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2047

2007 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2047

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2047

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 1/12/07

Recorder Job Number: 999

Committee Clerk Signature

*Monica Spauling*

Minutes:

Roll was taken and all members were present.

Sen. Dever, Chairman, opened the hearing on SB 2047.

Sparb Collins, Executive Director of Public Employees Retirement Systems introduced the bill.

See attachment #1. Sparb mentioned this would have no fiscal effect because people are investing their own money.

Sen. Dever asked if we now have "opt in" and this would change it to "opt out".

Sparb confirmed that is correct.

Sen. Dever ask what percent are in the plan now.

Sparb said 40%. He feels with the proposed changes, it could be at 80 or 90%. Sparb clarified that this change would only affect new employees. Existing employees maintain their status quo.

Sen. Dever asked whether this would affect legislators. Sparb was not sure.

Sen. Oehlke mentioned that the participants will be realizing a pre-tax savings.

Sparb agreed.

Sen. Dever asked whether the \$25.00/month is flexible.

Sparb said yes, you can put up in to \$25,000.00 and even \$30,000.00 with a catch-up provision.

Sparb mentioned the most challenging part of getting people to invest is just getting them started and time is the key.

Sen. Horne expressed that he feels it is a wonderful idea and mentioned as a freshman senator he had to opt out of health insurance when he did his employment paperwork.

Sen. Dever asked about the objective of getting an employee's retirement up to 90% of his previous salary with his Social Security factored in. He feels this bill would make it significantly more than that.

Sparb explained that because health insurance is one of the benefits, the actual amounts paid to retirees along with their Social Security doesn't need to be at 90% for them to realize a 90% retirement.

There was discussion about how some counties handle their benefit packages.

Opposition: - Rita Lindgren, HR Officer at Bismarck State College, asked for an amendment to exempt the ND University System from SB 2047. See attachment #2.

Sen. Lee asked whether an employee leaving employment with the University System could get their money out of their retirement fund and invest it elsewhere. Her understanding is that it is not allowed.

Rita replied she would need more information to answer that question. She mentioned that providers generally do assess fees when funds are moved.

Sen, Horne asked if the bill were amended as Rita is requesting would University employees have to opt in and could they opt in later?

Rita answered affirmatively to both questions and mentioned that every new employee is given the information so they can make an informed decision.

Sen. Horne asked whether there were others in the University System that felt this way or was it just Rita and BSC that felt this way.

Rita stated she is representing the University System and she is on the ND University System Human Resource Council. That council has HR people from each of the 11 state institutions. This is a consensus concern from that group.

Sen. Oehlke asked what percentage of employees are presently enrolled.

Rita replied 28.4% are enrolled.

Sen. Oehlke asked what percentage of employees are presently enrolled through PERS.

Sparb replied he would have to look it up but he thinks it is around 40%.

Sen. Oehlke asked whether the difference was due to one group doing a better job of explaining it than the other group.

Rita responded she didn't know.

Sen. Oehlke asked how the information was disseminated. Was a packet just handed out?

Rita said every office handles it differently. BSC does make different presentations available to their employees.

Sen. Dever asked if TIAA-CREF is available to all employees in the University System.

Rita said it is available. TIAA-CREF is a retirement plan unique to colleges and universities. It is the retirement plan for the faculty of the Universities. Staff is on the PERS retirement plan.

Sen. Dever asked if there are other pension plans available to them.

Sparb explained how the PERS Benefits Committee is made up. That committee devises a plan and then it is reviewed by the Legislative Benefits Committee. Higher Ed is a part of the Legislative Benefits Committee and was in favor of this legislation. Their concerns on it just surfaced 2 weeks ago after something happened internally. If Higher Ed wants to be exempted, Sparb is ok with that.

Opposition: -

Neutral: -

Chairman Dever closed the hearing on SB 2047.

Sen. Lee asked whether Employee Benefits reviewed this bill.

Sparb said they did and they gave it a favorable recommendation.

The committee will wait to act on this bill until they have time to gather more information.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2047

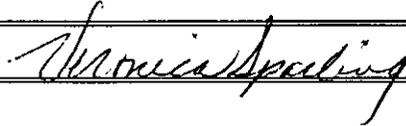
Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 1/25/07

Recorder Job Number: 1950, 1951

Committee Clerk Signature



Minutes:

All members of the committee were present.

Chairman Dever opened discussion on SB 2047.

Senator Lee explained she still does not like the way Higher Ed runs its retirement system not allowing their members flexibility, but that cannot be rectified with anything in this bill.

Senator Dever mentioned that the University System wanted to be excluded.

There was discussion about the employees' options of which plan to be part of and the "opt in" or "opt out" provisions.

Senator Horne made a motion to pass SB 2047.

Senator Nelson seconded the motion.

Senator Dever mentioned that there had been an amendment offered.

Senator Horne withdrew his motion.

Senator Nelson withdrew her second.

Senator Nelson made a motion to amend SB 2047 with the amendment offered by Sparb Collins from Public Employees Retirement Systems.

Senator Marcellais seconded the motion.

Roll Call Vote: Yes 6 No 0 Absent 0

Senator Horne asked whether the university people were still included in this.

Senator Nelson said they still were included.

Senator Horne made a motion to pass SB 2047 as amended.

Senator Nelson seconded the motion.

Roll Call Vote: Yes 5 No 1 Absent 0

Carrier: Horne

Date : 1-25-07  
Roll Call Vote # : 1

**2007 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2047**

*Pers.*

Senate Government and Veteran Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken \_\_\_\_\_

Motion Made By Horne *withdrawn* Seconded By Nelson *withdrawn*

Senators	Yes	No	Senators	Yes	No
Senator Dick Dever - Chairman			Senator Robert Horne		
Senator Dave Oehlke - VC			Senator Richard Marcellais		
Senator Judy Lee			Senator Carolyn Nelson		

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Date : 1-25-07  
Roll Call Vote # : 2

**2007 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. \_\_\_\_\_**

Senate Government and Veteran Affairs *PERS Amendment* Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken \_\_\_\_\_

Motion Made By Nelson Seconded By Marcellais

Senators	Yes	No	Senators	Yes	No
Senator Dick Dever - Chairman	✓		Senator Robert Horne	✓	
Senator Dave Oehke - VC	✓		Senator Richard Marcellais	✓	
Senator Judy Lee	✓		Senator Carolyn Nelson	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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

Date : 1-25-07  
Roll Call Vote # : 3

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2047

*as amended*

Senate Government and Veteran Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken do pass as amended

Motion Made By Horne Seconded By Nelson

Senators	Yes	No	Senators	Yes	No
Senator Dick Dever - Chairman		✓	Senator Robert Horne	✓	
Senator Dave Oehlke - VC	✓		Senator Richard Marcellais	✓	
Senator Judy Lee	✓		Senator Carolyn Nelson	✓	

Total (Yes) 5 No 1

Absent 0

Floor Assignment Horne

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

**REPORT OF STANDING COMMITTEE**

**SB 2047: Government and Veterans Affairs Committee (Sen. Dever, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2047 was placed on  
the Sixth order on the calendar.

Page 1, line 9, remove "third"

Page 1, line 10, remove "full" and replace "day" with "full month"

Renumber accordingly

2007 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2047

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2047

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: March 1, 2007

Recorder Job Number: 4170

Committee Clerk Signature

Morgan Renee

Minutes:

**Sparb Collins:** Testimony attached.

**Rep. Grande:** When I read this it says a participating employer shall do this in a deferred compensation program, a participating employer. They are not a participating employer.

