

# MICROFILM DIVIDER

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ROLL NUMBER

DESCRIPTION

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Date

2003 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2059

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2059

Senate Government and Veterans Affairs Committee

Conference Committee

Hearing Date 01/16/03

Tape Number	Side A	Side B	Meter #
Tape 1	x		0-1250 & 2930-3085
Committee Clerk Signature <i>[Signature]</i>			

Minutes:

**Senator Karen Krebsbach**, Chairman calls SB 2059 to order. Senators Krebsbach, Dever, Brown, Nelson, and Wardner were present. Senator Fairfield not present.

**Sparbs Collins** from Public Employees Retirement System(PERS) testified in favor of SB 2059. (Testimony attached) (Additional information provided and attached)

Senator Fairfield joins committee.

**Senator Nelson** : In section 5, the multiple plan memberships, how does that cross reference.

**Sparbs Collins**: It is important for purposes of determining eligibility. It is a time element, so that full time will count.

**Senator Nelson** : What is the retirement age for highway patrol and are they covered by social security?

**S. Collins**: No, they are not covered by social security and the retirement is 55 and 50 with graduated reduction in benefits.

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10/15/03  
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Page 2

Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2059

Hearing Date 01/16/03

Numbers provided by Neil Johnson Director of Administration with the Highway Patrol.

**Senator Dever** : It is not mandatory is it?

N. Johnson: It used to be established at 60, I am not sure what the status of that is right now.

**Senator Nelson** : IS 55 normal?

N. Johnson: Yes

**Senator Krebsbach** : Is there any further testimony in favor of SB 2059?

**Neil Johnson, Director of Administration with the Highway Department** : We do support the changes Sparbs Collins has purposed.

**Senator Nelson** : Your original request came in short. What did you ask for in the first place?

**S. Collins**: When we put it in over a year ago we were hopeful that the market would come back and since they haven't so we have made the adjustments.

**Senator Krebsbach** : Is there any more testimony in support of SB 2059.... any Neutral or in opposition?

Closed SB 2059

**Tape 1 Side A Meter # 2890**

**Senator Nelson** : I move we adopt this amendment.

**Senator Brown**: I 2nd this.

6 Yes, 0 No, 0 Absent and not voting

**Senator Nelson** : I move a DO PASS as amended on SB 2059

**Senator Brown**: 2nd

6 Yes, 0 No, 0 Absent and not voting

Carrier: Senator Wardner

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*LaCosta Rickford*

10/15/03

Date

**FISCAL NOTE**  
 Requested by Legislative Council  
 01/03/2003

Bill/Resolution No.: SB 2059

1A. **State fiscal effect:** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. **County, city, and school district fiscal effect:** Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

Section 3 - Employer Service Purchase (refer to the example in 3.b.)

3. **State fiscal effect detail:** For information shown under state fiscal effect in 1A, please:  
 A. **Revenues:** Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

-0-

B. **Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

Expenditures would be incurred only to the extent that budget savings would allow us to consider this option.

Assuming that the board's purchase price on an actuarially equivalent basis equaled the current combined employer/employee contributions of 27.3 percent of salary and a final average salary for a trooper of \$3,400 per month, the cost to the agency would be:

\$11,138 for each year of service credit purchased to a maximum of \$55,692 for the purchase of 5 years of additional service credit.

C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

-0-

Name:	Major Nell Johnson	Agency:	ND Highway Patrol
Phone Number:	328-1875	Date Prepared:	01/08/2003

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10/15/03  
Date

30057.0301  
Title.0400

Adopted by the Government and Veterans  
Affairs Committee  
January 16, 2003

703  
1-16-03

PROPOSED AMENDMENTS TO SENATE BILL NO. 2059

Page 8, after line 5, Insert:

"10. Any person if the board determines disclosure is necessary for treatment, operational, or payment purposes, including the completion of necessary documents."

Renumber accordingly

Page No. 1

30057.0301

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10/15/03  
Date

Date: 01/16/03  
Roll Call Vote #: 1

**2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2059**

Senate Government and Veteran Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number 30057.0301 Title:0400

Action Taken DO PASS

Motion Made By Senator Nelson Seconded By Senator Brown

Senators	Yes	No	Senators	Yes	No
Senator Karen Krebsbach, Chr.	x		Senator April Fairfield	x	
Senator Dick Dever, Vice Chr.	x		Senator Carolyn Nelson	x	
Senator Richard Brown	x				
Senator Rich Wardner	x				

Total (Yes) 6 No 0

Absent 0

Floor Assignment \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

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LaCosta Rickford 10/15/03  
Operator's Signature Date



