

Bill Draft – LC 90111.01 – This bill proposes numerous administrative and technical changes as well as additional options for the PERS and HP retirement plans.

Proposals	Section
1. The PERS board is presently authorized to appoint 3 of its 4 elected members to the state investment board. This change would allow the board to appoint as one of its 3 members a nonelected PERS Board members such as the Board Chair who is appointed by the Governor, the Attorney General's appointment or the Health Officer or designee.	Section 1
2. Standardizing the language relating to purchase or prior service and years of service for the Highway Patrol with the PERS plan	Section 2
3. Allows members in the HP and PERS to purchase an additional 5 years of service credit in addition to the 5 years presently authorized except such purchase would not apply toward legibility for the rule of 85	Section 2 for the HP Section 9 for PERS
4. Authorize the pretax payment of employee contributions made by the HP members and Judges (6.3% for HP & 1% for Judges)	Section 3 for HP Section 7 for Judges
5. Presently law authorizes a member to designate their spouse as an alternate beneficiary if the member dies. This change would allow the member to designate someone other than their spouse as the beneficiary with the consent of the spouse	Section 4 for HP Section 8 for PERS
6. Present law allows a member to take a Joint and Survivor benefit. This proposed change would allow a member to choose a new J&S	Section 4 for HP Section 8 for PERS

Proposals	Section
beneficiary if the existing beneficiary passes away.	
<p>7. Adds a graduated benefit option to the plan in addition to the existing options (J&S 50% and 100%, 10 year term certain & level SS benefit). Pursuant to this option a member could take an actuarial reduced benefit initially (like they do with the J&S benefit) so their benefit would increase at 1% or 2% over time. The benefit would be reduced actuarially to reduce the initial payments by an amount to pay for the 1% or 2% option</p>	<p>Section 4 for HP Section 8 for PERS</p>
<p>8. Update the federal compliance provisions and add federally required language relating to the treatment of members in dual plans</p>	<p>Section 5 for HP Section 10 for PERS</p>
<p>9. Present law provides that any member of the PERS retirement plan can run for the PERS Board. The board is proposing broadening that to include members of the HP plan, Job Service Plan and DC plan. These are plans also administered by the Board.</p>	<p>Section 6</p>

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<p>A BILL for an Act to create and enact subsection 3 of section 39-03.1-09, and subsection 4 of section 54-52-05, of the North Dakota Century Code, relating to payment of employee contributions under the highway patrolmen's retirement plan and public employees retirement system; to amend and reenact subsection 1 of section 21-10-01, 39-03.1-08.2, subsections 8 and 9 of section 39-03.1-11, 39-03.1-11.2, subsections 6 and 9 of section 54-52-17, subsection 6 of section 54-52-17.4, 54-52-28, subsection 7 of section 54-52.1-03, and 54-52.1-03.4 of the North Dakota Century Code, relating to membership on state investment board, purchase of service credit, member benefit options, Internal Revenue Code compliance, and board elections under the highway patrolmen's retirement plan and public employees retirement system, and participation and employer payments under uniform group insurance program.</p>	<p>This bill proposes numerous technical and administrative changes for the PERS and HP retirement plans</p>	
<p>SECTION 1. AMENDMENT. Subsection 1 of section 21-10-01 of the North Dakota Century Code is amended and reenacted as follows:</p> <p>1. The North Dakota state investment board consists of the governor, the state treasurer, the commissioner of university and school lands, the director of workforce safety and insurance, the insurance commissioner, three members of the teachers' fund for retirement board or the board's designees who need not be members of the fund as selected by that board, and three <u>two</u> of the elected members</p>	<p>This section proposes to modify the PERS membership on the State Investment Board to allow a non elected member of the PERS Board to serve if appointed by the PERS Board</p>	

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<p>of the public employees retirement system board as selected by that board, <u>and one member of the public employees retirement system board as selected by that board.</u> The director of workforce safety and insurance may appoint a designee, subject to approval by the workforce safety and insurance board of directors, to attend the meetings, participate, and vote when the director is unable to attend. The teachers' fund for retirement board may appoint an alternate designee with full voting privileges to attend meetings of the state investment board when a selected member is unable to attend. The public employees retirement system board may appoint an alternate designee with full voting privileges from the public employees retirement system board to attend meetings of the state investment board when a selected member is unable to attend. The members of the state investment board, except elected and appointed officials and the director of workforce safety and insurance or the director's designee, are entitled to receive as compensation sixty-two dollars and fifty cents per day and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09 for attending meetings of the state investment board.</p>		
<p>SECTION 2. AMENDMENT. Section 39-03.1-08.2 of the North Dakota Century Code is amended and reenacted as follows:</p> <ol style="list-style-type: none"> 1. The fund may accept rollovers from other eligible plans under rules adopted by the board for the purchase of additional service 		