**Sparb Collins:** Yes, the University Systems are a participating employer in the 457. This would as presently written, this would apply to the higher education. Any new employee in higher education would then automatically be enrolled in the 457 plan. At the time they come in, their primary retirement program for some members of higher education would be TIAA-Cref. For some members it's going to be PERS. All of them would have the 457 plan available to them.

**Rep. Grande:** Is it possible that the TIAA is a defined contribution program? Can we take TIAA Cref out of this particular portion of the bill?

**Sparb Collins:** Certainly, TIAA-Cref could be modified to say that TIAA-Cref members wouldn't be any of the new employees. Keep in mind that this supplemental savings is good. You need to have more than what you have today when you come around for retirement. They need to have their primary employer sponsored plan. I think in TIAA-Cref, one thing that is different is that they can do supplemental savings through them. Now in the PERS defined

contribution plan, the only thing they have for supplemental savings is the 457 plan. There is a difference in that.

**Rep. Grande:** Those contribution plans also have that supplemental option?

**Sparb Collins:** If this was passed they would be enrolled.

**Rep. Amerman:** We had a bill in IBL the other day. First of all I'm not a big fan of opting out. I'd rather opt in. I understand and have nothing against this. Is it my understanding that employers can automatically do this? Beings this is a state thing, is this why we are passing this? To keep in touch with the federal law?

**Sparb Collins:** The federal law did some really positive things. Automatic enrollments have been around for awhile. There were some questions as to how employees could do this for the states sake. If the employer wants to do this, they can do it. The federal law for the 457 plan also did a really positive thing. If this bill had passed before the federal law changes, and someone had been automatically enrolled but didn't realize it, they didn't know where their money was going. The reason why is again, that they find the biggest thing is that employees are busy. This is all the 457 products that we have. There are several hundred products. They then get busy and just come along and re-enroll. If you can get somebody enrolled, after time they are starting to see money. All of a sudden it is an increase from \$25-\$50 then from \$50-\$75.

**Rep. Meier:** If an employee enrolls within 90 days, or automatically enrolls, let's say they decide to opt out. Can they then re-enroll in the program at any time?

**Sparb Collins:** Yes. You can re-enroll in the 457 plan. You can stop the enrollment. After that 90 days, the one thing you can't do is cash out of it until you terminate employment. There is a provision where you can access it under hardship.

**Rep. Froseth:** If an employee decides to opt out after being in for about three years, will he eventually get that money or will he lose it?

**Sparb Collins:** The employee will eventually get the money. They can access it at the time they terminate employment. They can take it anytime thereafter. We encourage them not to do it until they retire.

**Rep. Froseth:** Is the 457 strictly employee pay or can it be matched by the employee?

**Sparb Collins:** Strictly employee.

**Rep. Kasper:** Looking at the bill, on the beginning of line 12 on the first page, the state withholds the money from the compensation of each employee subject to an automatic enrollment provision, and look at line 14. What responsibility is the board cooking up when they are taking an employees money on a payroll deduction plan and investing it for them?

**Sparb Collins:** That would only occur if the employee didn't make an election on their own. That bill that was talked about clarified that employers could do that. It set some guidelines on how they do that. We follow those guidelines. At that point the employee can make an election to transfer it to any type of plan they would like to.

**Rep. Kasper:** What education process would you be going through with these newly hired employees to make them aware of this program? It could give them something like this where they should try to decide what they should do with their dollars and you know what they are going to say. Without someone helping them they are going to say I don't know what to do. What provisions are you going to do to educate employees to help them make wise decisions on their own?

**Sparb Collins:** That is a challenge. First of all it started out as enrollment. When new employees would sit down with their payroll officer they get signed up for retirement, they get signed up for group insurance, they get signed up for all of this. This could be one of the things

that would be there. If you don't want to go on this, here is your form to automatically sign out of that. If you do, you will be automatically enrolled and your money is going to go over into this account if you want to make an election, you can elect it to go somewhere else. That is how it would go initially. The larger challenge is in the longer term like being able to provide employees education. What we tried to do is try to be able to sponsor some seminars in the employer settings where we have someone come in and talk about investing. One of them is the PERS companion plan and that is fidelity. I know some employers will bring in some of the other providers to provide this education. It's a real challenge to be able to get out there and talk with the employees. In that book you will notice that they can elect products that have local representatives. I know a lot of employees do that.

**Rep. Kasper:** Many of the investment options are secure. When you are dealing with security you are dealing with a higher level of requirement to educate employees to help them make decisions. You are also dealing with a higher potential risk than a fixed annuity or fixed account. There again, you go back to the board where they are going to select the option. Does the federal statute take away any liability from the board for putting employee's money into a securities product without the employee knowing where it's going?

**Sparb Collins:** Let me verify that.

**Rep. Kasper:** On line 24, the bill says as specified by the employee. So this bill says the employee must specify even though further up there it says it will be selected by the board as an automatic check off. I don't know if that is the conflict of the bill but I think it is.

**Sparb Collins:** You can ask our attorney.

**Rep. Amerman:** If this adopted newly employees will be automatically enrolled in it, correct? Is the \$25 the ones that are enrolled in it now?

**Sparb Collins:** You can contribute in the 457 plan up to \$15,500. You have a wide range.

Actually if you are over 50 you can catch up and go more.

**Rep. Amerman:** Do the newly hired have that option too? Or are they stuck where they are at?

**Sparb Collins:** Everyone has that option.

**Rep. Amerman:** The ones that aren't enrolled that are state employees, they will not be forced to come into this?

**Sparb Collins:** This does not prohibit them from doing so. We still encourage them to do this. We put a lot of emphasis on encouraging supplemental savings. We have seen our participation enroll in the last couple of years. Back in 1999 the define benefit plan was changed to a hybrid plan. That put into place a provision to encourage people to enroll. The define benefit plan prior to 1999, and broke the contributions down into two, the employer contribution and the employee contribution. Employee contribution has always been included in an employee countdown. The members who terminated prior to 1999 could get that balance and cash it out with an interest rate of 7.5%. Now if they participate in this 457 plan, whatever they participate goes into that as well.

**Rep. Amerman:** Wouldn't have that been a good incentive if we would have put some kind of match to get people to enroll instead of having them enroll. We have a 401 K where I work and it's nice to see if a company would match that a little bit. It would get people to enroll.

**Rep. Wolf:** I know as a teacher that the school takes that money out of my paycheck and they send it to someone that I have designated as a recipient. That person is in charge of figuring out where I put it. Will these people who go into a 457 have that option to pick a representative to deal with their money and make those decisions so they don't have to?

**Sparb Collins:** There is a lot of options. They can use the local companies with local agents to affiliate with. They can stay in the fidelity product. It varies on what people are most comfortable with.

**Rep. Amerman:** What she is saying that she can pick the investors that she wants, but can the new employees pick who they want also?

**Sparb Collins:** Within this plan there are a lot of options because there is about 10 different companies. That booklet describes all the different products that are available.

**Rep. Froseth:** I didn't see the set of amendments in this bill. Secondly, would it make it cumbersome if we amended this to exclude NDUS and leave them as an opt in?

**Sparb Collins:** The only thing is that there are different ways of looking at it. If you exempted the whole university system, that doesn't make it cumbersome. Within the university system about half of them are in the PERS while the other half is in TIAA-Cref.

