

(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, 54-52-02.9, 54-52-05, 54-52-06.1,  
2 and 54-52-06.3, subsection 6 of section 54-52.6-02, and section 54-52.6-09 of the North Dakota  
3 Century Code, relating to increased employee contributions under the highway patrolmen's  
4 retirement plan and public employees retirement system.

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

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

8 **39-03.1-09. Payments by contributors - Employer payment of employee**  
9 **contribution.**

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

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

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

1           **SECTION 2. AMENDMENT.** Section 54-52-02.9 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **54-52-02.9. Participation by temporary employees.** A temporary employee may  
4 elect, within one hundred eighty days of beginning employment, to participate in the public  
5 employees retirement system and receive credit for service after enrollment. The temporary  
6 employee shall pay monthly to the fund an amount equal to eight and twelve-hundredths  
7 percent times the temporary employee's present monthly salary. The amount required to be  
8 paid by a temporary employee increases by two percent times the temporary employee's  
9 present monthly salary beginning with the monthly reporting period of January 2012, and  
10 increases annually thereafter by an additional two percent, with the final increase taking place  
11 beginning with the reporting period of January 2015. The temporary employee shall also pay  
12 the required monthly contribution to the retiree health benefit fund established under section  
13 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section  
14 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary  
15 employee may continue to participate as a temporary employee in the public employees  
16 retirement system until termination of employment or reclassification of the temporary employee  
17 as a permanent employee. A temporary employee may not purchase any additional credit,  
18 including additional credit under section 54-52-17.4 or past service under section 54-52-02.6.

19           **SECTION 3. AMENDMENT.** Section 54-52-05 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21           **54-52-05. Membership and assessments - Employer payment of employee**  
22 **contributions.**

23           1. Every eligible governmental unit employee concurring in the plan must so state in  
24 writing and all future eligible employees are participating members. An employee  
25 who was not enrolled in the retirement system when eligible to participate must be  
26 enrolled immediately upon notice of the employee's eligibility, unless the employee  
27 waives in writing the employee's right to participate for the previous time of  
28 eligibility, to avoid contributing to the fund for past service. An employee who is  
29 eligible for normal retirement who accepts a retirement benefit under this chapter  
30 and who subsequently becomes employed with a participating employer other than  
31 the employer with which the employee was employed at the time the employee

1           retired under this chapter may, before reenrolling in the retirement plan, elect to  
2           permanently waive future participation in the retirement plan and the retiree health  
3           program and maintain that employee's retirement status. An employee making this  
4           election is not required to make any future employee contributions to the public  
5           employees retirement system nor is the employee's employer required to make  
6           any further contributions on behalf of that employee.

7           2. Each member must be assessed and required to pay monthly four percent of the  
8           monthly salary or wage paid to the member, and such assessment must be  
9           deducted and retained out of such salary in equal monthly installments  
10          commencing with the first month of employment. Member contributions increase  
11          by two percent of the monthly salary or wage paid to the member beginning with  
12          the monthly reporting period of January 2012, and increase annually thereafter by  
13          an additional two percent, with the final increase taking place beginning with the  
14          reporting period of January 2015.

15          3. Each employer, at its option, may pay all or a portion of the employee contributions  
16          required by subsection 2 and sections 54-52-06.1, 54-52-06.2, 54-52-06.3, and  
17          54-52-06.4 or the employee contributions required to purchase service credit on a  
18          pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not  
19          receive the contributed amounts directly once the employer has elected to pay the  
20          employee contributions. The amount paid must be paid by the employer in lieu of  
21          contributions by the employee. If the state determines not to pay the contributions,  
22          the amount that would have been paid must continue to be deducted from the  
23          employee's compensation. If contributions are paid by the employer, they must be  
24          treated as employer contributions in determining tax treatment under this code and  
25          the federal Internal Revenue Code. If contributions are paid by the employer, they  
26          may not be included as gross income of the employee in determining tax treatment  
27          under this code and the Internal Revenue Code until they are distributed or made  
28          available. The employer shall pay these employee contributions from the same  
29          source of funds used in paying compensation to the employee or from the levy  
30          authorized by subsection 5 of section 57-15-28.1. The employer shall pay these  
31          contributions by effecting an equal cash reduction in the gross salary of the

1 employee or by an offset against future salary increases or by a contribution of a  
2 reduction in gross salary and offset against future salary increases. If employee  
3 contributions are paid by the employer, they must be treated for the purposes of  
4 this chapter in the same manner and to the same extent as employee contributions  
5 made prior to the date on which employee contributions were assumed by the  
6 employer. An employer exercising its option under this subsection shall report its  
7 choice to the board in writing.

8 4. For compensation earned after August 1, 2009, all employee contributions required  
9 under section 54-52-06.1 and the job service North Dakota retirement plan, and not  
10 otherwise paid under subsection 3, must be paid by the employer in lieu of  
11 contributions by the member. All contributions paid by the employer under this  
12 subsection must be treated as employer contributions in determining tax treatment  
13 under this code and the Internal Revenue Code. Contributions paid by the  
14 employer under this subsection may not be included as gross income of the  
15 member in determining tax treatment under this code and the Internal Revenue  
16 Code until the contributions are distributed or made available. Contributions paid  
17 by the employer in accordance with this subsection must be treated for the  
18 purposes of this chapter in the same manner and to the same extent as member  
19 contributions made before the date the contributions were assumed by the  
20 employer. The employer shall pay these member contributions from the same  
21 source of funds used in paying compensation to the employee. The employer shall  
22 pay these contributions by effecting an equal cash reduction in the gross salary of  
23 the employee. The employer shall continue making payments under this section  
24 unless otherwise specifically provided for under the agency's biennial appropriation  
25 or by amendment to law.