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<p><u>qualify for retirement benefits from another retirement system:</u></p> <p>a. <u>Except as provided in subsection 3 of section 39-03.1-10.1, up to four years of credit for active employment in the armed forces of the United States.</u></p> <p>b. <u>Employment as a permanent employee by a public employer either within or outside the state of North Dakota.</u></p> <p>c. <u>Employment as a permanent employee by the federal government.</u></p> <p>4. <u>A contributor may elect to purchase credit for the following absences for which the participating contributor is not receiving service credit:</u></p> <p>a. <u>Employer-approved leave of absence;</u> or</p> <p>b. <u>Months away from work while participating as a seasonal employee.</u></p> <p>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.</p> <p>6. The board may establish individual retirement accounts and individual retirement annuities as permitted under section 408(q) of the Internal Revenue Code to allow employees to make voluntary employee contributions. The board may adopt appropriate rules as may be necessary to implement and administer the accounts and annuities under this section.</p> <p>7. In addition to service credit identified in this section, a contributor may purchase up to five ten years of service credit <u>unrelated to any</u></p>	<p>This change allows a member to purchase up to ten years of service credit however the additional 5</p>	

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<p><u>other eligible service. Up to a maximum of five years of purchased service credit under this subsection will be recognized as service credit for the purpose of computing retirement dates under section 39-03.1-11.</u></p> <p>8. Pursuant to rules adopted by the board, the board may allow a contributor to purchase service credit with either pretax or aftertax moneys, at the board's discretion. If a contributor elects to purchase service credit using pretax moneys, the requirements and restrictions in subsection 2 of section 39-03.1-09 apply to the purchase arrangement.</p>	<p>years would not be eligible credit toward meeting the rule of 80</p>	
<p>SECTION 3. Subsection 3 to section 39-03.1-09 of the North Dakota Century Code is created and enacted as follows:</p> <p>3. <u>For compensation earned after August 1, 2009, all employee contributions required under subsection 1, and not otherwise paid under subsection 2, shall be paid by the state in lieu of contributions by the member. All contributions paid by the state under this subsection must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. Contributions paid by the state under this subsection must not be included as gross income of the member in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. Contributions paid by the state in accordance with this subsection must be treated for the purposes of this chapter in the same manner and to the same extent as member contributions made</u></p>	<p>This section would authorize the payment of employee contributions to the HP plan to be paid on a pretax basis instead of an after tax basis</p>	

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<p>section 401(a)(31) of the Internal Revenue Code in effect on August 1, 2007 2009, as it applies for governmental plans. <u>The defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as approved by the legislature, shall be adjusted under section 415(d) of the Internal Revenue Code, effective January 1 of each year following a legislative session. The adjustment of the defined benefit dollar limitation under section 415(d) shall apply to participating members who have had a separation from employment, but such member's benefit payments shall not reflect the adjusted limit prior to January 1 of the calendar year in which the adjustment applies. In the event a participating member's benefit is increased by plan amendment after the commencement of benefit payments, the member's annual benefit must not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as adjusted under section 415(d) for the calendar year in which the increased benefit is payable.</u></p> <p><u>If a participating member is, or ever has been, a participant in another defined benefit plan maintained by the employer, the sum of the participant's annual benefits from all such plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code.</u></p> <p><u>Where the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. Such reduction will be made pro rata between the plans, in proportion to the participating member's service in each plan.</u></p>		
<p>SECTION 6. AMENDMENT. Subsection 4 of section 54-52-03 of the North Dakota Century Code is amended and reenacted as follows:</p> <p>4) Three board members must be elected by and</p>	<p>This change allows a members of the HP plan, the</p>	