Date: 01/16/03  
Roll Call Vote #: 2

**2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2058<sup>1</sup>**

Senate Government and Veteran Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS as Amended

Motion Made By Senator Nelson Seconded By Senator Brown

Senators	Yes	No	Senators	Yes	No
Senator Karen Krebsbach, Chr.	x		Senator April Fairfield	x	
Senator Dick Dever, Vice Chr.	x		Senator Carolyn Nelson	x	
Senator Richard Brown	x				
Senator Rich Wardner	x				

Total (Yes) \_\_\_\_\_ 6 No \_\_\_\_\_ 0

Absent: \_\_\_\_\_ 0

Floor Assignment Senator Wardner  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:  
adding on Page 8 after line 5 insert the following:

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S. Costa Rickford 10/15/03  
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)  
January 16, 2003 4:44 p.m.

Module No: SR-08-0696  
Carrier: Wardner  
Insert LC: 30057.0301 Title: .0400

**REPORT OF STANDING COMMITTEE**

**SB 2059: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2059 was placed  
on the Sixth order on the calendar.

Page 8, after line 5, insert:

"10. Any person if the board determines disclosure is necessary for treatment, operational, or payment purposes, including the completion of necessary documents."

Renumber accordingly

2003 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2059

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Operator's Signature

10/15/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2059

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 3-13-03

Tape Number	Side A	Side B	Meter #
1		X	5.5-14.8
2	X		39-41.5
Committee Clerk Signature: <i>Jody Ranke</i>			

Minutes: Chairman Klein opened the hearing on SB 2059. All committee members were present.

Sparb Collins, Public Employees Retirement System appeared in support of SB 2059 and provided a written statement. (SEE ATTACHED TESTIMONY.)

Representative Klein: what your doing on this bill for the Highway Patrol is similar to the one before this?

Sparb Collins: similar except for the standardizing the confidentiality requirements.

Representative Meier: could you on page one section one explain five years of generic service credit?

Sparb Collins: what we are talking about there is that your allowed to purchase time in the retirement system, and that purchase is on a actual cost, so it is a full cost base. Under federal law you can buy five years of time. It doesn't have to be a specific category of service. Its called generic because its not associated with any particular past service or employment.

Page 2  
House Government and Veterans Affairs Committee  
Bill/Resolution Number SB 2059  
Hearing Date 3-13-03

Representative Kasper: on page 7 line 27 the blind mailing list, are those with the approval of the highway patrol members do they want to receive this list?

Sparb Collins: the key term is blind so nobody names are released.

Representative Williams: is buying time unique in this program or general in retirement programs? And how often it is used?

Sparb Collins: now with the federal law changes, yes it is general, it is not used very often.

Representative Williams: is this actual cost?

Sparb Collins: yes, with the acceptance of sick leave.

Representative Sitte: what is the average year of service for the Highway Patrol and what percent do they retire and would is the rule of 70?

Sparb Collins: the rule of 70 is only for employer purchases of service, now retirement purposes they have a rule of 80, and they have the state overall goal which is retire at 90% of final average salaries as with the main system, and 25 years of service credit. Keep in mind that the reason why that their multiplier is higher than in the main system, is because they do not have social security.

Representative Haas: made a **DO PASS** motion on SB 2059.

Representative Potter: **SECOND** the motion.

**VOTE: 13-YES 0-NO 1-ABSENT (WINRICH).**

Motion carried.

Representative Kasper: will carry the bill to the floor.

Meeting adjourned.

Date: 3-13-03

Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTE  
SENATE BILL/RESOLUTION NO. SB 2059

House GOVERNMENT AND VETERANS AFFAIRS Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Rep. Haas Seconded By Rep. Potter

Representatives	Yes	No	Representatives	Yes	No
Chairman M.M. Klein	X		B. Amerman	X	
Vice Chairman B.B. Grande	X		L. Potter	X	
W.R. Devlin	X		C. Williams	X	
C.B. Haas	X		L. Winrich	A	
J. Kasper	X				
L.R. Klemin	X				
L. Meier	X				
M. Sitte	X				
W.W. Tieman	X				
R.H. Wikenheiser	X				

Total (Yes) 13 No 0

Absent 1 (Rep. Winrich)

Floor Assignment Rep. Kasper

If the vote is on an amendment, briefly indicate intent:

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La Costa Rickford 10/15/03  
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)  
March 13, 2003 1:18 p.m.

