

Sixty-second  
Legislative Assembly  
of North Dakota

Introduced by

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

1 A BILL for an Act to amend and reenact sections 39-03.1-09, 39-03.1-10, 54-52-02.9, 54-52-05,  
2 54-52-06, 54-52-06.1, 54-52-06.3, and 54-52-06.4, subsection 6 of section 54-52.6-02, and  
3 section 54-52.6-09 of the North Dakota Century Code, relating to increased employer and  
4 employee contributions under the highway patrolmen's retirement plan and public employees  
5 retirement system.

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

7 **SECTION 1. AMENDMENT.** Section 39-03.1-09 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **39-03.1-09. Payments by contributors - Employer payment of employee**  
10 **contribution.**

- 11 1. Every member, except as provided in section 39-03.1-07, shall contribute into the  
12 fund ten and thirty-hundredths percent of the member's monthly salary, which sum  
13 must be deducted from the member's salary and credited to the member's account  
14 in the fund. Member contributions increase by one percent of the member's  
15 monthly salary beginning with the monthly reporting period of January 2012, and  
16 increase annually thereafter by an additional one percent, with the final increase  
17 taking place beginning with the reporting period of January 2015.
- 18 2. The state of North Dakota, at its option, may pay the member contributions  
19 required by subsection 1 for all compensation earned after June 30, 1983, and may  
20 pay the member contributions required to purchase service credit on a pretax basis  
21 pursuant to subsection 8 of section 39-03.1-08.2. The amount paid must be paid  
22 by the state in lieu of contributions by the member. A member may not receive the  
23 contributed amounts directly once the employer has elected to pay the member  
24 contributions. If the state decides not to pay the contributions, the amount that

1 would have been paid will continue to be deducted from compensation. If  
2 contributions are paid by the state, they must be treated as employer contributions  
3 in determining tax treatment under this code and the federal Internal Revenue  
4 Code. If contributions are paid by the state, they must not be included as gross  
5 income of the member in determining tax treatment under this code and the  
6 Internal Revenue Code until they are distributed or made available. The state shall  
7 pay these member contributions from the same source of funds used in paying  
8 compensation to the members. The state shall pay these contributions by effecting  
9 an equal cash reduction in the gross salary of the employee or by an offset against  
10 future salary increases or by a combination of a reduction in gross salary and offset  
11 against future salary increases. If member contributions are paid by the state, they  
12 must be treated for the purposes of this chapter in the same manner and to the  
13 same extent as member contributions made prior to the date the contributions were  
14 assumed by the state. The option given employers by this subsection must be  
15 exercised in accordance with rules adopted by the board.

16 3. For compensation earned after August 1, 2009, all employee contributions required  
17 under subsection 1, and not otherwise paid under subsection 2, must be paid by  
18 the state in lieu of contributions by the member. All contributions paid by the state  
19 under this subsection must be treated as employer contributions in determining tax  
20 treatment under this code and the federal Internal Revenue Code. Contributions  
21 paid by the state under this subsection may not be included as gross income of the  
22 member in determining tax treatment under this code and the Internal Revenue  
23 Code until the contributions are distributed or made available. Contributions paid  
24 by the state in accordance with this subsection must be treated for the purposes of  
25 this chapter in the same manner and to the same extent as member contributions  
26 made before the date the contributions were assumed by the state. The state shall  
27 pay these member contributions from the same source of funds used in paying  
28 compensation to the members. The state shall pay these contributions by effecting  
29 an equal cash reduction in the gross salary of the employee. The state shall  
30 continue making payments under this section unless otherwise specifically  
31 provided for under the agency's biennial appropriation or by law.