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<p>from among the active participating members, <u>members of the retirement plan established under chapter 54-52.6, members of the retirement plan established under 39-03.1, and members of the job service North Dakota retirement plan.</u> Employees who have terminated their employment for whatever reason are not eligible to serve as elected members of the board under this subsection. Board members must be elected to a five-year term pursuant to an election called by the board. Notice of board elections must be given to all active participating members. The time spent in performing duties as a board member may not be charged against any employee's accumulated annual or any other type of leave.</p>	<p>Job Service retirement plan or the defined contribution plan to run for the PERS Board.</p>	
<p>SECTION 7. Subsection 4 to section 54-52-05 of the North Dakota Century Code is created and enacted as follows:</p> <p>4. <u>For compensation earned after August 1, 2009, all employee contributions required under sections 54-52-06.1 and the job service of North Dakota retirement plan, and not otherwise paid under subsection 3, shall be paid by the employer in lieu of contributions by the member. All contributions paid by the employer under this subsection must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. Contributions paid by the employer under this subsection must not be included as gross income of the member in determining tax treatment under this code and the Internal</u></p>	<p>This change will allow members of the judges retirement plan to pay the employee contributions on a pretax basis instead of an after tax basis.</p>	

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<p><u>Revenue Code until they are distributed or made available. Contributions paid by the employer in accordance with this subsection must be treated for the purposes of this chapter in the same manner and to the same extent as member contributions made prior to the date the contributions were assumed by the employer. The employer shall pay these member contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee. The employer shall continue making payments under this section unless otherwise specifically provided for under the agency's biennial appropriation, or by amendment to law.</u></p>		
<p>SECTION 8. AMENDMENT. Subsections 6, 8, and 9 of section 54-52-17 of the North Dakota Century Code is amended and reenacted as follows:</p> <p>6. If before retiring a member dies after completing three years of eligible employment, except for supreme and district court judges, who must have completed five years of eligible employment, the board shall pay the member's account balance to the member's designated beneficiary as provided in this subsection. If the member has designated an alternate beneficiary with the surviving spouse's written consent, the board shall pay the member's account balance to the named beneficiary. If the member has named more than one primary beneficiary, the board shall pay the member's account balance to the named primary beneficiaries in the</p>		

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<p>percentages designated by the member or, if the member has not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the member, the board shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If there are no remaining primary beneficiaries, the board shall pay the member's account balance to the contingent beneficiaries in the same manner. If there are no remaining designated beneficiaries, the board shall pay the member's account balance to the member's estate. If the member has not designated an alternate beneficiary or the surviving spouse is the beneficiary, the surviving spouse of the member may select a form of payment as follows:</p> <p>a. If the member was a supreme or district court judge, the surviving spouse may select one of the following optional forms of payment:</p> <ol style="list-style-type: none"> (1) A lump sum payment of the member's retirement account as of the date of death. (2) Payments as calculated for the deceased member as if the member was of normal retirement age at the date of death, payable until the spouse dies. <p>b. The surviving spouse of all other members may select one of the following options:</p> <ol style="list-style-type: none"> (1) A lump sum payment of the member's retirement account as 		

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<p>of the date of death.</p> <p>(2) Payments for sixty months as calculated for the deceased member as if the member was of normal retirement age at the date of death.</p> <p>(3) Payment of a monthly retirement benefit equal to fifty percent of the deceased member's accrued single life retirement benefits until the spouse dies.</p> <p>(4) (3) If the member dies on or after the member's normal retirement date, the payment of a monthly retirement benefit equal to an amount that would have been paid to the surviving spouse if the member had retired on the day of the member's death and had selected a one hundred percent joint and survivor annuity, payable until the spouse dies. A surviving spouse who received a benefit under this subsection as of July 31, 1995, is entitled to the higher of that person's existing benefit or the equivalent of the accrued benefit available under the one hundred percent joint and survivor provision as if the deceased member were of normal retirement age, with the increase payable beginning August 1, 1995.</p> <p>8. The surviving spouse of a member receiving</p>	<p>This change eliminates the sixty month option for the surviving spouse. It is a benefit that is little used.</p>	

