

HB 1069 - Relating to the Highway Patrol Plan, PERS Hybrid Plan and PERS Defined Contribution Plan

<p>50052.04</p>	<p>1 A BILL for an Act to create and enact a new subsection to section 54-52.6-02 of the North 2 Dakota Century Code, relating to temporary employee participation in the defined contribution 3 retirement plan under the public employees retirement system; to amend and reenact 4 subsection 3 of section 39-03.1-10.1, subsection 9 of section 39-03.1-11, sections 5 39-03.1-11.2, 39-03.1-28, and 39-03.1-30, subsection 11 of section 54-52-01, subsections 9 6 and 10 of section 54-52-17, subsection 5 of section 54-52-17.4, section 54-52-28, subsection 3 7 of section 54-52.6-01, and sections 54-52.6-09.3 and 54-52.6-13 of the North Dakota Century 8 Code, relating to the purchase of service credit for qualified military service, highway patrol 9 retirement options, compliance with Internal Revenue Code provisions, confidentiality of 10 records, purchase of sick leave, eligibility for the law enforcement retirement plan, temporary 11 employee participation in the defined contribution retirement plan, and retirement benefit 12 options under the public employees retirement system; and to repeal section 54-52-19.2 of the 13 North Dakota Century Code, relating to prior service credit under the public employees 14 retirement system.</p> <p>15 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:</p>	<p>Indicates that this bill relates to:</p> <ul style="list-style-type: none"> • Highway Patrol • PERS Hybrid Plan • PERS Defined Contribution Plan
	<p>16 SECTION 1. AMENDMENT. Subsection 3 of section 39-03.1-10.1 of the North Dakota 17 Century Code is amended and reenacted as follows:</p> <p>18 3. <u>A participating member may elect to purchase, or a member not presently under</u> 19 <u>covered employment, may request credit for qualified military service credit</u> 20 <u>pursuant to the Uniformed Services Employment and Reemployment Rights Act of</u> 21 <u>1994 [Pub. L. 103-353; 108 Stat. 3150; 38 U.S.C. 4301-4307] at any time prior to</u> 22 <u>retirement by submitting a valid application and paying the member portion</u> 23 <u>pursuant to rules adopted by the board. It is the responsibility of the applicant to</u> 24 <u>supply any documentation required by the board. member shall submit a qualified</u></p>	<p>Relates to the Highway Patrol Retirement Plan and changes the requirements relating to returning veterans as follows:</p> <ol style="list-style-type: none"> 1. For veterans returning after the passage of the bill the bill the employer may elect to pay the employee contribution for the returning veterans 2. If the employer does not make an election the bill establishes a default election that would have the employer pay the cost

