

**Testimony of**  
**Sparb Collins**  
**On Engrossed Senate Bill 2109**

Madame Chair, members of the committee my name is Sparb Collins. I am Executive Director of the North Dakota Public Employees Retirement System. I appear before you today on behalf of the PERS Board and in support of this bill. Senate Bill 2109 provides for miscellaneous administrative changes to the PERS statutes.

Section 1 of the bill allows members of the PERS defined contribution plan that take employment in Higher Education and join the TIAA-CREF retirement plan to transfer their funds from PERS to TIAA-CREF. This will allow them, if they so elect, to consolidate their retirement account. Under present statute they cannot make this transfer while actively employed.

Section 2 of the bill eliminates the 60-month term certain option as a form of payment for surviving spouses in the Highway Patrol Retirement System (HPRS). Under current law, surviving spouses in HPRS get to elect either this benefit or a refund of member contributions or monthly payments of 50% of the normal retirement benefit for the surviving spouse's lifetime. Last Session this option was eliminated from the PERS Plan and making this change for the HP plan would standardize the options between the two plans. Also, this option is not utilized by HP spouses.

Section 3 of the bill updates the IRS compliance provisions of the Highway Patrol retirement plan. Each session we must update these provisions to maintain our qualified plan status.

Section 4 of the bill removes the word "consecutive" for determining the 36 months for calculating final average salary for multiple plan membership relating to the HPRS. This change was previously approved for the calculation of regular HPRS retirement benefits and would harmonize the two sections.

Section 5 of the bill is an amendment we requested in the Senate to deal with an additional administrative issue. Recently, as a result of a review by our attorney, we noted a provision in statute that was changed when the Law Enforcement System was created that had a broader meaning than anticipated at the time. In fact, at the time it was felt that since other parts of the statute were more specific, this change would not have an effect. Our recent review indicates that is not the case and therefore we are proposing to change the statute to how it was before the law enforcement statute change.

Section 6 of the bill changes the pool of eligible candidates for a PERS Board member that is elected by retirees to exclude those individuals who are deferred vested members but not yet retired. These are individuals who are no longer actively employed or retired and therefore not active in the system. We have a difficult time maintaining current addresses for these individuals. Since they are not active in the system and since we cannot insure full notice to these members, we are proposing this change.

Section 7, page 10 of the bill removes the requirement for a member of the law enforcement plan to have three consecutive years of service immediately before retirement to three consecutive years of service. As presently written, a member could participate in this retirement plan for 25 years, but if their last three years of service was not "immediately preceding retirement" they may not qualify for a benefit. This change would clarify that they would be eligible for the benefit earned even if the last three years did not immediately precede retirement.

Section 7, page 12 of the bill clarifies that any surviving beneficiary who dies before receiving a distribution of such account balance is treated as predeceasing the member. This addresses cases where a member dies and designates for example their brother as the beneficiary of the remaining retirement funds. However, before we can pay the funds to the brother in this example he passes away. This change gives us guidance on what to do in such a situation. Specifically as written, we would then go back to the see who the member designated as the alternate beneficiary and pay it out to them. So in

this example, if the member had designated their sister as the alternate, then we would pay the funds to that person.

Section 8 of the bill removes the language allowing conversion of sick leave to retirement credit within sixty days termination under the Hybrid Plan. IRS rules actually set the timeframe for such purchases so this change will allow us to follow those rules.

Section 9 of the bill updates the IRS compliance provisions for the PERS retirement plan. As with the Highway Patrol plan, each session we must update these provisions to maintain our qualified plan status.

Section 10 clarifies that a surviving spouse of a retiree may continue to participate in the uniform group insurance program by paying the required premium. Administratively we have provided for this continuity, but adding this to the statute clearly delineates this eligibility.

Section 11 removes some old statutory language relating to the employer contribution pick up process.

Mr. Chairman, members of the committee this bill was reviewed by the Legislative Employee Benefits Committee and given a favorable recommendation.

Thank you and this concludes my testimony.