Module No: HR-44-4685  
Carrier: Kasper  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**  
SB 2059, as engrossed: Government and Veterans Affairs Committee (Rep. M. Klein, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2059 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-44-4685

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10/15/03

2003 TESTIMONY

SB 2059

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**REPORT OF THE LEGISLATIVE COUNCIL'S  
EMPLOYEE BENEFITS PROGRAMS COMMITTEE  
SENATE BILL NO. 2059**

**Sponsor:** Retirement Board

**Proposal:** Allows the PERS Board to accept trustee-to-trustee transfers as permitted by Internal Revenue Code Sections 403 and 457 from a Section 403 annuity or Section 457 deferred compensation plan for the purchase of permissive service credit or as repayment of a cashout from a governmental plan under Section 415; allows the board to establish individual retirement accounts and individual retirement annuities as permitted under Section 408 of the Internal Revenue Code to allow employees to make voluntary employee contributions; replaces the Rule of 80 with a service requirement of 25 years for normal retirement benefits; requires the board to administer the Highway Patrolmen's plan in compliance with Sections 415 and 401 of the Internal Revenue Code; provides that for the purpose of determining eligibility for benefits in instances of multiple plan membership, a member's years of service is the years of service credit earned in the TIAA-CREF, as well as PERS and TFFR, the total of which may not exceed 12 months of credit per year; provides that in instances of multiple plan membership an employee may elect to have benefits calculated by using the average of the highest salary received by the member for any 36 months employed during the last 120 months of employment in PERS or using the average of the highest salary received by the member for any 36 consecutive months during the last 120 months of employment with service credit not to exceed one month in any month when combined with the service credit earned in the alternate retirement system; provides that certain Highway Patrolmen's retirement system records relating to the retirement benefits of a member or a beneficiary may be disclosed to a member's participating employer, the administrative staff of the Retirement and Investment Office for purposes relating to membership and benefits determination, state or federal agencies, member interest groups approved by the board, the member's spouse or former spouse, legal representative, and judge presiding over the member's dissolution proceeding for purposes of aiding the parties in drafting a qualified domestic relations order, and designated beneficiaries after the member's death; and provides a postretirement increase in benefits equal to 2 percent of the individual's present benefit with the increase payable beginning August 1, 2003, and again on August 1, 2004.

The committee amended the bill at the request of the Retirement Board to clarify that the purchase provisions are available to vested members; to allow employers to purchase additional service credit on behalf of contributors under certain conditions; to delete the benefit enhancement provisions from the bill; and to add a provision clarifying the pretax purchase of service credit to address concerns of the Internal Revenue Service relating to the issuance of a letter ruling on the pretax purchase of service credit.

**Actuarial Analysis:** The reported actuarial cost impact to the original proposal is 19.69 percent of payroll. The statutory contribution rate is 16.70 percent of payroll, and the cost of the current plan is 14.59 percent of payroll. Thus, if the proposal is enacted, the margin of the Highway Patrolmen's retirement system will be minus 17.58 percent ( $16.70 - 14.59 = 2.11$ ;  $2.11 - 19.69 = -17.58$ ). As amended, however, the proposal has no actuarial cost.

The actuarial cost impact of the proposal is summarized in the following tables:

25-Year Retirement	Valuation Results	Retirement Bill No. 57
Actuarial accrued liability	\$40,542,300	\$48,304,499
Normal cost	\$1,173,988	\$1,555,857
Required contribution	\$739,968	\$1,663,665
Required contribution increase	-	\$923,697
As a percentage of payroll	-	18.21%
Payroll	\$5,072,832	\$5,072,832

2 Percent Postretirement Increase	Valuation Results	Retirement Bill No. 57
Actuarial accrued liability	\$40,542,300	\$41,444,129
Normal cost	\$1,173,988	\$1,175,268
Required contribution	\$739,968	\$804,189
Required contribution increase	-	\$64,221
As a percentage of payroll	-	1.27%
Payroll	\$5,072,832	\$5,072,832

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Operator's Signature      Date

2 Percent Postretirement Increase	Valuation Results	Retirement Bill No. 57
Actuarial accrued liability	\$40,642,300	\$49,383,642
Normal cost	\$1,173,968	\$1,556,977
Required contribution	\$739,968	\$1,738,696
Required contribution increase	-	\$996,628
As a percentage of payroll	-	19.69%
Payroll	\$5,072,832	\$5,072,832

ommitted Report: Favorable recommendation.

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10/15/03  
Date

**TESTIMONY  
OF  
SPARB COLLINS  
ON SB 2059**

Madame Chair, members of the committee, good morning. My name is Sparb Collins and I am with the Public Employees Retirement System (PERS). I appear before you in support of SB 2059 which relates to the Highway Patrol Retirement System. This bill was reviewed during the interim by the Legislative Employee Benefits Committee and given a favorable recommendation. The bill was also determined to have no actuarial impact. Since the bill provides for numerous changes in our statutes, I have attached a section by section analysis of the bill and changes. Also, you will note we are proposing an amendment to the bill. To facilitate your review of the bill I will summarize the changes in my testimony. If you would like to discuss any particular section in more detail we can use the attached analysis.