<p>1 <u>application with proof of eligible military service to the board in order to receive</u> 2 <u>credit for military service. For credit on and after July 1, 1966, the employer must</u> 3 <u>elect whether it will pay the employees' contributions or require the employees to</u> 4 <u>pay those contributions. For qualified military service after August 1, 2005, in the</u> 5 <u>absence of an election, the pickup methodology used by the employer pursuant to</u> 6 <u>subsection 2 of section 39-03.1-09 at the time the employee began eligible military</u> 7 <u>service controls. If the employer has elected to pay the employee contribution, the</u> 8 <u>employer also has the option to purchase qualified military service credit for</u> 9 <u>employees who were on leave for active service prior to August 1, 2005. The</u> 10 <u>employee contribution to be paid equals ten and thirty-hundredths percent times</u> 11 <u>the salary the member would have received but for the period of service or, if that</u> 12 <u>amount is not reasonably certain, the member's average rate of compensation</u> 13 <u>during the twelve-month period immediately preceding the member's period of</u> 14 <u>service or, if shorter, the period of employment immediately preceding that period</u> 15 <u>times the number of months of credit being purchased. If the employee</u> 16 <u>contribution is paid, the governmental unit or, in the case of a member not under</u> 17 <u>covered employment, the last employing governmental unit, shall pay sixteen and</u> 18 <u>seventy-hundredths percent times the salary the member would have received but</u> 19 <u>for the period of service or, if that amount is not reasonably certain, the member's</u> 20 <u>average rate of compensation during the twelve-month period immediately</u> 21 <u>preceding the member's period of service or, if shorter, the period of employment</u> 22 <u>immediately preceding that period times the number of months of credit being</u> 23 <u>purchased. In addition, the governmental unit or, in the case of a member not</u> 24 <u>under covered employment, the last employing governmental unit, shall pay to the</u> 25 <u>retiree health benefits fund established under section 54-52.1-03.2 the percentage</u> 26 <u>required by section 54-52.1-03.2 times the salary the member would have received</u> 27 <u>but for the period of service or, if that amount is not reasonably certain, the</u> 28 <u>member's average rate of compensation during the twelve-month period</u> 29 <u>immediately preceding the member's period of service or, if shorter, the period of</u> 30 <u>employment immediately preceding that period times the member's months of</u> 31 <u>credit being purchased. For credit before July 1, 1966, no contribution is required.</u></p>	<p>if they are picking up the employee contribution. 3. Allows the employer to pay for past service if they so elect.</p>
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1 **SECTION 2. AMENDMENT.** Subsection 9 of section 39-03.1-11 of the North Dakota
2 Century Code is amended and reenacted as follows:
3 9. The board shall adopt rules providing for the receipt of retirement benefits in the
4 following optional forms:
5 a. ~~A~~ An actuarially equivalent joint and survivor one hundred percent option.
6 b. ~~Life~~ An actuarially equivalent life with ~~five-year or ten-year~~ or twenty-year
7 certain options.
8 c. An actuarially equivalent partial lump sum distribution option with a
9 twelve-month maximum lump sum distribution.
10 Unless a contributor requests that the contributor receive benefits according to one
11 of these options at the time of applying for retirement, all retirement benefits must
12 be in the form of a lifetime monthly pension, with a fifty percent option to the
13 surviving spouse.
14 **SECTION 3. AMENDMENT.** Section 39-03.1-11.2 of the North Dakota Century Code
15 is amended and reenacted as follows:
16 **39-03.1-11.2. Internal Revenue Code compliance.** The board shall administer the
17 plan in compliance with section 415, section 401(a)(9), section 401(a)(17), and section
18 401(a)(31) of the Internal Revenue Code in effect on August 1, 2005, as it applies for
19 governmental plans.
20 **SECTION 4. AMENDMENT.** Section 39-03.1-28 of the North Dakota Century Code is
21 amended and reenacted as follows:
22 **39-03.1-28. Confidentiality of records.** All records relating to the retirement benefits
23 of a member or a beneficiary under this chapter are confidential and are not public records.
24 The information and records may be disclosed, under rules adopted by the board only to:
25 1. A person to whom the member has given written consent to have the information
26 disclosed.
27 2. A person legally representing the member, upon proper proof of representation,
28 and unless the member specifically withholds consent.
29 3. A person authorized by a court order.
30 4. A member's participating employer, limited to information concerning the member's
31 years of service credit and years of age. The board may share other types of

Clarification wording
Eliminates the 5 year term certain
option and adds a 20 year term
certain
Adds a new option to allow a
member to receive lump sum
benefit at retirement equal to one
years benefit in cash providing that
the lifetime benefit is reduced.

Updates the federal compliance
provisions of the Highway Patrol
plan.

1	information as needed by the employer to validate the employer's compliance with	
2	existing state or federal laws. Any information provided to the member's	
3	participating employer under this subsection must remain confidential except as	
4	provided under subsection 6.	
5	5. The administrative staff of the retirement and investment office for purposes	
6	relating to membership and benefits determination.	
7	6. State or federal agencies for purposes of reporting on a service provider's	
8	provision of services or when the employer must supply information to an agency	
9	to validate the employer's compliance with existing state or federal laws.	
10	7. Member interest groups approved by the board on a third-party blind list basis,	
11	limited to information concerning the member's participation, name, and address.	
12	8. The member's spouse or former spouse, that individual's legal representative, and	
13	the judge presiding over the member's dissolution proceeding for purposes of	
14	aiding the parties in drafting a qualified domestic relations order under section	
15	39-03.1-14.2. The information disclosed under this subsection must be limited to	
16	information necessary for drafting the order.	
17	9. Beneficiaries designated by a participating member or a former participating	
18	member to receive benefits after the member's death, but only after the member's	
19	death. <u>Information relating to beneficiaries may be disclosed to other beneficiaries</u>	Adds wording to the Highway Patrol Plan relating to sharing information with beneficiaries that was added to the PERS plan last session.
20	<u>of the same member.</u>	
21	10. Any person if the board determines disclosure is necessary for treatment,	
22	operational, or payment purposes, including the completion of necessary	
23	documents.	
24	11. <u>The general public, but only after the board has been unable to locate the member</u>	Adds wording to the Highway Patrol Plan to facilitate locating a member. This wording was added to the PERS plan last session
25	<u>for a period in excess of two years, and limited to the member's name and the fact</u>	
26	<u>that the board has been unable to locate the member.</u>	
27	SECTION 5. AMENDMENT. Section 39-03.1-30 of the North Dakota Century Code is	
28	amended and reenacted as follows:	Allows the employer to pay the cost for purchasing sick leave for members of the Highway Patrol. This language was added to the PERS plan last session.
29	39-03.1-30. Conversion of sick leave. At termination of eligible employment a	
30	member is entitled to credit in the retirement system for each month of unused sick leave, as	
31	certified by the employer, if the member <u>or the member's employer</u> pays an amount equal to the	