**Rep. Froseth:** What is the set of amendments?

**Sparb Collins:** That was just the start date. It used to be the third month, but is now moved to the first month based on our request because of the change in federal law.

**Rep. Potter:** Would you remind me how people choose Cref or PERS?

**Sparb Collins:** The University sets the rules for who is eligible for TIAA-Cref. Generally speaking, your faculty are all in TIAA-Cref.

**Rita Lindgren:** Testimony attached.

**Rep. Wolf:** The University system has a 403 B plan, if this bill is passed and the new employees that are hired are required, can that go to a 403 or does it have to go to a 457?

**Rita Lindgren:** It can go to a 403, they still have that choice. Basically the problems I have is the opt out with the opt in. It does limit our employee options.

**Rep. Wolf:** How does it limit them if they can still go in the 403 route?

**Rita Lindgren:** Once an employee chooses which one they want to go to, they are in it but they change their mind. They could change down the road. First they have to choose one from us.

**Rep. Haas:** Not if they go into the 403 right?

**Rita Lindgren:** Correct.

**Rep. Schneider:** If NDSU chooses an opt in vs. an opt out, what types of education does NDSU provide their new employees on the benefits of saving and retirement?

**Rita Lindgren:** Currently it is the responsibility of our benefit people that when a new employee starts to go through the entire benefit package and explain all of the options. In addition you will have some of the 403 B companies contact us to come to our campuses to do educational meetings that are open to all employees. TIAA-Cref is very good about doing that. They come to our campus at least four times a year and do educational sessions that are open to all employees. Some of the other providers do come as well.

**Rep. Schneider:** At BSC, what is the percentage of employees that have opted in to some form of retirement plan?

**Rita Lindgren:** I don't have the BSC statistics with me. The University System has 6,830 benefit employees. The participants in the 403 B is 1,724. In the 457 plan we have 218. The total is 1,942.

**Rep. Kasper:** Are there other benefits that you see in the 403 B over the 457 or is it just the makeup of the plan and design?

**Rita Lindgren:** They are both good plans that have good intentions. I guess I don't know if one is better than the other. That is just my opinion.

**Rep. Haas:** If we would exclude TIAA-Cref from this bill, would that be better for you?

**Rita Lindgren:** Yes, we originally proposed an amendment when the bill was heard on the senate side.

**Rep. Grande:** I am handing out testimony from John Olson.

**John Olson:** Testimony attached.

**Jodee Bohrer:** *I was not originally planning on getting up before you on this bill as we did not on the other side. I feel a little bit of pressure do to so, so I just want to add some clarifying remarks. We are here in a neutral position. We have employees who have a position on both sides of this issue. By saying that I want to make sure you understand that NDPEA fully supports the concept of encouraging employees to save. We believe that it is necessary. We think that we should do everything we can to do that. With my HR hat on I can tell you that the biggest piece that is critical if this bill passes or doesn't, is educating our employees. So that would be NDPEA's statement that we believe that it is important to save. We understand that higher education has some of those concerns. We would support this but we believe it is critical that employees are educated on the front end. Many times employees are busy as we heard, and aren't paying attention. I can tell you that they pay close attention to their paycheck. So if it takes 3 times of a \$25 deduction, they will talk about it. I think that Sparb and his group will work with agency, HR, and higher education people to make sure that the proper information gets out to the employees.*

**Bob Evans:** *Human Resources Director for the ND Department of Transportation. I am also here in a neutral position. Our agency does not have a specific position on this legislation. I wanted to provide information in two regards. One is that the nature of the employees we have. About 1/3 of our employees are professional level employees and administrators. I think that group of employees generally finds themselves in a position to be well informed about*

*what benefits are available, what is to their advantage, etc. We also have a great number of employees like equipment operators, administrative personnel and so forth, that face the day to day challenges of dealing with crisis issues that come up. Many of the individuals in that category of employees do face the strong inertia to make that first move into a savings position. It is a very hard initial decision to make. Once made and moving on, it becomes part of the thought process. These employees do take a serious look at that. It is my concern that we do parade the biggest possible influence for all of our employees to start taking a serious look at their future. Sparb talked about the transition with the life insurance program that can be covered. That was also a very controversial step as we move to that. Now we found that our employees appreciate it. I haven't had one complaint yet or anybody saying that they wanted to pay those taxes. It has proven to be a very positive step. The other thing I wanted to cover was something that happens in our office everyday. We hire younger employees each year between the classified positions and the temporary positions. Today we just happen to hiring a person I went to high school with. As that employee sits down to begin his employment he is going to be faced with an individual who is going to spend about two hours talking about all of the assets and benefit options. She is going to talk about what he needs to do to get signed up with tax withholdings, etc. At that point if this legislation were in place one of the conversations that they would have would be about the deferred compensation program. They will be enrolled in it. There are many advantages about being in a deferred comp. This legislation will force that initial conversation and that employee at that point is going to have to make a decision if they are going to do it or not. They will then have to choose if they want the take home income.*

**Rep. Kasper:** Let's carry that conversation a step further. The HR person is talking to the new employee about the 457 plan and the new employee thinks it sounds ok but they don't know

what to do with their money. If you ask the HR person what they suggest you do, what does that person tell that employee?

**Bob Evans:** The employee is thinking about the investment. Then you can seriously talk about the list of options that are available. Our contact person might talk about what some of the other employees are doing, what kinds of options are available, and they will probably talk about the state contract program. At that point they will be encouraged to be in contact with an investment professional that could provide that kind of advice and guidance in terms of what they would suggest.

**Rep. Kasper:** The bill says that the deposits are going to be forwarded to the board, and the board is going to make the investment option selections. I'm assuming that is if the employee doesn't make the investment options. When you are dealing with the areas of securities, you have definite dos and don'ts that you can discuss whether you are a licensed securities rep or you're not. So what I see the problem is that there are HR people who had good intention but go too far in giving investment advice when they aren't licensed to do so. As an example, two days ago the market tanked 416 points. Let's just say that this employees dollars were put into an investment where he did not get advice on the front end. The good intentions were to talk to this investment professional. It is three months down the road now and that employee did not see an investment professional. It is two months down the road and the market went down another 2,000 points which we experienced in 2001. Now the employee gets his statement that says I have \$180 out of my paycheck but it's only worth \$42. Whose liability is it to that employee for that loss of 140 when that employee did not have the counseling on that front end of the risk in the security and just said go ahead and do it.

**Bob Evans:** I guess I think back on my initial employment experience in the state system. I was enrolled in a contribution plan that did just that. In 1971 it tanked and all of a sudden the

money that was being taken out of my check and being put into that program was less than what I had started off with. Nevertheless looking back at that experience I'm glad that provisions were being made for my retirement. I can now look forward to a future that is going to be pretty comfortable. I understand that there is a level of responsibility. We are careful not to be providing investment advice at our level and in our organization. We can't present what employees share and talk about. That is their business and they do that. Could the organization ultimately be held responsible for something? Maybe. We won't cross the line in terms of offering investment advice. Our goal is to get people steered into the contact with individuals that can provide guidance in a legal matter.

**Rep. Haas:** Sparb I have a question for you. It follows on what Rep. Kasper is talking about.

Let's say that a person is automatically enrolled and choose. Is it possible for them to elect one at any time for their investment portfolio and can they change it at any time?

