

FISCAL NOTE
Requested by Legislative Council
12/21/2018

Amendment to: SB 2045

- 1 A. **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.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill provides for technical changes.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

There is no fiscal impact for the technical changes in this bill.

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.*

N/A

- 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.*

N/A

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

N/A

Name: Bryan Reinhardt

Agency: NDPERS

Telephone: 701-328-3919

Date Prepared: 12/26/2018

FISCAL NOTE
Requested by Legislative Council
12/21/2018

Bill/Resolution No.: SB 2045

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There is no fiscal impact for the technical changes in this bill.

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- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

N/A

Name: Bryan Reinhardt

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Date Prepared: 12/26/2018

2017 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2045

2019 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Sheyenne River Room, State Capitol

SB2045
1/11/2009
30674

- Subcommittee
 Conference Committee

Committee Clerk: Pam Dever

Explanation or reason for introduction of bill/resolution:

A bill relating to the computation of retirement benefits.

Minutes:

Att #1 –Scott Miller

Chairman Davison: Please take attendance. Attendance was taken and all were present. Let's take up SB2047. Who is here in support?

Scott Miller, Executive Director of North Dakota Public Employees Retirement System (**PERS**): I am here in support of SB2047. I also have an amendment. (see att#2) He explained the amendment. (8.55)

Chairman Davison: Why do you bring this bill forward now in regards to opening it up to any health plan? Why 2019 and what triggered it?

Scott: (9.26) A few years ago we eliminated the pre-retiree health insurance for retirees. If you retired younger than 65, we use to have a pre-retiree health insurance which was heavily subsidized by the state. In order to get out of that expense, we eliminated that health insurance except the legislators. That created a huge group of people who did not have any ability to use that retiree health insurance credit. It is written in Code that you have to buy that insurance from use to be able to use that credit. We expanded to include health insurance purchased from other vendors. We also got many requests from member to be able to use it for other purpose like dental, visions, long term insurance. Our actuary did not believe create an actually cost to the system. The board decided to open that up since members could get cheaper insurance elsewhere. (10.42)

Chairman Davison: In regards to the amendment, the employer contribution. When we have non-intentionally been doing the wrong thing by collecting dollars from employers. Is this for the 403 D plan? What are you collecting money for?

Scott: It is the 457 deferred compensation plan.

Chairman Davison: We did something we should not have done. Now we will go back and change the law for us to be able to do that. Why did we not do it in the first place? (11.46) If you had not caught that mistake, would we be here today having the conversation?

Scott: No, if we would have not caught the mistake, we would not be here. Our internal audit because we saw strange amounts contributed to the deferred compensation plan. They found it was coming from employer instead of employee.

Chairman Davison: With the 457 B, my organization employees people under these plans, we don't contribute to them. They do on their own. As an employer, I will, from a benefits stand point, if I want to, we can tell them we add \$100/month to their 457 B. Do you match that in this new law?

Scott: It would allow us to accept those employer contributions. How the employers choose to implement it is up to them. Your cineraria would not be out of line.

Chairman Davison: So that 457 B, they could contribute those additional dollars. That does not have to be managed by PERS?

Scott: We have nine different providers in our 457 plan. They can choose one. This case, the employer had a 457 plan as their primary retirement system. When they joined our defined benefit plan, the employee that we noticed this happening, chose not to join the plan, and they saw the offerings that we had in 457 plan, they decided to move their money in 457 plan. The employer kept making those contributions unnoticed by us.

Chairman Davison: In your opinion, why have we not let employer contribute to this fund?

Scott: (14.27) It has never been asked. We have a good program now where we encourage supplemental savings. In our last annual enrollment, we added additional marketing materials to encourage state employees to participate in 457 plan to help funding of their retirement years. The state has never offered. It just happened. More retirement savings is better.

Chairman Davison: Any more testimony in support? Any against? Hearing is closed.

2019 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Sheyenne River Room, State Capitol

SB2045
1/24/2019
31415

- Subcommittee
 Conference Committee

Committee Clerk Signature : Pam Dever

Explanation or reason for introduction of bill/resolution:

Relating to the high patrolmen's retirement system, the retiree health credit, and prescription coverage under a self-insured plan.

Minutes:

Att #1 – Sen Roers

Chairman Davison: Are you ready for SB2045?