1           **SECTION 2. AMENDMENT.** Section 39-03.1-10 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **39-03.1-10. Contributions by the state.** The state shall contribute to the fund a sum  
4 equal to sixteen and seventy-hundredths percent of the monthly salary or wage of a  
5 participating member. State contributions increase by one percent of the monthly salary or  
6 wage of a participating member beginning with the monthly reporting period of January 2012,  
7 and increase annually thereafter by an additional one percent, with the final increase taking  
8 place beginning with the reporting period of January 2015. If the member's contribution is paid  
9 by the state under subsection 2 of section 39-03.1-09, the state shall contribute, in addition, an  
10 amount equal to the required member's contribution. The state shall pay the associated  
11 employer contribution for those members who elect to exercise their rights under subsection 3  
12 of section 39-03.1-10.1.

13           **SECTION 3. AMENDMENT.** Section 54-52-02.9 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15           **54-52-02.9. Participation by temporary employees.** A temporary employee may  
16 elect, within one hundred eighty days of beginning employment, to participate in the public  
17 employees retirement system and receive credit for service after enrollment. The temporary  
18 employee shall pay monthly to the fund an amount equal to eight and twelve-hundredths  
19 percent times the temporary employee's present monthly salary. The amount required to be  
20 paid by a temporary employee increases by two percent times the temporary employee's  
21 present monthly salary beginning with the monthly reporting period of January 2012, and  
22 increases annually thereafter by an additional two percent, with the final increase taking place  
23 beginning with the reporting period of January 2015. The temporary employee shall also pay  
24 the required monthly contribution to the retiree health benefit fund established under section  
25 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section  
26 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary  
27 employee may continue to participate as a temporary employee in the public employees  
28 retirement system until termination of employment or reclassification of the temporary employee  
29 as a permanent employee. A temporary employee may not purchase any additional credit,  
30 including additional credit under section 54-52-17.4 or past service under section 54-52-02.6.

1           **SECTION 4. AMENDMENT.** Section 54-52-05 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **54-52-05. Membership and assessments - Employer payment of employee**  
4 **contributions.**

- 5           1. Every eligible governmental unit employee concurring in the plan must so state in  
6 writing and all future eligible employees are participating members. An employee  
7 who was not enrolled in the retirement system when eligible to participate must be  
8 enrolled immediately upon notice of the employee's eligibility, unless the employee  
9 waives in writing the employee's right to participate for the previous time of  
10 eligibility, to avoid contributing to the fund for past service. An employee who is  
11 eligible for normal retirement who accepts a retirement benefit under this chapter  
12 and who subsequently becomes employed with a participating employer other than  
13 the employer with which the employee was employed at the time the employee  
14 retired under this chapter may, before reenrolling in the retirement plan, elect to  
15 permanently waive future participation in the retirement plan and the retiree health  
16 program and maintain that employee's retirement status. An employee making this  
17 election is not required to make any future employee contributions to the public  
18 employees retirement system nor is the employee's employer required to make  
19 any further contributions on behalf of that employee.
- 20           2. Each member must be assessed and required to pay monthly four percent of the  
21 monthly salary or wage paid to the member, and such assessment must be  
22 deducted and retained out of such salary in equal monthly installments  
23 commencing with the first month of employment. Member contributions increase  
24 by one percent of the monthly salary or wage paid to the member beginning with  
25 the monthly reporting period of January 2012, and increase annually thereafter by  
26 an additional one percent, with the final increase taking place beginning with the  
27 reporting period of January 2015.
- 28           3. Each employer, at its option, may pay all or a portion of the employee contributions  
29 required by subsection 2 and sections 54-52-06.1, 54-52-06.2, 54-52-06.3, and  
30 54-52-06.4 or the employee contributions required to purchase service credit on a  
31 pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not