**SECTION 1**

Section 1 of the bill incorporates several changes that were recently authorized by the federal government. These changes will allow a member to rollover 457 and 403(b) funds, allows trustee to trustee transfers of 457 money and would allow PERS to establish IRA's for these members. This section will also allow members to purchase up to 5 years of generic service credit.

Page 1 of 3

### **SECTIONS 2 and 3**

Sections 2 and 3 of the bill relate to employer purchases of service credit for employees. Section 2 authorizes employers to make such purchases and on a pretax basis. Section 3 sets the criteria that an employer must adhere to in making such purchases such as employees may not be given the opportunity to chose between cash or credit, the member must be at least 50 or meet the rule of 70, the purchase must be on an actuarial basis and paid in cash before retirement.

### **SECTION 4**

This section establishes in statute all the IRS requirements that we must meet to maintain a qualified plan. These are included to document our efforts at compliance in the event we are ever audited.

### **SECTION 5**

This section changes and updates the multiple plan membership provision. Multiple plan membership is how we coordinate membership in the various state retirement plans. This change is being proposed not only for this system but also in the Main System and by TFFR. This provision is extensively used between the Main System and TFFR but not as often for the patrol system

### **SECTION 6**

This change relates to the confidentiality of information. The purpose of this change is to provide the same confidentiality provisions for the HP system as the Main system. This will standardize the procedure for both systems and provide uniform coverage and better administration. We are

proposing an amendment to this section. The purpose of the attached amendment is to clarify the exchange of information for administrative purposes and for HIPPA. This same amendment is going to be proposed for the Main System.

**SECTION 7**

This change repeals our previous wording for IRS compliance since it is replaced in Section 4 of the bill

Madame Chair, members of the committee this completes my testimony.

Page 3 of 3

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10/15/03  
Date

10	SECTION 1. AMENDMENT. Section 39-03.1-08.2 of the North Dakota Century Code	Section 1 changes
11	is amended and reinserted as follows:	The change proposed in this subsection would allow PERS to accept rollovers from 403(b) and 457 plans.
12	39-03.1-08.2. (Contingent expiration date - See note) Purchase of additional	
13	service credit.	
14	1. The fund may accept rollovers from other qualified eligible plans under rules	
15	adopted by the board for the purchase of additional service credit, but only to the	
16	extent the transfer is a rollover contribution that meets the requirement of	
17	section 408 of the Internal Revenue Code [26 U.S.C. 408].	
18	2. Except as provided in subsection 3 of section 39-03.1-10.1, a contributor is entitled	
19	to purchase additional credit under this section for active employment in the armed	
20	forces of the United States, for up to four years of credit, if the contributor is not	
21	presently receiving credit for that service. A contributor may not purchase credit	
22	under this subsection if the years claimed also qualify for retirement benefits from	
23	another retirement system.	

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La Costa Rickford 10/15/03  
Operator's signature Date

1 3. A contributor may elect to purchase credit for an employer-approved leave of  
 2 absence if the contributor is not presently receiving credit for that absence.

3 4. ~~A participating contributor who is a vested permanent employee is entitled to~~  
 4 ~~purchase additional years of service credit for purposes of subsection 4 of section~~  
 5 ~~39-03.1-11 and to enable the contributor to qualify for the normal retirement date~~  
 6 ~~defined by subdivision b of subsection 3 of section 39-03.1-11. The board may~~  
 7 ~~accept trustee-to-trustee transfers as permitted by Internal Revenue Code section~~  
 8 ~~403(b)(13) and section 457(e)(17) from an Internal Revenue Code section 403(b)~~  
 9 ~~annuity or Internal Revenue Code section 457 deferred compensation plan for the~~  
 10 ~~purchase of permissive service credit, as defined in Internal Revenue Code section~~  
 11 ~~415(n)(3)(A), or as repayment of a cashout from a governmental plan under~~  
 12 ~~Internal Revenue Code section 415(k)(3).~~

13 5. The contributor may purchase credit under this section by paying to the board an  
 14 amount equal to the actuarial cost to the fund of providing the credit. The board  
 15 shall adopt rules governing the purchase of additional credit under this section.

