Sixty-second
Legislative Assembly
of North Dakota

Introduced by

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

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

54-52-02.9. Participation by temporary employees. A temporary employee may elect, within one hundred eighty days of beginning employment, to participate in the public employees retirement system and receive credit for service after enrollment. The temporary employee shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the temporary employee's present monthly salary. The amount required to be

1 paid by a temporary employee increases by two percent times the temporary employee's
2 present monthly salary beginning with the monthly reporting period of January 2012, and
3 increases annually thereafter by an additional two percent, with the final increase taking place
4 beginning with the reporting period of January 2015. The temporary employee shall also pay
5 the required monthly contribution to the retiree health benefit fund established under section
6 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section
7 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary
8 employee may continue to participate as a temporary employee in the public employees
9 retirement system until termination of employment or reclassification of the temporary employee
10 as a permanent employee. A temporary employee may not purchase any additional credit,
11 including additional credit under section 54-52-17.4 or past service under section 54-52-02.6.
12 **SECTION 3. AMENDMENT.** Section 54-52-06 of the North Dakota Century Code is
13 amended and reenacted as follows:
14 **54-52-06. Employer's contribution to retirement plan.** Each governmental unit shall
15 contribute an amount equal to four and twelve-hundredths percent of the monthly salary or
16 wage of a participating member. Governmental unit contributions increase by two percent of
17 the monthly salary or wage of a participating member beginning with the monthly reporting
18 period of January 2012, and increase annually thereafter by an additional two percent, with the
19 final increase taking place beginning with the reporting period of January 2015. For those
20 members who elect to exercise their rights under section 54-52-17.14, the employing
21 governmental unit, or in the case of a member not presently under covered employment the
22 most recent employing governmental unit, shall pay the associated employer contribution. If
23 the employee's contribution is paid by the governmental unit under subsection 3 of section
24 54-52-05, the employer unit shall contribute, in addition, an amount equal to the required
25 employee's contribution. Each governmental unit shall pay the contribution monthly, or in the
26 case of an election made pursuant to section 54-52-17.14 a lump sum, into the retirement fund
27 from its funds appropriated for payroll and salary or any other funds available for these
28 purposes. Any governmental unit failing to pay the contributions monthly, or in the case of an
29 election made pursuant to section 54-52-17.14 a lump sum, is subject to a civil penalty of fifty
30 dollars and, as interest, one percent of the amount due for each month of delay or fraction
31 thereof after the payment became due. In lieu of assessing a civil penalty or one percent per

1 month, or both, interest at the actuarial rate of return may be assessed for each month the
2 contributions are delinquent. If contributions are paid within ninety days of the date they
3 became due, penalty and interest to be paid on delinquent contributions may be waived. An
4 employer is required to submit contributions for any past eligible employee who was employed
5 after July 1, 1977, for which contributions were not made if the employee would have been
6 eligible to become vested had the employee participated and if the employee elects to join the
7 public employees retirement system. Employer contributions may not be assessed for eligible
8 service that an employee has waived pursuant to subsection 1 of section 54-52-05. The board
9 shall report to each session of the legislative assembly the contributions necessary, as
10 determined by the actuarial study, to maintain the fund's actuarial soundness.

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

13 **54-52-06.1. Contribution by supreme and district court judges - Employer**
14 **contribution.** Each judge of the supreme or district court who is a member of the public
15 employees retirement system must be assessed and required to pay monthly five percent of the
16 judge's monthly salary. The assessment must be deducted and retained out of the judge's
17 salary in equal monthly installments. The state shall contribute an amount equal to fourteen
18 and fifty-two one-hundredths percent of the monthly salary of a supreme or district court judge
19 who is a participating member of the system, which matching contribution must be paid from its
20 funds appropriated for salary, or from any other funds available for such purposes. <u>State</u>
21 <u>contributions increase by two percent of the monthly salary of a supreme or district court judge</u>
22 <u>who is a participating member of the system beginning with the monthly reporting period of</u>
23 <u>January 2012, and increase annually thereafter by an additional two percent, with the final</u>
24 <u>increase taking place beginning with the reporting period of January 2015.</u> If the judge's
25 contribution is paid by the state under subsection 3 of section 54-52-05, the state shall
26 contribute, in addition, an amount equal to the required judge's contribution.

27 **SECTION 5. 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

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

SECTION 6. AMENDMENT. Section 54-52.6-09 of the North Dakota Century Code is amended and reenacted as follows:

54-52.6-09. Contributions - Penalty.

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

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