26 **SECTION 4. AMENDMENT.** Section 54-52-06.1 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28 **54-52-06.1. Contribution by supreme and district court judges - Employer**  
29 **contribution.** Each judge of the supreme or district court who is a member of the public  
30 employees retirement system must be assessed and required to pay monthly five percent of the  
31 judge's monthly salary. Member contributions increase by two percent of the judge's monthly

1 salary beginning with the monthly reporting period of January 2012, and increase annually  
2 thereafter by an additional two percent, with the final increase taking place beginning with the  
3 reporting period of January 2015. The assessment must be deducted and retained out of the  
4 judge's salary in equal monthly installments. The state shall contribute an amount equal to  
5 fourteen and fifty-two one-hundredths percent of the monthly salary of a supreme or district  
6 court judge who is a participating member of the system, which matching contribution must be  
7 paid from its funds appropriated for salary, or from any other funds available for such purposes.  
8 If the judge's contribution is paid by the state under subsection 3 of section 54-52-05, the state  
9 shall contribute, in addition, an amount equal to the required judge's contribution.

10 **SECTION 5. AMENDMENT.** Section 54-52-06.3 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **54-52-06.3. Contribution by peace officers and correctional officers employed by**  
13 **political subdivisions - Employer contribution.** Each peace officer or correctional officer  
14 employed by a political subdivision that enters into an agreement with the retirement board on  
15 behalf of its peace officers and correctional officers separately from its other employees and  
16 who is a member of the public employees retirement system is assessed and shall pay monthly  
17 four percent of the employee's monthly salary. Peace officer or correctional officer  
18 contributions increase by one percent of the member's monthly salary beginning with the  
19 monthly reporting period of January 2012, and increase annually thereafter by an additional one  
20 percent, with the final increase taking place beginning with the reporting period of January  
21 2015. The assessment must be deducted and retained out of the employee's salary in equal  
22 monthly installments. The peace officer's or correctional officer's employer shall contribute an  
23 amount determined by the board to be actuarially required to support the level of benefits  
24 specified in section 54-52-17. If the peace officer's or correctional officer's assessment is paid  
25 by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in  
26 addition, an amount equal to the required peace officer's or correctional officer's assessment.

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

29 6. A participating member who becomes a temporary employee may still participate in  
30 the defined contribution retirement plan upon filing an election with the board within  
31 one hundred eighty days of transferring to temporary employee status. The

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

16 **SECTION 7. AMENDMENT.** Section 54-52.6-09 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **54-52.6-09. Contributions - Penalty.**

- 19 1. Each participating member shall contribute monthly four percent of the monthly  
20 salary or wage paid to the participant, and this assessment must be deducted from  
21 the participant's salary in equal monthly installments commencing with the first  
22 month of participation in the defined contribution retirement plan established under  
23 this chapter. Participating member contributions increase by two percent of the  
24 monthly salary or wage paid to the participant beginning with the monthly reporting  
25 period of January 2012, and increase annually thereafter by an additional two  
26 percent, with the final increase taking place beginning with the reporting period of  
27 January 2015.
- 28 2. The employer shall contribute an amount equal to four and twelve-hundredths  
29 percent of the monthly salary or wage of a participating member. If the employee's  
30 contribution is paid by the employer under subsection 3, the employer shall  
31 contribute, in addition, an amount equal to the required employee's contribution.

1           The employer shall pay monthly such contribution into the participating member's  
2           account from its funds appropriated for payroll and salary or any other funds  
3           available for such purposes. If the employer fails to pay the contributions monthly,  
4           it is subject to a civil penalty of fifty dollars and, as interest, one percent of the  
5           amount due for each month of delay or fraction thereof after the payment became  
6           due.

7           3. Each employer, at its option, may pay the employee contributions required by this  
8           section for all compensation earned after December 31, 1999. The amount paid  
9           must be paid by the employer in lieu of contributions by the employee. If the  
10          employer decides not to pay the contributions, the amount that would have been  
11          paid will continue to be deducted from the employee's compensation. If  
12          contributions are paid by the employer, they must be treated as employer  
13          contributions in determining tax treatment under this code and the federal Internal  
14          Revenue Code. Contributions paid by the employer may not be included as gross  
15          income of the employee in determining tax treatment under this code and the  
16          federal Internal Revenue Code until they are distributed or made available. The  
17          employer shall pay these employee contributions from the same source of funds  
18          used in paying compensation to the employee. The employer shall pay these  
19          contributions by effecting an equal cash reduction in the gross salary of the  
20          employee or by an offset against future salary increases or by a combination of a  
21          reduction in gross salary and offset against future salary increases. Employee  
22          contributions paid by the employer must be treated for the purposes of this chapter  
23          in the same manner and to the same extent as employee contributions made  
24          before the date on which employee contributions were assumed by the employer.  
25          An employer shall exercise its option under this subsection by December 1, 1999,  
26          and shall report its choice to the board in writing. The option chosen may not be  
27          revoked for the remainder of the biennium. Thereafter, the option choice must be  
28          forwarded to the board, in writing, by June fifteenth of each odd-numbered year.