**Sparb Collins:** For example the PERS plan has it through fidelity which is mutual funds. If someone is enrolled in that, they could then transfer that to any of the other 457's. Some of the other 457 plan options that are available are annuities. If they would elect to go to that company and that annuity, there may be provisions to identify for them what those are. If they elect to go into that they then have to sit down with that company and choose. There are lists of people that they can choose from.

**Rep. Potter:** If this bill passes, what kind of person would be working with the new employees? What kind of qualifications would that person have?

**Sparb Collins:** You are going to have a couple of levels. In terms of investment advisors it would be the company and the individuals. Nobody at PERS or the agencies are licensed investment advisors. Once you would go into that you would work with one of those investment advisors. If you automatically enroll and don't go through and advisor, it will be defaulted into

one of the fidelity products. Then at the time when you are ready to make an election to go somewhere else to get a hold of one of the advisors. They may elect not to be in fidelity.

**Rep. Haas:** Thank you.

**Rep. Haas:** Is there any other testimony on SB 2047?

**Jodee Bohrer:** I just want to follow up on some questions. Where he is coming from as far as whether these people are advising people. What I wanted to say that as an HR person, in the payroll and benefits types that HR people deal with, they are instructed that they aren't financial advisors. There is a security there. They do know that. The other piece I would like to add to this is just a follow up to Rep. Kasper's. From the insurance standpoint, you touched on the security piece, we also advice people that we don't give a recommendation over one provider to another for different reasons. Those would be for reasons of competition. We used to get that question from the providers. I just wanted to follow up and give you some insurance that there are things keeping them in place to insure that they aren't advising people.

**Rep. Kasper:** I have one more question for Sparb. Have you said that the default investment options for the 457 plan, if the employee does not select one, is going to be fidelity.

**Sparb Collins:** That is for the companion plan.

**Rep. Kasper:** The employee's enrolled in the 457, make no choice and it goes to fidelity?

**Sparb Collins:** If they make an election it can go anywhere. The other thing about the fidelity product is that since it is neutral it is an annuity based product that they can transfer out of that without an exit penalty.

**Rep. Kasper:** I was looking at your handout and I don't see fidelity.

**Rep. Haas:** It was attached to the testimony. Is there any additional testimony? If not we will close the hearing on SB 2047.

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2047

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: March 1, 2007

Recorder Job Number: 4232

Committee Clerk Signature

Morgan Benne

Minutes:

**Rep. Haas:** This is the \$25 a month automatic enrollment. Is there any pre motion discussion?

**Rep. Froseth:** I don't know if it's possible or not but I wonder if we couldn't allow the TIAA-Cref people to have the option to opt in whether to opt out as they have now. Or just leave them out completely?

**Rep. Grande:** What I did was went and checked on the things involved with that and how it works. As relating to that, they have some that are PERS employees and some that are TIAA-Cref. The Cref ones need to be taken out of the bill. The PERS ones we want to keep in. That amendment intended to do that.

**Rep. Amerman:** Could I get a better explanation what the Cref is.

**Rep. Haas:** TIAA-Cref is a nationally recognized retirement program for university professors and administrators. That is what most of the university people have there retirement programs.

**Rep. Grande:** The define contribution plan is what the teachers are in. Some state, I think California just turned all of their teacher's retirement to TIAA-Cref. This is a specialized teacher's retirement plan that educators use.

**Rep. Amerman:** Is that the 403 v. the 457?

**Rep. Grande:** Yes.

**Rep. Amerman:** With my understanding, does this have the option to go to the 403 v the 457?

**Rep. Grande:** If I was a person in TIAA-Cref, I would have to have \$25 go to the 457. That is how they would have to start out. That would be merged in how I would understand it. It would be a confusing thing for them and they don't want to participate in it.

**Rep. Haas:** I got the impression that they would prefer that the TIAA-Cref people were eliminated from this bill.

**Rep. Amerman:** Couldn't the opt out like any other employee.

**Rep. Grande:** They could but the whole purpose between the 457 is that it is a defined contribution. They are already in a fully full contribution plan. Why put them through that?

**Rep. Haas:** It seems like an unnecessary, cumbersome, piece of paperwork for that.

**Rep. Amerman:** If it was mandatory for me to be put in that plan so I could save, I have to opt out to save my \$25. That is cumbersome for me to have to do it. I have no problem if they want to.

**Rep. Grande:** This is dealing with the PERS retirement plan. They aren't even a part of the PERS plan. They don't have anything to do with the PERS. Now all of a sudden PERS is going to start making them participate in another portion.

**Rep. Amerman:** I am still a bit confused. I know in testimony when someone is automatically enrolled in this, I know Sparb says they can either go into the 457 or the 403.

**Rep. Grande:** Public employees or the PERS do not ever opt into the 301.

**Rep. Amerman:** The new ones coming on board he said they could opt in to either one.

**Rep. Grande:** If they were a Cref person, not a PERS person.

**Rep. Amerman:** Say someone just got hired in the education system.

**Rep. Grande:** If they were a professor it would normally fall under that. When they are hired they aren't given the option to go to PERS or Cref.

**Rep. Amerman:** In this one they wouldn't be given an option. They would be automatically enrolled. When they are automatically enrolled he said they have the choice to go to the 403 or the 457.

**Rep. Grande:** For that \$25. They don't have a choice to take all of the Cref and put it in there.

**Rep. Schneider:** The whole intent of this bill was a supplemental savings plan. They already have that retirement. This is just an additional safety net if you will. I thought it was interesting given the numbers in the NDUS system. Only 30% of the people are even involved with some type of supplemental income. I would think that most members of the NDUS system would be happy to have this type of option. It is pre tax dollars, they will never see the money. I think it's a good policy.

**Rep. Haas:** Well it is optional. But I think Rep. Grande is absolutely right. None of these people are part of the PERS system now. They aren't. They don't pay into the PERS program, they aren't eligible for the benefit when they retire, and it's not part of their whole package.

**Rep. Kasper:** Currently the University system and the TIAA Cref, they have their retirement plan. They currently have a 403 B plan. There are over 1,700 employees in that plan. They currently have a 457 plan where there are 218 employees in that plan. They voluntarily choose to go to the 403 B plan or 457 when they are hired or during their employment. They choose if and when they are going to go into that plan. Under the PERS employees currently they have their retirement plan. They have a 457 plan already available. They choose whether or not they are going to go into the 457 plan when they are hired or afterwards. What this bill does is forces newly hired employees to go into the 457 plan unless they opt out at the point of their employment or within 90 days. When I asked Sparb about the communication because in the 457 plan you are dealing with securities and the mutual funds. You are dealing with annuities. If you are forcing employees to go into a plan and putting them into a security and they don't

know the decisions they are making at the point they enroll. They aren't educated enough at that point to make any decision. This bill says that the board, if they don't choose anything, the board will make the investment for them. Now let's look at the worse case scenario. They go into a variable annuity that has a five year surrender charge. That means that in your first year all of your money is gone if you drop out of the plan. You lose 100% of your plan because of the surrender charge. In the mutual fund you have an up front sales charge for annuity. So they invest a week ago. The market was at 12/8. The day after they invested it dropped to 12/4. That was a 400 point drop. Now let's say it goes down more. They were put into a variable account or mutual fund, didn't know what they were doing, and now all of a sudden they realize they have to talk to someone. They find out that the money they put away is worth ¼ of what they put in. If they put in the variable annuity and they want the money back now, they lose all the money anyways. I have no objection to an employee investing on these accounts when they are educated to make their own decisions. But to say they have to do it, and if they don't opt out they are in, you are putting employees who are not educated and given the right information in a bad situation. I also think you are putting the state in a bad situation. This is bad. If they want to choose, fine.