1 receive the contributed amounts directly once the employer has elected to pay the  
2 employee contributions. The amount paid must be paid by the employer in lieu of  
3 contributions by the employee. If the state determines not to pay the contributions,  
4 the amount that would have been paid must continue to be deducted from the  
5 employee's compensation. If contributions are paid by the employer, they must be  
6 treated as employer contributions in determining tax treatment under this code and  
7 the federal Internal Revenue Code. If contributions are paid by the employer, they  
8 may not be included as gross income of the employee in determining tax treatment  
9 under this code and the Internal Revenue Code until they are distributed or made  
10 available. The employer shall pay these employee contributions from the same  
11 source of funds used in paying compensation to the employee or from the levy  
12 authorized by subsection 5 of section 57-15-28.1. The employer shall pay these  
13 contributions by effecting an equal cash reduction in the gross salary of the  
14 employee or by an offset against future salary increases or by a contribution of a  
15 reduction in gross salary and offset against future salary increases. If employee  
16 contributions are paid by the employer, they must be treated for the purposes of  
17 this chapter in the same manner and to the same extent as employee contributions  
18 made prior to the date on which employee contributions were assumed by the  
19 employer. An employer exercising its option under this subsection shall report its  
20 choice to the board in writing.

21 4. For compensation earned after August 1, 2009, all employee contributions required  
22 under section 54-52-06.1 and the job service North Dakota retirement plan, and not  
23 otherwise paid under subsection 3, must be paid by the employer in lieu of  
24 contributions by the member. All contributions paid by the employer under this  
25 subsection must be treated as employer contributions in determining tax treatment  
26 under this code and the Internal Revenue Code. Contributions paid by the  
27 employer under this subsection may not be included as gross income of the  
28 member in determining tax treatment under this code and the Internal Revenue  
29 Code until the contributions are distributed or made available. Contributions paid  
30 by the employer in accordance with this subsection must be treated for the  
31 purposes of this chapter in the same manner and to the same extent as member

1 contributions made before the date the contributions were assumed by the  
2 employer. The employer shall pay these member contributions from the same  
3 source of funds used in paying compensation to the employee. The employer shall  
4 pay these contributions by effecting an equal cash reduction in the gross salary of  
5 the employee. The employer shall continue making payments under this section  
6 unless otherwise specifically provided for under the agency's biennial appropriation  
7 or by amendment to law.

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

10 **54-52-06. Employer's contribution to retirement plan.** Each governmental unit shall  
11 contribute an amount equal to four and twelve-hundredths percent of the monthly salary or  
12 wage of a participating member. Governmental unit contributions increase by one percent of  
13 the monthly salary or wage of a participating member beginning with the monthly reporting  
14 period of January 2012, and increase annually thereafter by an additional one percent, with the  
15 final increase taking place beginning with the reporting period of January 2015. For those  
16 members who elect to exercise their rights under section 54-52-17.14, the employing  
17 governmental unit, or in the case of a member not presently under covered employment the  
18 most recent employing governmental unit, shall pay the associated employer contribution. If  
19 the employee's contribution is paid by the governmental unit under subsection 3 of section  
20 54-52-05, the employer unit shall contribute, in addition, an amount equal to the required  
21 employee's contribution. Each governmental unit shall pay the contribution monthly, or in the  
22 case of an election made pursuant to section 54-52-17.14 a lump sum, into the retirement fund  
23 from its funds appropriated for payroll and salary or any other funds available for these  
24 purposes. Any governmental unit failing to pay the contributions monthly, or in the case of an  
25 election made pursuant to section 54-52-17.14 a lump sum, is subject to a civil penalty of fifty  
26 dollars and, as interest, one percent of the amount due for each month of delay or fraction  
27 thereof after the payment became due. In lieu of assessing a civil penalty or one percent per  
28 month, or both, interest at the actuarial rate of return may be assessed for each month the  
29 contributions are delinquent. If contributions are paid within ninety days of the date they  
30 became due, penalty and interest to be paid on delinquent contributions may be waived. An  
31 employer is required to submit contributions for any past eligible employee who was employed

1 after July 1, 1977, for which contributions were not made if the employee would have been  
2 eligible to become vested had the employee participated and if the employee elects to join the  
3 public employees retirement system. Employer contributions may not be assessed for eligible  
4 service that an employee has waived pursuant to subsection 1 of section 54-52-05. The board  
5 shall report to each session of the legislative assembly the contributions necessary, as  
6 determined by the actuarial study, to maintain the fund's actuarial soundness.