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<p>security option, which is available only to members who retire prior to attaining the age at which they may begin to receive unreduced social security benefits.</p> <p>d. Actuarially equivalent life with ten-year or twenty-year certain options.</p> <p>e. An actuarially equivalent partial lump sum distribution option with a twelve-month maximum lump sum distribution.</p> <p>f. <u>An actuarial equivalent graduated benefit option with either a one or two percent increase.</u></p>	<p>This change adds a new optional method for receiving a benefit. It will allow a member to spread their benefit payments so they increase over time at a 1% or 2% rate.</p>	
<p>SECTION 9. Subsection 6 of section 54-52-17.4 of the North Dakota Century Code is amended and reenacted as follows:</p> <p>6. In addition to service credit identified in this section, a vested participating member may purchase up to <u>five ten</u> years of service credit unrelated to any other eligible service. <u>Up to a maximum of five years of purchased service credit under this subsection will be recognized as service credit for the purpose of computing retirement dates under section 54-52-17.</u></p>	<p>This change will allow member to purchase an additional 5 years of service credit however it would not be counted toward eligibility for the rule of 85.</p>	
<p>SECTION 10. AMENDMENT. Section 54-52-28 of the North Dakota Century Code is amended and reenacted as follows:</p> <p>54-52-28. Internal Revenue Code compliance. The board shall administer the plan in compliance with section 415, section 401(a)(9), section 401(a)(17), and section 401(a)(31) of the Internal Revenue Code in effect on August 1, 2007 2009, as it applies for governmental plans. The</p>	<p>This section updates the federal compliance provisions for PERS and addresses federal requirements for dual plans</p>	

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<p><u>defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as approved by the legislature, shall be adjusted under section 415(d) of the Internal Revenue Code, effective January 1 of each year following a legislative session. The adjustment of the defined benefit dollar limitation under section 415(d) shall apply to participating members who have had a separation from employment, but such member's benefit payments shall not reflect the adjusted limit prior to January 1 of the calendar year in which the adjustment applies. In the event a participating member's benefit is increased by plan amendment after the commencement of benefit payments, the member's annual benefit must not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as adjusted under section 415(d) for the calendar year in which the increased benefit is payable.</u></p> <p><u>If a participating member is, or ever has been, a participant in another defined benefit plan maintained by the employer, the sum of the participant's annual benefits from all such plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. Where the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. Such reduction will be made pro rata between the plans, in proportion to the participating member's service in each plan.</u></p>		
<p>SECTION 11. AMENDMENT. Subsection 7 of section 54-52.1-03 of the North Dakota Century Code is amended and reenacted as follows:</p> <p>7. If the participating employee is a <u>teacher faculty member</u> in a state charitable, penal, or educational institution who receives a salary or</p>	<p>This section applies to the PERS health plan and clarifies the meaning of teacher and that a contract can be less than 12 months instead of 9 months.</p>	

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<p>wages on a nine-month <u>less than a twelve-month</u> basis and has signed a contract to teach for the next ensuing school year, the agency shall make arrangements to include that employee in the insurance program on a twelve-month basis and make the contribution authorized by this section for each month of the twelve-month period.</p>		
<p>SECTION 12. AMENDMENT. Section 54-52.1-03.4 of the North Dakota Century Code is amended and reenacted as follows:</p> <p>54-52.1-03.4 Participation by employees of certain political subdivisions and temporary <u>Temporary employees and employees on unpaid leave of absence.</u> An employee of a county, city, school district, district health unit, or park district that is not participating in the uniform group insurance program pursuant to section 54-52.1-03.1 and is not eligible for any other employee group health plan may elect to participate in the uniform group insurance program by completing the necessary enrollment forms and qualifying under the medical underwriting requirements established by the board. The board may use risk-adjusted premiums for individual insurance contracts to implement the provisions of this section allowing employees of a county, city, school district, district health unit, or park district to participate in the uniform group insurance program. The county, city, school district, district health unit, or park district employee participating in the uniform group insurance program under this section shall pay monthly to the board the premiums in effect for the coverage being provided. A temporary employee employed before August 1, 2007, may elect to participate in the uniform group insurance program by completing the necessary enrollment forms and qualifying under the medical underwriting requirements of the program. A temporary employee</p>	<p>This change deletes the provision that allows employees of employers that do not participate in PERS to join the health insurance plan. It is our understanding that HIPAA does not allow us to underwrite these individuals and therefore this could present opportunities for significant adverse selection against the plan.</p>	

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<p>employed on or after August 1, 2007, is only eligible to participate in the uniform group insurance program if the employee is employed at least twenty hours per week and at least twenty weeks each year of employment. The temporary employee or the temporary employee's employer shall pay monthly to the board the premiums in effect for the coverage being provided. <u>An employer shall also have the option of paying health or life insurance premiums for a permanent employee on an unpaid leave of absence.</u> A political subdivision, department, board, or agency may make a contribution for coverage under this section.</p>	<p>This would allow an employer to make health insurance payments for an employee on an approved leave of absence.</p>	