1 member's final average salary, times the number of months of sick leave converted, times the
 2 employer and employee contribution, plus ~~one percent~~ the required contribution for the retiree
 3 health benefits program. Hours of sick leave equal to a fraction of a month are deemed to be a
 4 full month for purposes of conversion to service credit. A member may convert all of the
 5 member's certified sick leave or a part of that person's certified sick leave. All conversion
 6 payments must be made within sixty days of termination and before the member receives a
 7 retirement annuity unless the member has submitted an approved payment plan to the board.

8 **SECTION 6. AMENDMENT.** Subsection 11 of section 54-52-01 of the North Dakota
 9 Century Code is amended and reenacted as follows:

10 11. "Peace officer" means a participating member who is a peace officer as defined in
 11 section 12-63-01 and is employed as a peace officer by a political subdivision and
 12 notwithstanding subsection 12, for persons employed after August 1, 2005, is
 13 employed thirty-two hours or more per week and at least twenty weeks each year
 14 of employment. Participating members of the law enforcement retirement plan
 15 created by this chapter who begin employment after August 1, 2005, are ineligible
 16 to participate concurrently in any other retirement plan administered by the public
 17 employees retirement system.

18 **SECTION 7. AMENDMENT.** Subsections 9 and 10 of section 54-52-17 of the North
 19 Dakota Century Code are amended and reenacted as follows:

- 20 9. The board shall adopt rules providing for the receipt of retirement benefits in the
 21 following optional forms:
- 22 a. Single life.
 - 23 b. An actuarially equivalent joint and survivor option, with fifty percent or one
 24 hundred percent options.
 - 25 c. An actuarially equivalent level social security option, which is available only to
 26 members who retire prior to attaining the age at which they may begin to
 27 receive unreduced social security benefits.
 - 28 d. ~~Life Actuarially equivalent life with five-year or ten-year or twenty-year~~ certain
 29 options.
 - 30 e. An actuarially equivalent partial lump sum distribution option with a
 31 twelve-month maximum lump sum distribution.

This language relates to the Law Enforcement Plan and changes the eligibility requirement from 20 hours per week to thirty two hours per week and indicated provides they would be ineligible to concurrently participate in another PERS plan

Eliminates the 5 year term certain option and adds a 20 year term certain for the PERS plan
 Adds a joint and survivor option to the level social security option.
 Adds a new option to the PERS plan allowing a member to receive lump sum benefit at retirement equal to one years benefit in cash providing that the lifetime benefit is reduced.

1 service or, if shorter, the period of employment immediately preceding that period,
2 times the number of months of credit being purchased. If the ~~member makes the~~
3 ~~above payment~~ employee contribution is paid, the governmental unit, or, in the
4 case of a member not under covered employment, the last employing
5 governmental unit, shall pay four and twelve-hundredths percent times the salary
6 the member would have received but for the period of service or, if that amount is
7 not reasonably certain, the member's average rate of compensation during the
8 twelve-month period immediately preceding the member's period of service or, if
9 shorter, the period of employment immediately preceding that period, times the
10 number of months of credit being purchased. In addition, the governmental unit,
11 or, in the case of a member not under covered employment, the last employing
12 governmental unit, shall pay to the retiree health benefits fund established under
13 section 54-52.1-03.2 the percentage required by section 54-52.1-03.2 times the
14 salary the member would have received but for the period of service or, if that
15 amount is not reasonably certain, the member's average rate of compensation
16 during the twelve-month period immediately preceding the member's period of
17 service or, if shorter, the period of employment immediately preceding that period,
18 times the member's months of credit being purchased. For credit before July 1,
19 1966, no contribution is required.

