

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

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

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

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

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

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.~~ January 2011. ~~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.

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

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

- 18 2. The employer shall contribute an amount equal to four and twelve-hundredths
19 percent of the monthly salary or wage of a participating member; however, an
20 employer shall contribute an amount equal to five and forty-two hundredths percent
21 of the monthly salary or wage of a participating member from July 1, 2009, through
22 June 30, 2011. If the employee's contribution is paid by the employer under
23 subsection 3, the employer shall contribute, in addition, an amount equal to the
24 required employee's contribution. The employer shall pay monthly such
25 contribution into the participating member's account from its funds appropriated for
26 payroll and salary or any other funds available for such purposes. If the employer
27 fails to pay the contributions monthly, it is subject to a civil penalty of fifty dollars
28 and, as interest, one percent of the amount due for each month of delay or fraction
29 thereof after the payment became due.

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

Sixty-first
Legislative Assembly

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:

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

Sixty-first
Legislative Assembly

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

Sixty-first
Legislative Assembly

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	<u> </u>	<u>1,206,478</u>	<u>1,206,478</u>
8	Total	\$4,359,866	\$5,572,046	\$9,931,912