**Rep. Karls:** Doesn't this say that they don't choose that they are put into mutual fund.

**Rep. Kasper:** Yes but they are subject to that market that the money goes in.

**Rep. Haas:** Within 90 days they can visit with their investors. They have \$75 invested over a 90 day period. They can visit with their investment advisor and they can make an additional decision on how they want to invest in money.

**Rep. Schneider:** I think that it is somewhat of a doomsday scenario. I think as a default fund the board is going to choose something that is a blended index or something that is not going to have a huge amount of risk. Certainly with any investment it is going to have a risk. I teach

one course at Moorhead State University. I have taught it for 5 semesters. They must have an opt out plan because all of a sudden I started getting statements from TIAA-Cref that says I have \$1,200 in a vanguard blended index fund that I never set up. I think it's a pretty good deal. I never saw the money. I wasn't counting on it or expecting it. I guess I'd like to see that 30% number go up quite a bit. I assume most people wouldn't opt out.

**Rep. Weiler:** So the \$1,200 that you got, was that your own money that was invested?

**Rep. Schneider:** That is a good question. I don't know. I haven't had time to look into it. I don't know if that was taken out of my paycheck.

**Rep. Haas:** It would be interesting to find that out. It might have been a cost sharing deal.

**Rep. Weiler:** My question is that you got a check for \$1,200. Why did you? Do you not teach anymore?

**Rep. Schneider:** It was a statement. I apparently have an account with TIAA-Cref. Every time I teach they put so much in this fund. I've never filled out paperwork.

**Rep. Weiler:** Well if it was your own money taken out of some kind of paycheck, what if you should have \$1,800 in there and you only have \$1,200. You may have lost \$600 and not know that. That could be an issue with this bill.

**Rep. Schneider:** There are always risks with investment. I think that if you look back historically on that vanguard fund, it has probably averaged anywhere from 6-10%. I feel comfortable with it but that is a good point.

**Rep. Haas:** Rep. Grande wants to get an amendment on this bill so we aren't going to take action on this right now.

**Rep. Amerman:** We had a bill similar to this in IBL. Will the federal law affect what we are trying to do here?

**Rep. Kasper:** What that bill is doing to the labor commissioner is putting into law the fact that the federal law passed that allows the new employers to do the automatic deduction which is not needed. The federal law already allows it. We don't need to restate it in ND law.

**Rep. Schneider:** Do you know what the discussion on the Senate side was on this issue?

**Rep. Haas:** I can't answer that.

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2047

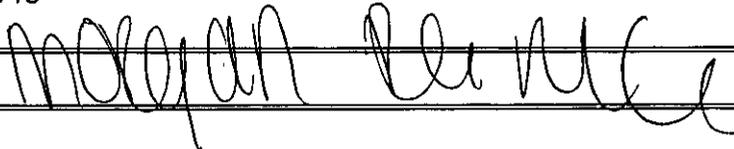
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: March 8, 2007

Recorder Job Number: 4645

Committee Clerk Signature



Minutes:

**Rep. Grande:** I move the amendment.

**Rep. Dahl:** I second that.

**Rep. Haas:** Is there any further discussion?

**Rep. Wolf:** The concern that I have with the amendment is how many employees do they have? There is 6,008 employees. Roughly 1,900 participate in some form of retirement. Whether it would be TIAA-Cref or the 403 B. It concerns me that they do have the option to opt out if they want to. They do have the 90 days to get the full amount of money back. They do have the option to go into the TIAA-Cref or the 457. I know it sounds demanding but I know when I talked to Sparb Collins about another issue, there was at one point in time a flat comp program that said when life insurance premiums weren't required to be part of the flex program. The employees of ND, 5% of them would select their premiums for life insurance. Then it became a requirement that they had to do this. They are automatically in and they have to opt out.

**Rep. Haas:** I think the one thing that we need to remember about this group of people is that they are all college professors and administrators. These are people who would probably

prefer to manage their own finances and retirement. I would say that it is why there is only 1,900 that are in that situation. I think that is why she objected to them being included in there.

**Rep. Grande:** To get to it, what it does is the eligibility participation has to do with what class of employee you are in the ND University System (NDUS). Your option is that if you don't opt in or out of them, if you are in this class you are in PERS, if you are in this class you are in TIAA-Cref. There aren't many people that aren't in a plan. Of the 6,830 employees, 1,724 of them qualify with TIAA-Cref. The rest are in PERS. That is why I didn't want to have the blanket amendment that they had over in the Senate. It took out what you are referring to that are in PERS. We didn't want to blanket out these PERS employees.

**Rep. Wolf:** So your saying that those 4,000 people are the Secretaries, Janitors, whatever versus the 1,700 who are the instructors. The instructors are the TIAA-Cref and all the rest are PERS.

**Rep. Grande:** Yes. They have a four class system in their contribution plans. The State Board of Higher Education is an animal all of it's own and I don't understand how they set their classifications.

**Rep. Haas:** Is there any more discussion on the motion? If not we will take a voice vote on the amendment. All in favor say 'aye' opposed say 'no'. Amendment is carried.

**Rep. Grande:** I move a do pass

**Rep. Potter:** I second that.

**Rep. Haas:** Is there any more discussion on the bill as amended?

**Rep. Amerman:** I guess this just comes with my upbringing. I'm having trouble when someone is automatically enrolled in something. I don't like the bill.

**Rep. Grande:** You are automatically in a retirement plan here, you are automatically covered by health insurance.

**Rep. Wolf:** No you aren't. Just to clarify that, when I won my seat and got all that paperwork, I was not aware that the health insurance was free. I did not sign up to take the health insurance. I find out in January that I was eligible for it then I was no longer because I was passed the 30 days. Now in October I was supposed to go through a re-entry and qualify for it because I was not enrolled at the time of employment. I would not be entitled to that until January of next year.

**Rep. Grande:** For the health insurance?

**Rep. Wolf:** Yes.

**Rep. Grande:** I never signed up for it and I know I receive it.

**Rep. Weiler:** So you don't receive the package?

**Rep. Wolf:** No not currently. I didn't know it was free. I kept looking and I did not know. On a side note as of yesterday, I raised enough stink about it that I will go in effect on April 1.

**Rep. Potter:** To respond to Rep. Amerman's concern, I guess I sort of like the having to opt out. My thought is not that all of these people are young people but when our kids went off and got their first job they get a package of papers that ask what you want. They were calling and saying what is all of this. I know if we hadn't been accustomed and knowledgeable about it our kids would have put that paper aside.

**Rep. Amerman:** You can do the flip side of that. You can automatically get the papers and see the deductions on your paycheck.

**Rep. Haas:** Is there any more discussion? If not we will take a roll call vote on a do pass motion on SB 2047. The do pass motion passes with a vote of 7-4-2. Is there a volunteer to carry this bill?