7 **SECTION 6. AMENDMENT.** Section 54-52-06.1 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **54-52-06.1. Contribution by supreme and district court judges - Employer**

10 **contribution.** Each judge of the supreme or district court who is a member of the public  
11 employees retirement system must be assessed and required to pay monthly five percent of the  
12 judge's monthly salary. Member contributions increase by one percent of the judge's monthly  
13 salary beginning with the monthly reporting period of January 2012, and increase annually  
14 thereafter by an additional one percent, with the final increase taking place beginning with the  
15 reporting period of January 2015. The assessment must be deducted and retained out of the  
16 judge's salary in equal monthly installments. The state shall contribute an amount equal to  
17 fourteen and fifty-two one-hundredths percent of the monthly salary of a supreme or district  
18 court judge who is a participating member of the system, which matching contribution must be  
19 paid from its funds appropriated for salary, or from any other funds available for such purposes.  
20 State contributions increase by one percent of the monthly salary of a supreme or district court  
21 judge who is a participating member of the system beginning with the monthly reporting period  
22 of January 2012, and increase annually thereafter by an additional one percent, with the final  
23 increase taking place beginning with the reporting period of January 2015. If the judge's  
24 contribution is paid by the state under subsection 3 of section 54-52-05, the state shall  
25 contribute, in addition, an amount equal to the required judge's contribution.

26 **SECTION 7. AMENDMENT.** Section 54-52-06.3 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28 **54-52-06.3. Contribution by peace officers and correctional officers employed by**  
29 **political subdivisions - Employer contribution.** Each peace officer or correctional officer  
30 employed by a political subdivision that enters into an agreement with the retirement board on  
31 behalf of its peace officers and correctional officers separately from its other employees and

1 who is a member of the public employees retirement system is assessed and shall pay monthly  
2 four percent of the employee's monthly salary. Peace officer or correctional officer  
3 contributions increase by one-half of one percent of the member's monthly salary beginning  
4 with the monthly reporting period of January 2012, and increase annually thereafter by an  
5 additional one-half of one percent, with the final increase taking place beginning with the  
6 reporting period of January 2015. The assessment must be deducted and retained out of the  
7 employee's salary in equal monthly installments. The peace officer's or correctional officer's  
8 employer shall contribute an amount determined by the board to be actuarially required to  
9 support the level of benefits specified in section 54-52-17. If the peace officer's or correctional  
10 officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the  
11 employer shall contribute, in addition, an amount equal to the required peace officer's or  
12 correctional officer's assessment.

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

15 **54-52-06.4. Contribution by peace officers employed by the bureau of criminal**  
16 **investigation - Employer contribution.** Each peace officer employed by the bureau of  
17 criminal investigation who is a member of the public employees retirement system is assessed  
18 and shall pay monthly four percent of the employee's monthly salary. Peace officer  
19 contributions increase by one percent of the member's monthly salary beginning with the  
20 monthly reporting period of January 2012, and increase annually thereafter by an additional one  
21 percent, with the final increase taking place beginning with the reporting period of January  
22 2015. The assessment must be deducted and retained out of the employee's salary in equal  
23 monthly installments. The peace officer's employer shall contribute an amount determined by  
24 the board to be actuarially required to support the level of benefits specified in section 54-52-17.  
25 The employer's contribution must be paid from funds appropriated for salary or from any other  
26 funds available for such purposes. If the peace officer's assessment is paid by the employer  
27 under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount  
28 equal to the required peace officer's assessment.