16 6. ~~The board may establish individual retirement accounts and individual retirement~~  
 17 ~~annuities as permitted under section 408(a) of the Internal Revenue Code to allow~~  
 18 ~~employees to make voluntary employee contributions. The board may adopt~~  
 19 ~~appropriate rules as may be necessary to implement and administer the accounts~~  
 20 ~~and annuities under this section.~~

21 7. ~~In addition to service credit identified in this section, a vested member may~~  
 22 ~~purchase up to five years of service credit.~~

23 (Contingent effective date - See note) Purchase of additional service credit.

24 1. The fund may accept rollovers from other qualified ~~eligible~~ plans under rules  
 25 adopted by the board for the purchase of additional service credit, but only to the  
 26 extent the transfer is a rollover contribution that meets the requirement of  
 27 section 408 of the Internal Revenue Code [26 U.S.C. 408].

28 2. Except as provided in subsection 3 of section 39-03.1-10.1, a contributor is entitled  
 29 to purchase additional credit under this section for active employment in the armed  
 30 forces of the United States, for up to four years of credit, if the contributor is not  
 31 presently receiving credit for that service. A contributor may not purchase credit

*This change would allow the plan to accept transfers from a 403(b) plan or a 457 plan by an active employee to purchase service credit.*

*This provision was authorized by recent federal legislation. This would also allow PERS to provide this for the Highway Patrol plan.*

*This would authorize members of this system to purchase up to 5 years of time.*

*The changes in this part are the same as those above except for the contingent date of the statute. The contingent section becomes effective on the date PERS receives a letter ruling from the IRS stating that section 4 does not jeopardize the qualified status of PERS.*

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Operator's Signature *Deborah Rickford*  
 Date *10/15/03*

1	under this subsection if the years claimed also qualify for retirement benefits from another retirement system.	
2		
3	3. A contributor may elect to purchase credit for an employer-approved leave of absence if the contributor is not presently receiving credit for that absence.	
4	4. A participating contributor who is a vested permanent employee is entitled to purchase additional years of service credit for purposes of subsection 4 of section 39-92.1-11 and to enable the contributor to qualify for the normal retirement date defined by subsection b of subsection 3 of section 39-92.1-11. The board may accept trustee-in-trustee transfers as permitted by Internal Revenue Code section 403(b)(13) and section 457(e)(17) from an Internal Revenue Code section 403(b) annuity or Internal Revenue Code section 457 deferred compensation plan for the purchase of permissive service credit, as defined in Internal Revenue Code section 415(n)(3)(A), or as treatment of a cashout from a governmental plan under Internal Revenue Code section 415(b)(3).	
5	5. The contributor may purchase credit under this section by paying to the board an amount equal to the actuarial cost to the fund of providing the credit. The board shall adopt rules governing the purchase of additional credit under this section.	
6	6. The board may establish individual retirement accounts and individual retirement annuities as permitted under section 408(c) of the Internal Revenue Code to allow employees to make voluntary employee contributions. The board may adopt reasonable rules as may be necessary to implement and administer the accounts and annuities under this section.	
7	7. In addition to service credit identified in this section, a member may purchase up to five years of service credit.	
8	8. Pursuant to rules adopted by the board, the board may allow a member to purchase service credit with either pretax or aftertax moneys, at the board's discretion. If a member elects to purchase service credit using pretax moneys, the requirements and restrictions in subsection 2 of section 39-93.1-01 apply to the purchase arrangement.	
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30	SECTION 2. AMENDMENT. Subsection 2 of section 39-93.1-09 of the North Dakota Century Code is amended, and renumbered as follows:	
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This change is made pursuant to a request by the IRS to get approval of pretax purchases

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Operator's signature Jacosta Rickford Date 10/15/03



<p>1 2 The state of North Dakota, at its option, may pay the member contributions  2 required by subsection 1 for all compensation earned after June 30, 1983, and  3 may pay the member contributions required to purchase service credit on a pro-rata  4 basis pursuant to subsection 2 of section 39-03.1-03.2. The amount paid shall  5 must be paid by the state in lieu of contributions by the member. A member may  6 not receive the credited amount directly once the employer has elected to pay  7 the member contributions. If the state decides not to pay the contributions, the  8 amount that would have been paid will continue to be deducted from  9 compensation. If contributions are paid by the state, they must be treated as  10 employer contributions in determining tax treatment under this code and the federal  11 Internal Revenue Code. If contributions are paid by the state, they must not be  12 included as gross income of the member in determining tax treatment under this  13 code and the Internal Revenue Code until they are distributed or made available.  14 The state shall pay these member contributions from the same source of funds  15 used in paying compensation to the members. The state shall pay these  16 contributions by effecting an equal cash reduction in the gross salary of the  17 employee or by an offset against future salary increases or by a combination of a  18 reduction in gross salary and offset against future salary increases. If member  19 contributions are paid by the state, they must be treated for the purposes of this  20 chapter in the same manner and to the same extent as member contributions  21 made prior to the date the contributions were assumed by the state. The option  22 given employers by this subsection must be exercised in accordance with rules  23 adopted by the board.</p>	<p>This provision allows the employer to purchase service credit for its employees</p>
<p>24 SECTION 3. A new section to chapter 39-03.1 of the North Dakota Century Code is  25 created and enacted as follows:  26 Employer service purchases. An employer may purchase additional service  27 credit on behalf of a contributor under the following conditions:  28 1. The contributor may not be given the option to choose between an employer  29 service purchase and an equivalent amount paid in cash.  30 2. The contributor must meet one of the following conditions at the time the purchase  31 is made:</p>	<p>This provision establishes the conditions for which an employer can purchase service.</p>