**Rep. Wolf:** I will.

Date: 3-8-07  
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number SB 2047

Action Taken Move amendment

Motion Made By Rep Granell Seconded By Rep Dani

Representatives	Yes	No	Representatives	Yes	No
Rep. C. B Haas Chairman			Rep. Bill Amerman		
Rep. Bette Grande VC			Rep. Louise Potter		
Rep. Randy Boehning			Rep. Jasper Schneider		
Rep. Stacey Dahl			Rep. Lisa Wolf		
Rep. Glen Froseth					
Rep. Karen Karls					
Rep. Jim Kasper					
Rep. Lisa Meier					
Rep. Dave Weiler					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Date: 3-8-07  
 Roll Call Vote #: 1

**2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."**

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number SB 2047

Action Taken Do pass as amended

Motion Made By Rep Grande Seconded By Rep Potter

Representatives	Yes	No	Representatives	Yes	No
Rep. C. B Haas Chairman	X		Rep. Bill Amerman		X
Rep. Bette Grande VC	X		Rep. Louise Potter	X	
Rep. Randy Boehning	<del>---</del>	<del>---</del>	Rep. Jasper Schneider	X	
Rep. Stacey Dahl	X		Rep. Lisa Wolf	X	
Rep. Glen Froseth		X			
Rep. Karen Karls	X				
Rep. Jim Kasper	<del>---</del>	<del>---</del>			
Rep. Lisa Meier		X			
Rep. Dave Weiler		X			

Total (Yes) 7 No 4

Absent 2

Floor Assignment Rep. Wolf

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

**REPORT OF STANDING COMMITTEE**

**SB 2047, as engrossed: Government and Veterans Affairs Committee (Rep. Haas, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 4 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2047 was placed on the Sixth order on the calendar.**

Page 1, line 7, replace "A" with "Except for an employee employed by an institution under the control of the state board of higher education or the North Dakota university system board office who is eligible for membership in the teachers' insurance and annuity association of America-college retirement equities fund (TIAA-CREF), a"

Renumber accordingly

2007 TESTIMONY

SB 2047

*Attachment #1*

TESTIMONY OF  
SPARB COLLINS  
ON  
SENATE BILL 2047

Mr. Chairman, members of the committee, good morning. My name is Sparb Collins and I am Executive Director of the North Dakota Public Employees Retirement System or PERS. I appear before you today on behalf of the PERS Board and in support of this bill.

Senate Bill 2047 relates to the deferred compensation program administered by NDPERS. This program offers employees the opportunity to save for retirement on a pretax basis through monthly payroll deductions. The deferred comp program or as it is sometimes referred to as the "457 plan" is the public sector equivalent of the 401(k) plan. Attached are the cover and table of contents for the PERS booklet describing this benefit program and for the types of savings vehicles offered in the plan.

While public employees are fortunate to have an employer sponsored retirement plan such as the PERS defined benefit plan it doesn't eliminate the need to also save for retirement in supplemental savings programs such as the 457 plan. Since our employer sponsored retirement plans do not pay the full cost of health insurance and do not have guaranteed cost of living adjustments it is especially important for our members to have an available source of supplemental savings to help fund their retirement.

The biggest challenge in getting people to start savings is simply getting started. That is taking the first step to fill out the forms. Years ago in the flex comp program a similar situation presented itself with pretaxing supplemental life insurance up to \$50,000. Less than 5% of the members took advantage of this potential savings. PERS looked at what other plans were doing and found that they had added to their plan a provision called "automatic enrollment". That is, a member was automatically enrolled in this benefit unless they elected not to participate. With this change the number of members enrolled in that benefit today is over 90%.

In the years since then we have noted that automatic enrollment has also become more common in 401 (k) plans. In fact a study by Hewitt associates of 2.6 million U.S. employees found more than 90 percent of workers participated in a 401(k) plan if their company automatically enrolled them. The federal government has also noticed this and in the Pension Protection Act of 2006 they included provisions that make it easier for more employers to have such provisions.

Consequently as PERS looked at ways to increase enrollment in this benefit we noted the above that showed "automatic enrollments" were very successful in facilitating employee's enrollment in this benefit. We also noted that if a young employee started saving just \$25 a month from age 25 to retirement at age 65 and they averaged an 8% return they would have \$87,000 at retirement. Therefore PERS is proposing this bill to help our members start and maintain supplemental retirement savings.

Other reasons a member would want to take advantage of this benefit is that members of the PERS defined benefit retirement plan would vest in \$25 of the employer contribution for each month they put \$25 in the 457 plan.

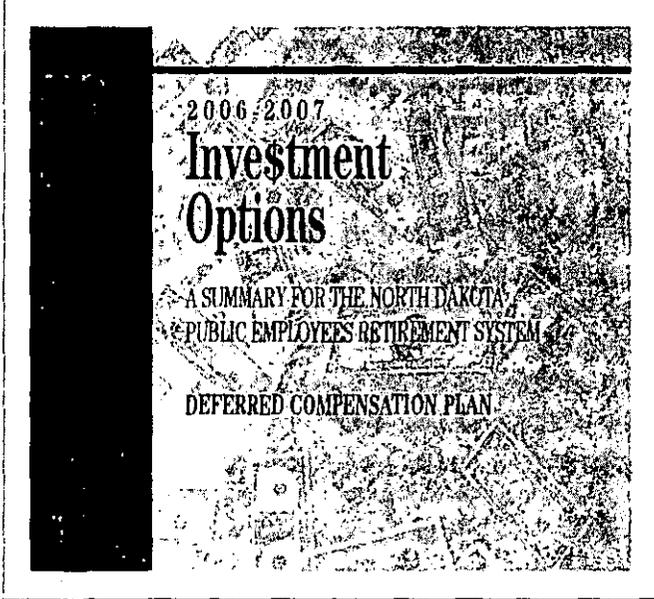
Getting members started earlier helps them earn a higher cash balance in the DB. Secondly, the federal government also has an incentive for people called the SAVER credit. It's a tax credit that can help offset the cost of the first \$2,000 a person contributes to a 457 plan. This credit applies to individuals with incomes up to \$25,000 (37,500 for a head of household) and \$50,000 for couples.

Specifically the bill provides that new employees would be automatically enrolled in the 457 plan at \$25 a month unless they waived participation. It also sets up the process for the board to establish a default election account for the member until such time as the member decides to make an election.

When we originally proposed the bill last spring we proposed that the automatic enrollment would not start until the third month of employment. Our concern was the federal rules at that time that did not allow a plan to make corrective distributions to the member for funds deposited in the 457 plan by automatic enrollment. Consequently the board felt that we should start it later thereby allowing more time to insure the member was aware of the enrollment. However the Pension Protection Act of 2006 that was signed into law on August 17, 2006 addresses automatic enrollment and includes a provision that directly affects eligible §457(b) plans with respect to corrective distributions. That is, automatic contributions that an employee elects to treat as an erroneous contribution may be distributed from the plan within 90 days after the date of the first elective contribution. As a result of this change in federal law we are proposing an amendment to this bill that

would procedurally start the automatic enrollment beginning at the end of the first full month of employment instead of the third full month. This change would coordinate the automatic enrollment more closely with beginning employment and therefore be easier for the member to follow and for participating payroll departments to implement. Attached is our proposed amendment.

The provisions of this bill have been reviewed by the Legislative Employee Benefits Committee and given a favorable recommendation. On behalf of the PERS Board I would request your favorable consideration of this bill and the amendment. This change would make it easier for members to start participating in this benefit, increase the cash balance in the DB plan, get the SAVER credit, and in the long run could make a substantial difference in the quality of someone's retirement. All this could happen by simply changing the enrollment method. Also keep in mind that if someone does not want to participate, all they have to do is waive participation at the time of enrollment or discontinue participation within 90 days and they can request a refund. After 90 days they may quit at anytime prospectively. Mr. Chairman this concludes my testimony.





