

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

HOUSE BILL NO. 1070
(Government and Veterans Affairs Committee)
(At the request of the Public Employees Retirement System)

AN ACT to create and enact a new section to chapter 39-03.1 and a new section to chapter 54-52 of the North Dakota Century Code, relating to supplemental payments to retirees under the highway patrolmen's retirement system and the public employees retirement system; and to amend and reenact subsection 2 of section 39-03.1-11 and subsection 2 of section 54-52-17 of the North Dakota Century Code, relating to calculation of final average salary under the highway patrolmen's retirement system and the public employees retirement system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 39-03.1-11 of the North Dakota Century Code is amended and reenacted as follows:

2. Retirement benefits are based on the contributor's final average salary. Final average salary is the average of the highest salary received by the contributor for any thirty-six ~~consecutive~~ months employed during the last one hundred twenty months of employment. For contributors who retire on or after July 1, 2009, final average salary is the average of the highest salary received by the contributor for any thirty-six months employed during the last one hundred eighty months of employment. Months not employed or months in which employment was not as a permanent employee are excluded in arriving at the thirty-six months to be used for the purpose of computing an average. If the contributor has worked for less than thirty-six months at the postponed retirement date, the final average salary is the average salary for all months of employment.

SECTION 2. A new section to chapter 39-03.1 of the North Dakota Century Code is created and enacted as follows:

Supplemental retiree benefit payment. If the board determines that the fund has obtained a total return on investments of eleven and two-tenths percent or higher for the fiscal year ending June 30, 2005, or June 30, 2006, and that the fund has the necessary margin to pay for the benefit, the board shall authorize a payment to each retiree receiving benefit payments under this chapter as of the date of the fiscal yearend in the amount of fifty percent of the retiree's then current monthly benefit payment. The payment must be made the January following the fiscal yearend. The board may only make one payment under this section.

SECTION 3. AMENDMENT. Subsection 2 of section 54-52-17 of the North Dakota Century Code is amended and reenacted as follows:

2. Retirement benefits are calculated from the participating member's final average salary, which is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred twenty months of employment. For members who retire on or after July 1, 2009, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred eighty months of employment. Months not employed are excluded in arriving at the thirty-six months to be used for the purpose of computing an average. If the participating member has worked for less than thirty-six months at the normal retirement date, the final average salary is the average salary for the total months of employment.

SECTION 4. A new section to chapter 54-52 of the North Dakota Century Code is created and enacted as follows:

Supplemental retiree benefit payment. If the board determines that the fund has obtained a total return on investments of eleven and two-tenths percent or higher for the fiscal year ending June 30, 2005, or June 30, 2006, and that the fund has the necessary margin to pay for the benefit, the board shall authorize a payment to each retiree receiving benefit payments under this chapter as of the date of the fiscal yearend in the amount of fifty percent of the retiree's then current monthly benefit payment. The payment must be made the January following the fiscal yearend. The board may only make one payment to each retiree under this section.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1070.

House Vote: Yeas 93 Nays 0 Absent 1

Senate Vote: Yeas 46 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at _____ o'clock _____ M.

Secretary of State