Sen. Kristin Roers : I move a DO PASS on AMENDMENT 19.0128.01001. (see att #1)

Sen. Erin Oban: I second. Roll: **YES – 7 NO -- 0 -0- absent Amendment PASSES**

Sen. Kristin Roers: I move a DO PASS as AMENDED. **Sen. Erin Oban:** I second

Chairman Davison: Discussion? Take the roll: **YES -- 7 NO -- 0 -0- absent DO PASS as AMENDED - PASSED. Sen. Erin Oban will carry the bill.**

SK
1561

PROPOSED AMENDMENTS TO SENATE BILL NO. 2045

Page 1, line 1, after "to" insert "create and enact a new section to chapter 54-52.2 of the North Dakota Century Code, relating to contributions to the deferred compensation plan; and to"

Page 1, line 17, remove "health"

Page 3, line 17, replace "an" with "any"

Page 4, after line 19, insert:

"SECTION 4. A new section to chapter 54-52.2 of the North Dakota Century Code is created and enacted as follows:

Employer contribution.

Employer contributions to the deferred compensation program established under this chapter are authorized as permitted under the Internal Revenue Code."

Renumber accordingly

11/24/19

Date:
Roll Call Vote #: 2

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2045

Senate Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: 19.0128.0001

- Recommendation:
- Adopt Amendment
 - Do Pass Do Not Pass Without Committee Recommendation
 - As Amended Rerefer to Appropriations
 - Place on Consent Calendar
- Other Actions: Reconsider _____

Motion Made By Sen Roers Seconded By Sen Oban

Senators	Yes	No	Senators	Yes	No
Chairman Davison	/		Senator Marcellais	/	
Vice Chairman Meyer	/		Senator Oban	/	
Senator Elkin	/				
Senator Roers	/				
Senator Vedaa					

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Oban

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

REPORT OF STANDING COMMITTEE

SB 2045: Government and Veterans Affairs Committee (Sen. Davison, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2045 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new section to chapter 54-52.2 of the North Dakota Century Code, relating to contributions to the deferred compensation plan; and to"

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Renumber accordingly

2019 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2045

2019 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Fort Union Room, State Capitol

SB 2045
3/1/2019
33046

- Subcommittee
 Conference Committee

Committee Clerk: Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to the highway patrolmen's retirement system, the retiree health credit, and prescription coverage under a self-insured plan

Minutes:

Attachment 1

Chairman Kasper opened the hearing on SB 2045.

Scott Miller, Executive Director of the ND Public Employees Retirement System, appeared in support. Attachment 1. (:51-6:22)

Rep. Laning: Could you explain how the purchase of service credit generally works and what does it generally cost an employee?

Mr. Miller: Service credit purchase is a way for an employee member in the retirement system to basically buy additional service credit. The formula for a person's benefit is the final average salary x their years of salary x the benefit multiplier. They can make certain purchases of service credit that would increase that service credit.

Rep. Laning: Buying years?

Mr. Miller: Years and months. One way you can purchase service credit is if you had previous public service somewhere else that you refunded out and then bought that service here. It basically brings all your money together. Our statute also allows people to buy generic service credit. That is unrelated to any other previous public service. Under internal revenue code, we can only have up to five years of generic service credit to be purchased for a person. In this case, part of the other requirement is that a person be vested.

Rep. Laning: What does it generally cost?

Mr. Miller: It is an actuarial cost. We have our actuary determine what the factor is that would be applied to a person's current average salary and have that all built into our business system.

Rep. Schauer: Under Section 3, the self-insurance for prescription drug coverage, could you tell us a little bit about why that would be something that you would want to pursue, and how would that look if NDPERS decided to be self-insured itself?

Mr. Miller: When we go out to bid for health __, we request bids for both our modified __ insured that we have right now in self-insured for the entire bundle, medical and prescription drug coverage. We also ask for bids for an unbundled coverage where we have medical provided by one entity and prescription drug coverage provided by another entity. When we went out to bid in 2014, there was a prescription drug coverage bid that the board decided would be beneficial for the state, but when we looked into how much stop loss coverage is, __, but statute required us to have it. We effectively were prohibited from unbundling in that manner and self-insuring our prescription drug coverage at that time.

Chairman Kasper: An additional comment. Normally, prescription drug charges aren't very big except when you get some of the specialty drugs. In a self-funded plan, you determine a deductible which the plan will pay first, and the stop loss insurance pays above the deductible. It is not economical at all to have stop loss insurance on a prescription drug plan, but the code said you had to. This just gives more options to the PERS board when those plans go out. If you unbundle, now you are going to be able to look at what the pharmacy benefit managers are going to charge for their services. When you have a fully bundled plan like we do now with Sanford, the PBM side of things is hidden from the PERS board, because the contract is with Sanford and the PBM. PBMs have in their contracts that almost all of the things are proprietary, so the board never gets to see what the actual costs of prescription drugs are.