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*Joanna Rickford*  
Operator's signature  
10/15/03  
Date

<p>1 a. <u>The contributor's age plus service credit must be equal to or greater than</u>  2 <u>seventy or</u>  3 b. <u>The contributor's age must be at least fifty and the contributor must have at</u>  4 <u>least ten years of service credit.</u>  5 3. <u>The board must determine the purchase price on an actuarially equivalent basis.</u>  6 4. <u>The purchase must be completed before the contributor's retirement.</u>  7 5. <u>The employer may purchase a maximum of five years of service credit on behalf of</u>  8 <u>the contributor.</u>  9 6. <u>The employer must pay the purchase price for the service credit purchased under</u>  10 <u>this section in a lump sum.</u></p>	
<p>11 SECTION 4. A new section to chapter 39-03.1 of the North Dakota Century Code is  12 created and enacted as follows:  13 <u>Internal Revenue Code compliance. The board shall administer the plan in</u>  14 <u>compliance with section 415, section 401(a)(9), section 401(a)(17), and section 401(a)(31) of</u>  15 <u>the Internal Revenue Code as it applies for governmental plans.</u></p>	<p><i>This section is acknowledges our compliance with IRS requirements for maintaining a qualified plan.</i></p>
<p>16 SECTION 5. AMENDMENT. Section 39-03.1-14.1 of the North Dakota Century Code  17 is amended and reenacted as follows:  18 39-03.1-14.1. Multiple plan membership - Eligibility for benefits - Amount of  19 <del>benefits.</del>  20 1. a. For the purpose of determining eligibility for benefits under this chapter, a  21 member's years of service is the total of the years of service earned under  22 this chapter and the years of service employment or years of service credit  23 earned in any number of the following, <u>the total of which may not exceed</u>  24 <u>twelve months of credit per year:</u>  25 (1) a. The public employees retirement system.  26 (2) b. The teachers' fund for retirement.  27 c. <u>The teachers' insurance and annuity association of America - college</u>  28 <u>retirement equities fund (TIAA-CREF), for service credit earned while</u>  29 <u>employed by North Dakota institutions of higher education.</u>  30 b- 2. If a member terminates eligible employment under this chapter, if that member has  31 not received a refund of the member's accumulated deductions, and if that member</p>	<p><i>This section changes and updates the multiple plan membership provision. This provision was originally enacted to provide portability to members of the states retirement plans as they went from one type of public employment to another. One problem area has been with using the final average salary from the last system to calculate benefits in all systems. While this provides portability between systems and is extremely beneficial to most members, for are a few individuals this can result in a dramatic and</i></p>

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1 begins eligible employment in a plan described in paragraph 4 subdivision a or 2 b  
2 of subdivision a subsection 1, that member may elect to remain an inactive  
3 member of the system without refund of the member's accumulated deductions.  
4 The election must be made within ninety days after beginning the eligible  
5 employment or by October 4, 1987, whichever is later. The board shall terminate  
6 the inactive status of a member under this subdivision if the member gains eligible  
7 employment under this chapter or if the member terminates eligible employment  
8 under a plan described in paragraph 4 subdivision a or 2 b of subdivision a  
9 subsection 1.  
10 e- 3. Pursuant to rules adopted by the board, a member who has service credit in the  
11 system and in any number of the alternate plans described in paragraphs 4 and 2  
12 subdivision a or b of subdivision a subsection 1 is entitled to benefits under this  
13 chapter. The employee may elect to have benefits calculated by using the  
14 certified salaries of the retirement plan of last membership using the benefit  
15 formula in section 39-03-1-11 under either of the following calculation methods:  
16 a. By using the average of the highest salary received by the member for any  
17 consecutive thirty-six months employed during the last one hundred twenty  
18 months of employment in the highway patrolmen's retirement system. If the  
19 participating member has worked for less than thirty-six months at retirement,  
20 the final average salary is the average salary for the total months of  
21 employment.  
22 b. Using the average of the highest salary received by the member for any  
23 thirty-six consecutive months during the last one hundred twenty months of  
24 employment, with service credit not to exceed one month in any month when  
25 combined with the service credit earned in the alternate retirement system.  
26 The board shall calculate benefits for an employee under this subsection by using  
27 only those years of service employment earned under this chapter.  
28 e- Under rules adopted by the board, an individual whose service credit was canceled  
29 when that individual received a refund of assessments at termination of  
30 employment under this chapter may, while that individual participates in a plan