20 **SECTION 9. AMENDMENT.** Section 54-52-28 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **54-52-28. Internal Revenue Code compliance.** The board shall administer the plan in
23 compliance with section 415, section 401(a)(9), section 401(a)(17), and section 401(a)(31) of
24 the Internal Revenue Code in effect on August 1, 2005, as it applies for governmental plans.

25 **SECTION 10. AMENDMENT.** Subsection 3 of section 54-52.6-01 of the North Dakota
26 Century Code is amended and reenacted as follows:

27 3. "Eligible employee" means a permanent state employee, except an employee of
28 the judicial branch or an employee of the board of higher education and state
29 institutions under the jurisdiction of the board, who is eighteen years or more of
30 age and who is in a position not classified by North Dakota human resource
31 management services. If a participating member loses permanent employee

Updates the federal compliance provisions for the PERS plan

1 the option to purchase qualified military service credit for employees who were on leave for
 2 active service prior to August 1, 2005. The employee contribution to be paid equals four
 3 percent times the salary the member would have received but for the period of service or, if the
 4 amount is not reasonably certain, the member's average rate of compensation during the
 5 twelve-month period immediately preceding the member's period of service or, if shorter, the
 6 period of employment immediately preceding such period, times the number of months for
 7 which the member is making contributions. If the ~~member makes the above payment~~ employe
 8 contribution is paid, the governmental unit, or, in the case of a member not under covered
 9 employment, the last employing governmental unit, shall pay four and twelve-hundredths
 10 percent times the salary the member would have received but for the period of service or, if the
 11 amount is not reasonably certain, the member's average rate of compensation during the
 12 twelve-month period immediately preceding the member's period of service or, if shorter, the
 13 period of employment immediately preceding such period, times the number of months for
 14 which the member made contributions. In addition, the governmental unit, or, in the case of a
 15 member not under covered employment, the last employing governmental unit, shall pay to the
 16 retiree health benefits fund established under section 54-52.1-03.2 ~~one percent~~ the percentag
 17 required by section 54-52.1-03.2 times the salary the member would have received but for the
 18 period of service or, if that amount is not reasonably certain, the member's average rate of
 19 compensation during the twelve-month period immediately preceding the member's period of
 20 service or, if shorter, the period of employment immediately preceding that period, times the
 21 member's months for which the member made contributions. For credit before July 1, 1966, n
 22 contribution is required.

23 **SECTION 13. AMENDMENT.** Section 54-52.6-13 of the North Dakota Century Code
 24 amended and reenacted as follows:

25 **54-52.6-13. Distributions.**

- 26 1. A participating member is eligible to receive distribution of that person's
- 27 accumulated balance in the plan upon becoming a former participating member.
- 28 2. Upon the death of a participating member or former participating member, the
- 29 accumulated balance of that deceased participant is considered to belong to the
- 30 refund beneficiary, if any, of that deceased participant. If a valid nomination of
- 31 refund beneficiary is not on file with the board, the board, in a lump sum

2. If the employer does not make an election the bill establishes a default election that would have the employer pay the cost if they are picking up the employee contribution.
3. Allows the employer to pay for past service if they so elect.

<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26</p>	<p>distribution, shall distribute the accumulated balance to a legal representative, if any, of the deceased participant or, if there is no legal representative, to the deceased participant's estate.</p> <p>3. A former participating member or refund beneficiary may elect one or a combination of several of the following methods of distribution of the accumulated balance:</p> <ul style="list-style-type: none">a. A lump sum distribution to the recipient.b. A lump sum direct rollover to another qualified plan, to the extent allowed by federal law.c. Periodic distributions, as authorized by the board.d. No current distribution, in which case the accumulated balance must remain in the plan until the former participating member or refund beneficiary elects a method or methods of distribution under this section, to the extent allowed by federal law. <p><u>A surviving spouse beneficiary may elect one or a combination of several of the methods of distribution provided in subdivisions a, b, or c. A beneficiary who is not the surviving spouse may only choose a lump sum distribution of the accumulated balance.</u></p> <p>4. If the former participating member's vested account balance is less than five thousand dollars, the board shall automatically refund the member's vested account balance upon termination of employment. The member may waive the refund if the member submits a written statement to the board, within one hundred twenty days after termination, requesting that the member's vested account balance remain in the plan.</p> <p>SECTION 14. REPEAL. Section 54-52-19.2 of the North Dakota Century Code is repealed.</p>	<p>Clarifies the payout options for beneficiaries that are not a surviving spouse.</p>
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