## TABLE OF CONTENTS

Introduction .....	2
<b>SECTION I</b>	
Summary of Investment Options NDPERS Companion Plan .....	6
<b>SECTION II</b>	
Summary of Investment Options NDPERS Section 457 Deferred Compensation Plan	
Bank of North Dakota .....	9
American Trust Center .....	10
AXA Equitable .....	12
Hartford Life Insurance Company .....	19
Jackson National Life .....	22
Nationwide Life Insurance .....	24
Symetra Life .....	27
VALIC .....	32
Waddell & Reed Financial Services .....	34
<b>SECTION III</b>	
Provider Representatives .....	36
NDPERS Companion Plan .....	36
AIG VALIC .....	36
American Trust Center .....	36
AXA Equitable .....	37
Bank of North Dakota .....	37
Chase Insurance .....	37
Hartford Life Insurance Company .....	40
Jackson National Life .....	47
Nationwide Life Insurance .....	48
Symetra Life .....	49
Waddell & Reed Financial Services .....	50

## NDPERS DEFERRED COMPENSATION COMPANION PLAN INVESTMENT OPTIONS

For more information, call Fidelity at (800) 343-0860



Fund/Ticker Symbol	Type of Investment	Objective	Annual Expense	Other Fees (Y/N)	Return	Net Historical Performance			
					6 Mos. Ended June 30, 2006	As of December 31, 2005			
					1 Year	3 Years	5 Years	10 Years	
Managed Income Portfolio	Stable Value	Income	.55	N	1.93	3.80	4.10	4.65	5.27
PIMCO Total Return Fund - PTRAX	Mutual Fund	Bond	.08	Y	-0.93	2.63	4.27	6.35	6.65
Fidelity Puritan - FPURX	Balanced	Bond/Stock	.01	N	3.26	4.67	11.81	4.95	8.78
Fidelity Equity-Income - FEQIX	Mutual Fund	Large Cap	.67	N	5.06	5.74	15.21	3.77	9.50
Fidelity Dividend Growth - FDGFX	Mutual Fund	Large Cap	.58	N	1.22	3.50	10.55	.089	11.07
Spartan US Equity Index - FUSEX	Mutual Fund	Large Cap	.09	N	2.89	4.85	14.26	.041	8.90
Fidelity Blue Chip Growth - FBGRX	Mutual Fund	Large Cap	.61	N	-2.60	4.03	11.32	-2.98	6.56
Fidelity Growth Company - FDGRX	Mutual Fund	Large Cap	.94	N	0.71	13.50	21.62	-2.21	10.27
Mutual Shares A - TESIX	Mutual Fund	Mid Cap	1.11	Y	5.29	9.98	16.35	8.18	n/a
Dreyfus Mid Cap Index - PESPX	Mutual Fund	Mid Cap	.50	Y	4.08	12.05	20.57	8.08	13.74
Spartan Extended Market Index - FSEMIX	Mutual Fund	Mid Cap	.10	Y	5.61	10.01	22.81	6.72	n/a
Fidelity Mid-Cap Stock - FMCSX	Mutual Fund	Mid Cap	.69	N	9.21	16.07	19.04	1.27	13.02
Allianz NFJ Small Cap Value Admin -PVADX	Mutual Fund	Small Cap	1.11	N	8.96	10.47	20.75	16.52	14.23
Dreyfus Small Cap Stock Index - DISSX	Mutual Fund	Small Cap	.50	N	7.50	7.31	21.79	10.29	n/a
MSIF Small Company Growth Class B-MSSMX	Mutual Fund	Small Cap	1.29	Y	2.76	13.35	24.64	5.65	n/a
Fidelity Diversified International - FDIVX	Mutual Fund	Foreign	1.02	Y	8.27	17.23	25.93	9.51	12.93

### Other Fees:

PIMCO Total Return or Mutual Shares 2% if held less than 7 days

Spartan Extended Market .75% if held less than 90 days

Diversified International 1% if held less than 30 days

Fidelity Mid-Cap Stock Fund .75% if held less than 30 days

Withdrawal Provisions: None.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2047

Page 1, line 9, remove "third"

Page 1, line 10, replace "full month following the employee's first day" with  
"month following the employee's first full month"

Renumber accordingly

*Attachment #2*

**Testimony on Senate Bill 2047**

**North Dakota University System (NDUS)**

**Rita Lindgren, Bismarck State College, HR Officer**

January 12, 2007

Mr. Chairman, members of the committee, good morning. My name is Rita Lindgren, HR Officer at Bismarck State College. I am testifying on behalf of the ND University System (NDUS) to ask for an amendment to exempt the NDUS from Senate Bill 2047.

While the NDUS certainly understands the need and supports retirement planning and savings, we prefer an option that allows NDUS employees the greatest flexibility, both in terms of participating or not, and on investment options. This Bill would require that after August 1, 2007, employees be automatically enrolled in a PERS provider deferred compensation plan at the rate of \$25 per month.

SB 2047 would limit investment options for NDUS employees. The mandatory nature of the program creates further limits. The following points explain the limitations:

1. Mandating that NDUS employees participate in the PERS deferred comp plan limits ND University System employee's options to participate in a number of other investment options they currently have through the NDUS, including TIAA-CREF, who may also be their primary retirement carrier. It

is our understanding that under the Bill provisions "active" employees would have the ability to roll over the funds to another investment vehicle, but only those under the management of PERS.

2. Employees currently can "opt in" to a deferred compensation plan at any time. The NDUS has "opt in" choices for other benefits (vision, dental, etc.). This Bill would change the concept to "opt out" for deferred compensation, but leave "opt in" for other benefits. For consistency and to create less confusion for employees, the "opt in" concept is preferred for all options.
3. Thirty days is not long enough for the "opt out" decision. For example, 30 days may not be adequate for a new employee to fully understand the impact a job change has on their financial status, with changes in pay, benefits, and possibly a change in location of residence. The \$300 (annual cost of the \$25 per month) might be needed to pay rent, mortgage or other expenses, but that information may not be known until after the first 30 days of employment. Under this plan, the employee would be enrolled and the automatic deduction would begin.

Because of these concerns, and others, we are requesting an amendment to SB 2047 to exempt the ND University System from this Bill. Attached is our proposed amendment.

Thank you for your consideration.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2047

Page 1, line 7, replace "A" with "Excluding university system employees, a"

Renumber accordingly

TESTIMONY OF  
SPARB COLLINS  
ON  
SENATE BILL 2047

Mr. Chairman, members of the committee, good morning. My name is Sparb Collins and I am Executive Director of the North Dakota Public Employees Retirement System or PERS. I appear before you today on behalf of the PERS Board and in support of this bill.

Senate Bill 2047 relates to the deferred compensation program administered by NDPERS. This program offers employees the opportunity to save for retirement on a pretax basis through monthly payroll deductions. The deferred comp program, or as it is sometimes referred to as the "457 plan", is the public sector equivalent of the 401(k) plan. Attached are the cover and table of contents for the PERS booklet describing this benefit program and for the types of savings vehicles offered in the plan.