inequitable drop in benefits. Therefore the purpose of these changes is to address this problem and thereby make it more equitable for all our members. Pursuant to the proposed new method the employee will have the option at retirement to choose a method of coordination that best meets their needs while still maintaining the portability provisions. The member's two choices would be to have their retirement calculated using all years of service in each system and the final average salary from each applied. Eligibility would be based upon combined years of service. The second method would be to use the final average salary from the last years to calculate the benefit for all retirements. However under this last method overlapping months of service would be combined in determining the total. This change also adds in coordination with TIAA/CREF. These changes will maintain the portability aspects for state retirement plan and, be clearer for the members.

3 SECTION 6. AMENDMENT. Section 39-03.1-28 of the North Dakota Century Code is  
 4 amended and reenacted as follows:  
 5 39-03.1-28. Confidentiality of records. Information pertaining to a contributor's  
 6 accumulated deductions, disability applications and benefits, and surviving spouse applications  
 7 and benefits under this chapter is confidential and is not a public record. All records relating to  
 8 the retirement benefits of a member or a beneficiary under this chapter are confidential and are  
 9 not public records. The information and records may be disclosed, under rules adopted by the  
 10 board only to:  
 11 1. A person to whom the contributor member has given written consent to have the  
 12 information disclosed.  
 13 2. A person legally representing the contributor member, upon proper proof of  
 14 representation, and unless the contributor member specifically withholds consent.  
 15 3. A person authorized by a court order.  
 16 4. A member's participating employer, limited to information concerning the member's  
 17 years of service credit and years of age. The board may share other types of  
 18 information as needed by the employer to validate the employer's compliance with  
 19 existing state or federal laws. Any information provided to the member's  
 20 participating employer under this subsection must remain confidential except as  
 21 provided under subsection 6.  
 22 5. The administrative staff of the retirement and investment office for purposes  
 23 relating to membership and benefits determination.  
 24 6. State or federal agencies for purposes of reporting on a service provider's  
 25 provision of services or when the employer must supply information to an agency  
 26 to validate the employer's compliance with existing state or federal laws.  
 27 7. Member interest groups approved by the board on a third-party blind list basis,  
 28 limited to information concerning the member's participation, name, and address.  
 29 8. The member's spouse or former spouse, that individual's legal representative, and  
 30 the judge presiding over the member's dissolution proceeding for purposes of  
 31 aiding the parties in drafting a qualified domestic relations order under section  
 1 39-03.1-14.2. The information disclosed under this subsection must be limited to  
 2 information necessary for drafting the order.  
 3 9. Beneficiaries designated by a participating member or a former participating  
 4 member to receive benefits after the member's death, but only after the member's  
 5 death.

*This change is to provide the same confidentiality provision for the Highway Patrol plan as is presently in the PERS plan including #9 which is proposed for the PERS plan this session. By having the same provision for both plans it assures more consistent administration.*

*Here we are also requesting an amendment to facilitate administration exchange of information and to comply with HIPPA (if it applies to our disability). The suggested addition is Page 8, after line 5 insert the following:*

"10. Any person or entity if the disclosure is necessary, as determined in the board's sole discretion, for treatment, operational or payment purposes, including the completion of necessary documents."

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Operator's Signature

*Deborah Rickford*

10/15/03

Date

6 SECTION 7. REPEAL. Section 39-03.1-11.1 of the North Dakota Century Code is  
7 repealed.

This section is repealed since the change in  
section 4 of the bill replaces it.

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*La Costa Rickford*  
Operator's Signature

10/15/03  
Date

**TESTIMONY  
OF  
SPARB COLLINS  
ON ENGROSSED SB 2059**

Mr. Chairman, members of the committee, good morning. My name is Sparb Collins and I am with the Public Employees Retirement System (PERS). I appear before you in support of SB 2059 which relates to the Highway Patrol Retirement System. This bill was reviewed during the interim by the Legislative Employee Benefits Committee and given a favorable recommendation. The bill was also determined to have no actuarial impact. Since the bill provides for numerous changes in our statutes, I have attached a section by section analysis of the bill and changes. To facilitate your review of the bill I will summarize the changes in my testimony. If you would like to discuss any particular section in more detail we can use the attached analysis.

