entitled to receive an increase in benefits equal to  
10 ~~six two~~ two percent of the individual's present benefits with the increase payable beginning  
11 ~~August 1, 2004~~ January 2011. Participation by political subdivision employers under this  
12 section is optional, at the discretion of each political subdivision. If a political subdivision  
13 employer chooses not to participate under this section, the employer contribution will not  
14 increase during the period from July 1, 2009, through June 30, 2011, as provided under section  
15 54-52-06, and the retirees and beneficiaries of the political subdivision are not entitled to  
16 receive increased benefits under this section. A political subdivision employer election to  
17 participate under this section must be made on or before July 1, 2009. If an election is not  
18 made by July 1, 2009, the political subdivision employer is presumed to have made an election  
19 not to participate.

20           **SECTION 8. AMENDMENT.** Section 54-52-17.11 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22           **54-52-17.11. Judges postretirement adjustments.** A supreme or district court judge  
23 or that person's beneficiary who, on ~~December 31, 2007~~ January 1, 2011, is receiving  
24 retirement benefits under subdivision b of subsection 4 of section 54-52-17, is entitled to  
25 receive an increase in benefits equal to two percent of the individual's present benefits with the  
26 increase payable beginning ~~January 1, 2008. A supreme or district court judge or that person's~~  
27 ~~beneficiary who, on December 31, 2008, is receiving retirement benefits under subdivision b of~~  
28 ~~subsection 4 of section 54-52-17, is entitled to receive an increase in benefits equal to two~~  
29 ~~percent of the individual's present benefits with the increase payable beginning January 1, 2009~~  
30 January 2011. The increases allowed by this section may only be given if the public employees  
31 retirement board determines there is actuarial margin sufficient to pay the increases.

1           **SECTION 9. AMENDMENT.** Section 54-52-17.13 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **54-52-17.13. Supplemental retiree benefit payment.** ~~If the board determines that the~~  
4 ~~fund has obtained a total return on investments of nine and six hundredths percent or higher for~~  
5 ~~the fiscal year ending June 30, 2007, or June 30, 2008, the board shall authorize an additional~~  
6 ~~payment equal to seventy five percent of the January retirement allowance following the fiscal~~  
7 ~~yearend to each eligible retiree in pay status as of that January, excluding judicial retirees and~~  
8 ~~beneficiaries, but including joint and survivor and term certain beneficiaries, under this chapter.~~  
9 ~~The board may only make one payment to each retiree under this section. The board shall~~  
10 authorize a one-time supplemental retiree benefit to each eligible retiree in pay status as of  
11 January 1, 2010, including judicial retirees and beneficiaries, and also including joint and  
12 survivor and term certain beneficiaries, based on one of the following options:

- 13           1. No additional payment if the board determines that the fund has obtained a total  
14 return on investments equal to, or less than, eight percent for the fiscal year ending  
15 June 30, 2009, or the public employees retirement system funding ratio is equal to  
16 or less than a market value of one hundred five percent.
- 17           2. An additional payment equal to fifty percent of the January retirement allowance  
18 following the fiscal yearend if the board determines that the fund has obtained a  
19 total return on investments greater than eight percent for the fiscal year ending  
20 June 30, 2009, and the public employees retirement system funding ratio is greater  
21 than a market value of one hundred five percent.
- 22           3. An additional payment equal to seventy-five percent of the January retirement  
23 allowance following the fiscal yearend if the board determines that the fund has  
24 obtained a total return on investments greater than nine percent for the fiscal year  
25 ending June 30, 2009, and the public employees retirement system funding ratio is  
26 greater than a market value of one hundred ten percent.
- 27           3. An additional payment equal to one hundred percent of the January retirement  
28 allowance following the fiscal yearend if the board determines that the fund has  
29 obtained a total return on investments greater than ten percent for the fiscal year  
30 ending June 30, 2009, and the public employees retirement system funding ratio is  
31 greater than a market value of one hundred fifteen percent.

1           **SECTION 10. AMENDMENT.** Subsection 2 of section 54-52.6-09 of the North Dakota  
2 Century Code is amended and reenacted as follows:

3           2. The employer shall contribute an amount equal to four and twelve-hundredths  
4 percent of the monthly salary or wage of a participating member; however, an  
5 employer shall contribute an amount equal to five and twenty-five hundredths  
6 percent of the monthly salary or wage of a participating member from July 1, 2009,  
7 through June 30, 2011. If the employee's contribution is paid by the employer  
8 under subsection 3, the employer shall contribute, in addition, an amount equal to  
9 the required employee's contribution. The employer shall pay monthly such  
10 contribution into the participating member's account from its funds appropriated for  
11 payroll and salary or any other funds available for such purposes. If the employer  
12 fails to pay the contributions monthly, it is subject to a civil penalty of fifty dollars  
13 and, as interest, one percent of the amount due for each month of delay or fraction  
14 thereof after the payment became due.

15           **SECTION 11. EFFECTIVE DATE.** Section 6 of this Act becomes effective on March 1,  
16 2011.