Chairman Kasper closed the hearing.

Rep. B. Koppelman made a motion for a DO PASS.

Rep. Rohr seconded the motion.

A roll call vote was taken. 13-0, 1 absent.

Rep. Laning will carry the bill.

Date: 3-1-19
 Roll Call Vote #: 7

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2045**

House Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. B. Koppelman seconded By Rep. Rohr

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Pamela Anderson	X	
Vice Chair Vicky Steiner	A		Rep. Mary Schneider	X	
Rep. Jeff Hoverson	X				
Rep. Craig Johnson	X				
Rep. Daniel Johnston	X				
Rep. Karen Karls	X				
Rep. Ben Koppelman	X				
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Karen Rohr	X				
Rep. Austen Schauer	X				
Rep. Steve Vetter	X				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Laning

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

REPORT OF STANDING COMMITTEE

SB 2045, as engrossed: Government and Veterans Affairs Committee (Rep. Kasper, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2045 was placed on the Fourteenth order on the calendar.

2017 TESTIMONY

SB 2045

**EMPLOYEE BENEFITS PROGRAMS COMMITTEE
REPORT TO THE 66TH LEGISLATIVE ASSEMBLY
REGARDING PROPOSED SENATE BILL NO. 2045**

Date: January 1, 2019

Original LC#: 19.0128.01000

Sponsor: Public Employees Retirement System (PERS)

Proposal: This technical corrections bill provides if health benefits are provided through a self-insurance health plan, PERS is not required to provide prescription drug coverage through a third-party administrator and is not required to provide stop-loss coverage for prescription drug coverage. The bill draft also clarifies only vested members of the Highway Patrolmen's retirement system are qualified to purchase service credit and retiree health benefits may be used for any dental, vision, and long-term care benefits.

Actuarial analysis: The PERS consulting actuary addressing health benefits reports the proposed amendments remove outdated language and clarify administrative aspects of the program, with no anticipated material actuarial impact due to these amendments. The Public Employees Retirement System consulting actuary addressing the retirement programs reports there is no actuarial impact expected to retiree health insurance credit fund and the changes are designed to provide more parity with the other PERS retirement systems.

Committee report: Favorable recommendation.

SB 2045
1-11-19
att #1
pg 1

TESTIMONY OF SCOTT MILLER

Senate Bill 2045 – Technical Corrections

Good Morning, my name is Scott Miller. I am the Executive Director of the North Dakota Public Employees Retirement System, or NDPERS. I appear before you today in support of Senate Bill 2045.

Senate Bill 2045 proposes several technical corrections to the statutes we administer. These technical corrections are primarily changes to make statute consistent with how we are required to administer our programs, or how we actually currently administer our programs. None of the provisions of this bill have an actuarial effect on the system, nor do they require any additional funding. The Employee Benefits Programs Committee gave this bill a favorable recommendation.

Section 1 provides a change that requires a Highway Patrol member to be “vested”, or have ten years of service credit, before that member can purchase generic service credit. “Vesting” is a term used to describe how long a person must work for an employer before they are entitled to a benefit under the retirement system. “Generic service credit” is service credit that is unrelated to any previous public service. The Internal Revenue Code requires a member to be vested before they can purchase generic service credit, so this change is merely reflecting that requirement.

Section 2 provides a change that expands the types of health-related insurance that a retiree can purchase and be eligible to receive retiree health insurance credit, or RHIC. The RHIC is an additional benefit for retirees under the PERS retirement plans. It provides a monthly benefit to retirees for them to use for health-related insurance costs. That benefit equals \$5 times the number of years of service credit, payable to them each month. For example, if a person retired with 20 year of service credit, they would be entitled to an RHIC benefit of \$100 per month (20 X \$5 = \$100/month).

Currently, statute restricts the retiree health insurance credits to dental, vision and long-term care benefits that are offered through the State’s uniform group insurance program. This change allows retirees to receive RHIC for those types of insurance products that they purchase elsewhere, from a plan sponsor other than NDPERS.

Section 3 provides a change that if NDPERS elects to self-insure only the prescription drug coverage, the plan is not required to have stop loss coverage and does not need to have a lower cost than a fully-insured plan.