29 **SECTION 9. AMENDMENT.** Subsection 6 of section 54-52.6-02 of the North Dakota  
30 Century Code is amended and reenacted as follows:

1           6. A participating member who becomes a temporary employee may still participate in  
2           the defined contribution retirement plan upon filing an election with the board within  
3           one hundred eighty days of transferring to temporary employee status. The  
4           participating member may not become a member of the defined benefit plan as a  
5           temporary employee. The temporary employee electing to participate in the  
6           defined contribution retirement plan shall pay monthly to the fund an amount equal  
7           to eight and twelve-hundredths percent times the temporary employee's present  
8           monthly salary. The amount required to be paid by a temporary employee  
9           increases by two percent times the temporary employee's present monthly salary  
10           beginning with the monthly reporting period of January 2012, and increases  
11           annually thereafter by an additional two percent, with the final increase taking place  
12           beginning with the reporting period of January 2015. The temporary employee  
13           shall also pay the required monthly contribution to the retiree health benefit fund  
14           established under section 54-52.1-03.2. This contribution must be recorded as a  
15           member contribution pursuant to section 54-52.1-03.2. An employer may not pay  
16           the temporary employee's contributions. A temporary employee may continue to  
17           participate as a temporary employee until termination of employment or  
18           reclassification of the temporary employee as a permanent employee.

19           **SECTION 10. AMENDMENT.** Section 54-52.6-09 of the North Dakota Century Code is  
20           amended and reenacted as follows:

21           **54-52.6-09. Contributions - Penalty.**

22           1. Each participating member shall contribute monthly four percent of the monthly  
23           salary or wage paid to the participant, and this assessment must be deducted from  
24           the participant's salary in equal monthly installments commencing with the first  
25           month of participation in the defined contribution retirement plan established under  
26           this chapter. Participating member contributions increase by one percent of the  
27           monthly salary or wage paid to the participant beginning with the monthly reporting  
28           period of January 2012, and increase annually thereafter by an additional one  
29           percent, with the final increase taking place beginning with the reporting period of  
30           January 2015.

- 1           2.    The employer shall contribute an amount equal to four and twelve-hundredths  
2                   percent of the monthly salary or wage of a participating member. Employer  
3                   contributions increase by one percent of the monthly salary or wage of a  
4                   participating member beginning with the monthly reporting period of January 2012,  
5                   and increase annually thereafter by an additional one percent, with the final  
6                   increase taking place beginning with the reporting period of January 2015. If the  
7                   employee's contribution is paid by the employer under subsection 3, the employer  
8                   shall contribute, in addition, an amount equal to the required employee's  
9                   contribution. The employer shall pay monthly such contribution into the  
10                  participating member's account from its funds appropriated for payroll and salary or  
11                  any other funds available for such purposes. If the employer fails to pay the  
12                  contributions monthly, it is subject to a civil penalty of fifty dollars and, as interest,  
13                  one percent of the amount due for each month of delay or fraction thereof after the  
14                  payment became due.
- 15           3.    Each employer, at its option, may pay the employee contributions required by this  
16                  section for all compensation earned after December 31, 1999. The amount paid  
17                  must be paid by the employer in lieu of contributions by the employee. If the  
18                  employer decides not to pay the contributions, the amount that would have been  
19                  paid will continue to be deducted from the employee's compensation. If  
20                  contributions are paid by the employer, they must be treated as employer  
21                  contributions in determining tax treatment under this code and the federal Internal  
22                  Revenue Code. Contributions paid by the employer may not be included as gross  
23                  income of the employee in determining tax treatment under this code and the  
24                  federal Internal Revenue Code until they are distributed or made available. The  
25                  employer shall pay these employee contributions from the same source of funds  
26                  used in paying compensation to the employee. The employer shall pay these  
27                  contributions by effecting an equal cash reduction in the gross salary of the  
28                  employee or by an offset against future salary increases or by a combination of a  
29                  reduction in gross salary and offset against future salary increases. Employee  
30                  contributions paid by the employer must be treated for the purposes of this chapter  
31                  in the same manner and to the same extent as employee contributions made

Sixty-second  
Legislative Assembly

1                    before the date on which employee contributions were assumed by the employer.  
2                    An employer shall exercise its option under this subsection by December 1, 1999,  
3                    and shall report its choice to the board in writing. The option chosen may not be  
4                    revoked for the remainder of the biennium. Thereafter, the option choice must be  
5                    forwarded to the board, in writing, by June fifteenth of each odd-numbered year.