

Good morning, Madam Chair and committee members. For the record, Mike Motschenbacher from District 47 representing Northwest Bismarck.

Today I present to you HB 1170. The purpose behind the bill is simply to give state agencies a little more leeway and negotiating power when hiring new employees.

As someone who has worked and managed two businesses in the private sector for 34 years, I had the ability to negotiate whatever I wanted when hiring new employees including wages, benefits, and vacation time. Although I had the same struggles finding and hiring employees that everyone else did, our state agencies do not have the same negotiating ability that we do in the private sector. Many of the standards are set by us, the legislature. This bill is an attempt to relax some of those standards, especially in the field of paid leave.

In current law, any new hire does not receive any unearned paid leave during their first year of employment, rather they must accrue paid leave before they can use it. While they start accruing leave at the beginning of their employment, they have no bank to draw from in advance of the leave being earned.

I'll quickly go through what the bill does, and then there is one very minor amendment that I would ask the committee to consider.

On page 1 line 7, it changes the word "persons" to "individuals". The reason behind this is that under definition, the word "persons" could actually represent a group or organization, so we changed it to accurately represent that we mean the individual employee.

Page 1 section b is added language which changes verbiage to "new hire leave" rather than "annual leave". The reasoning behind this change is because annual leave is required to be paid out in full upon separation of employment regardless of length of time with the state. I did want to make sure we put some guidelines on this, so this language makes it clear that this is NOT annual leave, this is additional paid leave that can only be used during their first year of employment only. If they don't use the entire 40 hours during their first year of employment, the leave is removed from their balance and not paid out. This is simply a small morsel of an additional benefit that would provide a small incentive to new employees who as we know are extremely difficult to find right now. As you all know, during the 2023 legislative session, the legislature ended the defined benefit program for all new hires, which was a huge hiring tool for state agencies. I supported that bill, and certainly think in the long run that this will end up benefiting state employees, but this is just an attempt to give them a small tool that they can have in their toolbox to help attract employees.

Page 1 section c allows for flexibility to modify leave accrual for hard-to-fill positions. Providing a tool for agencies to bring employees in the door for critical sectors experiencing staffing shortages. You will notice on line 19-20 it says "may grant" which simply allows an agency to make this modification but does not require it.

The amendment you have before you simply adds an effective date of May 1, 2026. The reasoning behind this is the state needs time to modify their computer systems and design leave accrual configurations to comply with this language. This may require some developer time across the varying systems in the agencies. May 1 of each year is also the new starting point for leave balance accruals within the state system.

Madam Chair and members of the committee, with this brief description, I would gladly try to answer any questions you may have but there are people behind me that are going to testify in favor of this bill that would be able to answer your questions with better clarity, but I'll be glad to attempt to answer any questions you may have.

Thank you.

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

ENGROSSED HOUSE BILL NO. 1170

Introduced by

Representatives Motschenbacher, Bahl, Christy, Fisher, Dressler

Senators Cleary, Dwyer, Gerhardt

1 A BILL for an Act to amend and reenact section 54-06-14 of the North Dakota Century Code,
2 relating to state employee annual leave; and to provide an effective date.

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

4 **SECTION 1. AMENDMENT.** Section 54-06-14 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **54-06-14. Annual leave and sick leave for state employees.**

7 1. a. Annual leave and sick leave must be provided for all ~~persons~~individuals in the
8 permanent employment of this state who are not employed under a written
9 contract of hire setting forth the terms and conditions of their employment, within
10 the limitations, terms, and provisions of this section.

11 b. A state agency, unit, or entity that employs an individual subject to this section
12 shall, upon hire, grant the individual forty hours of new hire leave to use within
13 the first year of employment. Any new hire leave remaining after completion of
14 the first year of employment is eliminated. New hire leave is not earned paid time
15 off and is not paid out upon separation of employment.

16 c. Annual leave for an employee entitled to it must be within a range of a minimum
17 of one working day per month of employment to a maximum of two working days
18 per month of employment, based on tenure of employment, to be fixed by rules
19 adopted by the employing unit. The employing unit may grant, at hire, annual
20 leave within the parameters of one to two working days per month, which may

1 exceed the amount based on tenure of employment, if the position being hired for
2 was previously identified as a hard-to-fill occupation under subsection 5 of
3 section 54-06-31 and the agency has satisfied the requirements under
4 subsection 1 of section 54-06-31. Sick leave for an employee entitled to it must
5 be within a range of a minimum of one working day per month of employment to
6 a maximum of one and one-half working days per month of employment, based
7 on tenure of employment, to be fixed by rules adopted by the employing unit.

8 d. Annual leave must be compensated for on the basis of full pay for the number of
9 working days' leave credited to the employee. Sick leave must be compensated
10 for on the basis of full pay for absence due to illness on working days during
11 tenure of employment. An employee with at least ten continuous years of state
12 employment is entitled to a lump sum payment equal to one-tenth of the pay
13 attributed to the employee's unused sick leave accrued under this section. An
14 employee's years of state employment must be deemed continuous if, under the
15 official personnel policy of an agency, unit, or entity, the employee's work is
16 terminated because of a reduction in force and the employee is reinstated in any
17 agency, unit, or entity within two years, or if the employee is placed on voluntary
18 leave status without pay and the leave lasts no longer than two years for
19 education purposes, or one year for any other voluntary leave without pay. The
20 pay attributed to the accumulated, unused sick leave must be computed on the
21 basis of the employee's salary or wage at the time the employee leaves the
22 employ of the state and at the rate of one hour of pay for each hour of unused
23 sick leave. The agency, unit, or entity that last employed the employee shall
24 make the lump sum payment from funds appropriated by the legislative assembly
25 to that agency, unit, or entity for salaries and wages. Any

26 2. A state agency, unit, or entity which~~that~~ employs persons~~an individual~~ subject to this
27 section shall formulate and adopt rules governing the granting of annual leave and
28 sick leave which will effectuate the purpose of this section and best suit the factors of
29 employment of that employing unit. Each employing unit shall file with the office of
30 management and budget a copy of the rules adopted, including any amendments or
31 additions to the rules.

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SECTION 2. EFFECTIVE DATE. This Act becomes effective on May 1, 2026.