SB 2045
1-11-19
Att #1
pg. 2

We do have some suggested amendments to the current version of the bill, which I have also handed out. Those changes are:

Page 1, line 17, remove "health"

Page 3, line 17, replace "an" with "any"

We are also requesting additional amendments to this bill to correct a situation we recently identified. Currently, the statutes governing our Internal Revenue Code section 457 deferred compensation program only contemplate allowing employee contributions. We recently discovered that at least two employers have been making contributions to the 457 plan on their employees' behalf. The PERS Board had two options once that was discovered: direct that the monies contributed by the employer be refunded back to the employer, or allow the monies to stay and request that the Legislative Assembly modify the applicable statutes to allow employer contributions. Either of those options also require us to file a Voluntary Correction Program (VCP) request with the Internal Revenue Service to get their acceptance of our resolution of the issue.

The PERS Board decided that more retirement savings is better than less, and chose to allow the monies to stay in the plan and request both an amendment to the statutes and the IRS' acceptance of this plan through a VCP filing. Just last week our outside federal tax counsel recommended that we attempt to change the statutes this session, and later file the VCP request with the IRS. Accordingly, we request that you adopt the proposed amendments to Senate Bill 2045.

Otherwise we appreciate your positive consideration of this Bill.

19.0128.01001
Title.

Prepared by the Legislative Council staff for
Senator K. Roers

January 24, 2019

S B 2045

1-24-19

AH
PS

PROPOSED AMENDMENTS TO SENATE BILL NO. 2045

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#1
SB 2045
3-1-19

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Senate Bill 2045 proposes several technical corrections to the statutes we administer. These technical corrections are primarily changes to make statute consistent with how we are required to administer our programs, or how we actually currently administer our programs. None of the provisions of this bill have an actuarial effect on the system, nor do they require any additional funding. The Employee Benefits Programs Committee gave this bill a favorable recommendation.

Section 1 provides a change that requires a Highway Patrol member to be “vested”, or have ten years of service credit, before that member can purchase generic service credit. “Vesting” is a term used to describe how long a person must work for an employer before they are entitled to a benefit under the retirement system. “Generic service credit” is service credit that is unrelated to any previous public service. The Internal Revenue Code requires a member to be vested before they can purchase generic service credit, so this change is merely reflecting that requirement.

Section 2 provides a change that expands the types of health-related insurance that a retiree can purchase and be eligible to receive retiree health insurance credit, or RHIC. The RHIC is an additional benefit for retirees under the PERS retirement plans. It provides a monthly benefit to retirees for them to use for health-related insurance costs. That benefit equals \$5 times the number of years of service credit, payable to them each month. For example, if a person retired with 20 year of service credit, they would be entitled to an RHIC benefit of \$100 per month (20 X \$5 = \$100/month).

Currently, while statute allows the use of retiree health insurance credit to be use for any medical or prescription drug coverage, it restricts its use for dental, vision and long-term care benefits to those that are offered through the State’s uniform group insurance program. This change allows retirees to receive RHIC for those types of insurance products that they purchase elsewhere, from a plan sponsor other than NDPERS, just like they can now do for medical and prescription drug coverage.

Section 3 provides a change that if NDPERS elects to self-insure only the prescription drug coverage, the plan is not required to have stop loss coverage and does not need to have a lower cost than a fully-insured plan. When NDPERS went out to bid for its health

1
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3-1-19

and prescription drug plans in 2014, the NDPERS Board intended to unbundle, or separate, the prescription drug coverage from the medical coverage and self-insure the prescription drug coverage. However, because of the requirement that the Board obtain stop-loss insurance coverage if it self-insures its prescription drug coverage, the Board was effectively prohibited from doing so because there was no available stop-loss coverage for prescription drug coverage. This change will make it easier for the Board to consider self-insured prescription drug coverage when it goes out to bid next year.

Section 4 creates a new section to chapter 54-52.2 that will allow employer contributions to be made to our Internal Revenue Code section 457 deferred compensation program. Currently, the statutes governing our 457 program only contemplate allowing employee contributions. We recently discovered that at least two employers have been making contributions to the 457 plan on their employees' behalf. The PERS Board had two options once that was discovered: direct that the monies contributed by the employer be refunded back to the employer, or allow the monies to stay and request that the Legislative Assembly modify the applicable statutes to allow employer contributions. Either of those options also require us to file a Voluntary Correction Program (VCP) request with the Internal Revenue Service to get their acceptance of our resolution of the issue.

The PERS Board decided that more retirement savings is better than less, and chose to allow the monies to stay in the plan and request both an amendment to the statutes and the IRS' acceptance of this plan through a VCP filing.

In summary, Senate Bill 2045 improves our compliance with IRS requirements, improves our retirees' access to health care, increases our ability to self-insure our prescription drug coverage, and improves our members' retirement stability. We appreciate your positive consideration of this Bill. That concludes my testimony.