While public employees are fortunate to have an employer sponsored retirement plan such as the PERS defined benefit plan, it doesn't eliminate the need to also save for retirement in supplemental savings programs such as the 457 plan. Since our employer sponsored retirement plans do not pay the full cost of health insurance and do not have guaranteed cost of living adjustments, it is especially important for our members to have an available source of supplemental savings to help fund their retirement.

The biggest challenge in getting people to start savings is simply getting started. That is taking the first step to fill out the forms. Years ago in the flex comp program a similar situation presented itself with pretaxing supplemental life insurance up to \$50,000. Less than 5% of the members took advantage of this potential savings. PERS looked at what other plans were doing and found that they had added to their plan a provision called "automatic enrollment". That is, a member was automatically enrolled in this benefit unless they elected not to participate. With this change, the number of members enrolled in that benefit today is over 90%.

In the years since then we have noted that automatic enrollment has also become more common in 401(k) plans. In fact, a study by Hewitt Associates of 2.6 million U.S. employees found more than 90 percent of workers participated in a 401(k) plan if their company automatically enrolled them. The federal government has also noticed this, and in the Pension Protection Act of 2006 they included provisions that make it easier for more employers to have such provisions.

Consequently, as PERS looked at ways to facilitate enrollment in this benefit, we noted the above that showed "automatic enrollments" were very helpful. We also noted that if a young employee started saving just \$25 a month from age 25 to retirement at age 65 and they averaged a net 8% return, they could have over \$75,000 at retirement. Therefore, PERS is proposing this bill to help our members start and maintain supplemental retirement savings.

In addition to the savings, other reasons a member would want to take advantage of this benefit is that members of the PERS defined benefit retirement plan would vest in \$25 of the employer contribution to that plan for each month they put \$25 in the 457 plan. Therefore getting members started earlier helps them earn a higher cash balance in the DB plan. Secondly, the federal government also has an incentive for people called the SAVER credit. It's a tax credit that can help offset the cost of the first \$2,000 a person contributes to a 457 plan. This credit applies to individuals with incomes up to \$25,000 (37,500 for a head of household) and \$50,000 for couples.

Specifically, the bill provides that all new state employees (FTE) would be automatically enrolled in the 457 plan at \$25 a month unless they waived participation. Their participation would begin the first of the month following the start of their employment. If they elect to terminate participation within 90 days of the date of beginning participation, they could also get the contributions refunded to them plus or minus any investment gains or losses and less any administrative fees. It also sets up the process for the Board to establish a default election account for the member until such time as the member decides to make an election.

The provisions of this bill have been reviewed by the Legislative Employee Benefits Committee and given a favorable recommendation. On behalf of the PERS Board, I would request your favorable consideration of this bill and the amendment. Enactment of this bill would make it easier for members to start participating in this benefit, increase their cash balance in the DB plan, get the SAVER credit, and in the long run could make a

substantial difference in the quality of their retirement. All this could happen by simply changing the enrollment method. Also keep in mind that if someone does not want to participate, all they have to do is waive participation at the time of enrollment or discontinue participation within 90 days and they can request a refund. After 90 days they may quit at anytime prospectively. Mr. Chairman, this concludes my testimony.

**Testimony on Senate Bill 2047**  
**North Dakota University System (NDUS)**  
**Rita Lindgren, Bismarck State College, HR Officer**

March 1, 2007

Mr. Chairman, members of the committee, good morning. My name is Rita Lindgren, HR Officer at Bismarck State College. I am testifying on behalf of the ND University System (NDUS) in opposition to Senate Bill 2047.

While the NDUS certainly understands the need and supports retirement planning and savings, we prefer an option that allows NDUS employees the greatest flexibility, both in terms of participating or not, and on investment options. This Bill would require that after August 1, 2007, employees be automatically enrolled in a PERS provider deferred compensation plan at the rate of \$25 per month, unless an employee "opts-out."

SB 2047 would limit investment options for NDUS employees. The following points explain the limitations:

1. Mandating that NDUS employees participate in the PERS deferred comp plan limits ND University System employee's options to participate in a number of other investment options they currently have through the NDUS, including TIAA-CREF, who may also be their primary retirement carrier. It is our understanding that under the Bill provisions "active" employees would have the ability to roll over the funds to another investment vehicle,

but only those under the management of PERS. This would limit investment options for NDPERS employees and TIAA-CREF employees.

- NDUS faculty, professional staff and administrators are treated differently for retirement plan purposes from other state employees – they are in the TIAA-CREF defined contribution retirement plan 403(b), as opposed to NDPERS' defined benefit plan 457(b).
- Unlike NDPERS defined benefit plan participants, faculty, professionals and administrators are already required to save for their retirement via their TIAA-CREF primary retirement plan (between 0.5% - 2.0% contribution rate).
- As per federal statute, 403(b) plans permit benefits to be taken at age 59 ½ prior to separation from employment, whereas governmental 457(b) plans require the employee to be 70 ½ unless the employee separates from employment. This is of value to higher education faculty and administrators, who may choose to have outside pursuits while still employed.
- The NDUS 403(b) plans offer faculty, professionals and administrators the opportunity to consolidate their supplemental savings with their primary retirement plan provider (TIAA-CREF).

2. This Bill would change the concept to “opt out” for deferred compensation, but leave “opt in” for other benefits. Employees currently can “opt in” to a

deferred compensation plan at any time. The NDUS has “opt in” choices for other benefits (vision, dental, etc.). The only way for the new employee to avoid participation is to complete a form to exercise the “opt-out” choice. I cannot think of another benefit offered employees that takes this approach. For consistency and to create less confusion for employees, the “opt in” concept is preferred for all options.

3. Thirty days is not long enough for the “opt out” decision. For example, 30 days may not be adequate for a new employee to fully understand the impact a job change has on their financial status, with changes in pay, benefits, and possibly a change in location of residence. The \$300 (annual cost of the \$25 per month) might be needed to pay rent, mortgage or other expenses, but that information may not be known until after the first 30 days of employment. Under this plan, the employee would be enrolled and the automatic deduction would begin.

Because of these concerns, the ND University System opposes SB 2047.

Thank you for your consideration.

**NORTH DAKOTA UNIVERSITY SYSTEM SUPPLEMENTAL RETIREMENT  
PLANS AND S.B. 2047**

- The NDUS has its own long-established plans for supplemental retirement savings. These plans are called 403(b) plans and they are the standard for higher education employees throughout the country.
- Only 7% of NDUS employees with supplemental retirement savings accounts choose the State 457(b) Deferred Compensation plan; 93% choose either the NDUS 403(b) plans or the NDUS' own 457(b) plan.
- Imposing auto-enrollment into the State 457(b) plan on new NDUS hires will interfere with the successful NDUS plans and artificially place new hires in a plan that only 7% would choose for their supplemental retirement savings.
- Unlike NDPERS defined benefit plan participants, many NDUS employees (faculty and administrators) are already required to save for their retirement via their TIAA-CREF primary retirement plan (between 0.5% - 2.0% contribution rate).
- A significant number of NDUS employees are not in NDPERS, but are instead in the TIAA-CREF retirement plan. These individuals appreciate the ability to consolidate their primary and supplemental retirement savings with one provider.
- The NDUS supplemental retirement plans are specifically tailored to the needs of NDUS employees, including the availability of providers found throughout the higher education community nationwide and a tight focus on convenient, individualized service.

For further information, please contact:

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## EXEMPT THE NORTH DAKOTA UNIVERSITY SYSTEM FROM S.B. 2047

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