**SECTION 1**

Section 1 of the bill incorporates several changes that were recently authorized by the federal government. These changes will allow a member to rollover 457 and 403(b) funds, allows trustee to trustee transfers of 457 money and would allow PERS to establish IRA's for these members. This section will also allow members to purchase up to 5 years of generic service credit.

Page 1 of 3

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**SECTIONS 2 and 3**

Sections 2 and 3 of the bill relate to employer purchases of service credit for employees. Section 2 authorizes employers to make such purchases and on a pretax basis. Section 3 sets the criteria that an employer must adhere to in making such purchases such as employees may not be given the opportunity to chose between cash or credit, the member must be at least 50 or meet the rule of 70, the purchase must be on an actuarial basis and paid in cash before retirement.

**SECTION 4**

This section establishes in statute all the IRS requirements that we must meet to maintain a qualified plan. These are included to document our efforts at compliance in the event we are ever audited.

**SECTION 5**

This section changes and updates the multiple plan membership provision. Multiple plan membership is how we coordinate membership in the various state retirement plans. This change is being proposed not only for this system but also in the Main System and by TFFR. This provision is extensively used between the Main System and TFFR but not as often for the patrol system

**SECTION 6**

This change relates to the confidentiality of information. The purpose of this change is to provide the same confidentiality provisions for the HP system as the Main system. This will standardize the procedure for both systems and provide uniform coverage and better administration. These

changes will allow us to share information with the employer about a members age and years of service credit, with the Retirement and Investment Office to coordinate benefits, with state of federal agencies to determine compliance with existing laws, for blind mailing lists for member organizations, for purpose of DRO's, with beneficiaries for purposes of settling a members account and when necessary for treatment, payment or operations (this language is also for HIPAA compliance)

**SECTION 7**

This change repeals our previous wording for IRS compliance since it is replaced in Section 4 of the bill

Mr. Chairman, members of the committee this completes my testimony.

La Costa Rickford  
Operator's Signature

10/15/03  
Date



3 SECTION 6. AMENDMENT. Section 39-03.1-28 of the North Dakota Century Code is  
 4 amended and reenacted as follows:  
 5 39-03.1-28. Confidentiality of records. ~~Information pertaining to a contributor's~~  
 6 ~~accumulated deductions, disability applications and benefits, and surviving spouse applications~~  
 7 ~~and benefits under this chapter is confidential and is not a public record. All records relating to~~  
 8 ~~the retirement benefits of a member or a beneficiary under this chapter are confidential and are~~  
 9 ~~not public records.~~ The information and records may be disclosed, under rules adopted by the  
 10 board only to:  
 11 1. A person to whom the contributor ~~member~~ has given written consent to have the  
 12 information disclosed.  
 13 2. A person legally representing the contributor ~~member~~, upon proper proof of  
 14 representation, and unless the contributor ~~member~~ specifically withholds consent.  
 15 3. A person authorized by a court order.  
 16 4. ~~A member's participating employer, limited to information concerning the member's~~  
 17 ~~years of service credit and years of age. The board may share other types of~~  
 18 ~~information as needed by the employer to validate the employer's compliance with~~  
 19 ~~existing state or federal laws. Any information provided to the member's~~  
 20 ~~participating employer under this subsection must remain confidential except as~~  
 21 ~~provided under subsection 6.~~  
 22 5. ~~The administrative staff of the retirement and investment office for purposes~~  
 23 ~~relating to membership and benefits determination.~~  
 24 6. ~~State or federal agencies for purposes of reporting on a service provider's~~  
 25 ~~provision of services or when the employer must supply information to an agency~~  
 26 ~~to validate the employer's compliance with existing state or federal laws.~~  
 27 7. ~~Member interest groups approved by the board on a third-party blind list basis,~~  
 28 ~~limited to information concerning the member's participation, name, and address.~~  
 29 8. ~~The member's spouse or former spouse, that individual's legal representative, and~~  
 30 ~~the judge presiding over the member's dissolution proceeding for purposes of~~  
 31 ~~aiding the parties in drafting a qualified domestic relations order under section~~

This change is to provide the same confidentiality provision for the Highway Patrol plan as is presently in the PERS plan.

See p. 1-6, p. 8 of  
 Handout by Spurb to Senate  
 on 1-16-03 - same as  
 with this handout except for  
 page 2

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