

**2013 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**SB 2060**

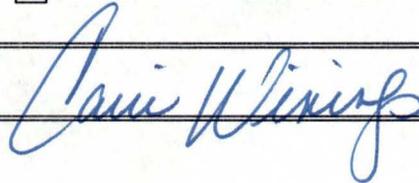
# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee  
Missouri River Room, State Capitol

SB 2060  
01/17/2013  
Job Number 17376

Conference Committee

Committee Clerk Signature



## Minutes:

**Chairman Dever:** Opened the hearing on SB 2060.

**Sparb Collins, Executive Director of the North Dakota Public Employees Retirement System:** See Attached Testimony #1 in support.

**(10:50) Chairman Dever:** Are there any questions by the committee? Is there any other testimony in support, opposition, or neutral?

**Chairman Dever:** Closed hearing on SB 2060.

**Senator Nelson:** Moved a DO PASS and Re-refer to Appropriations.

**Senator Marcellais:** Seconded.

**A Roll Call Vote Was Taken:** 7 yeas, 0 nays, 0 absent.

**SB 2060 Passed.**

**Senator Nelson:** Carrier.

**FISCAL NOTE**  
**Requested by Legislative Council**  
**12/21/2012**

Bill/Resolution No.: SB 2060

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$190,000	\$0	\$190,000
Appropriations	\$0	\$0	\$0	\$190,000	\$0	\$190,000

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

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Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Section 7 of the bill provides for a continuing appropriation for claims payment of the pretax benefit program.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The cost associated with using a claim payment vendor is approximately \$95,000 per year and is funded from savings accrued as a result of employee participation in this program.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*
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**Name:** Sparb Collins

**Agency:** NDPERS

**Telephone:** 701-328-3919

**Date Prepared:** 01/02/2013





**REPORT OF STANDING COMMITTEE**

**SB 2060: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2060 was rereferred to the Appropriations Committee.**

**2013 SENATE APPROPRIATIONS**

**SB 2060**

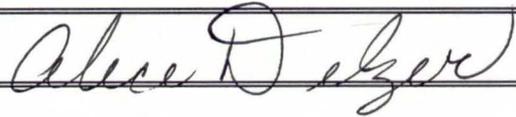
# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2060  
01-29-2013  
Job # 17869

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A Bill for an Appropriation for Public Employees Retirement System (PERS)

### Minutes:

See attached testimony #1

**Chairman Holmberg** called the committee to order on Tuesday, January 29, 2013, at 9:00 am in regards to SB 2060. Roll call was taken. All committee members were present. Brittani Reim, Legislative Council and Laney Herauf, OMB were also present. There was discussion on the analysis of the trust funds with Brittani Reim. (2.02) Further discussion regarding other bills followed. (4.39)

**Chairman Holmberg** opened the hearing on SB 2060 which is a re-referral from GVA.

**Sparb Collins, Executive Director of the North Dakota Public Employees Retirement System (PERS)** Here in support of SB 2060 and provided Testimony attached # 1. Today I will focus on Section 7 of the bill on page 14 which is the section that relates to the fiscal note and the appropriation. The new options are a debit card, auto adjudication and mobile applications. He referred to century code # 54-52.3-06. We should clarify the printed century code and that is what is proposed in Section 7 of the bill which makes it clear that these expenses can be paid directly from the program funds.(11.25)

**Chairman Holmberg:** How is the use of the debit card controlled? He was told there are codes associated with all of these expenses and these codes on the system that allows the use of the credit card for the acceptable code. You can appreciate how convenient this technology is and how complicated putting this technology in place. (12.58)

**Chairman Holmberg:** Anyone else wishing to testify on 2060? This was viewed by employee benefits and has a favorable recommendation, it would cost about \$190,000 of special funds; there are no general funds in this budget.

**Senator Mathern moved a do pass. Second by Senator Warner. Call the roll on a Do Pass. Roll call was taken. Yeas: 11; Nays: 0; Absent: 1. Motion carried. Goes back to GVA.**

The hearing was closed on SB 2060.

**FISCAL NOTE**  
**Requested by Legislative Council**  
**12/21/2012**

Bill/Resolution No.: SB 2060

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Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Section 7 of the bill provides for a continuing appropriation for claims payment of the pretax benefit program.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The cost associated with using a claim payment vendor is approximately \$95,000 per year and is funded from savings accrued as a result of employee participation in this program.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*
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**Name:** Sparb Collins  
**Agency:** NDPERS  
**Telephone:** 701-328-3919  
**Date Prepared:** 01/02/2013

Date: 1-29-13

Roll Call Vote# 1

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES

BILL/RESOLUTION NO. 2060

Senate Appropriations Committee

Check here for Conference Committee

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

Action Taken Do pass

Motion Made By Sen Mathern Seconded By John Warner

Senators	Yes	No	Senator	Yes	No
Chairman Ray Holmberg	✓		Senator Tim Mathern	✓	
Co-Vice Chairman Bill Bowman	✓		Senator David O'Connell	✓	
Co-Vice Chair Tony Grindberg	✓		Senator Larry Robinson	✓	
Senator Ralph Kilzer	✓		Senator John Warner	✓	
Senator Karen Krebsbach	a				
Senator Robert Erbele	✓				
Senator Terry Wanzek	✓				
Senator Ron Carlisle	✓				
Senator Gary Lee	✓				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Back to SVA

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

**REPORT OF STANDING COMMITTEE**

**SB 2060: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO PASS**  
(12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2060 was placed on the  
Eleventh order on the calendar.

**2013 HOUSE GOVERNMENT AND VETERANS AFFAIRS**

**SB 2060**

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee  
Fort Union Room, State Capitol

SB 2060  
March 7, 2013  
19546

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to incorporation of Internal Revenue Code compliance under the highway patrolmen's system, committee designations, board's authority, etc.

## Minutes:

You may make reference to "attached testimony."

**Chairman Jim Kasper** opened the hearing on SB 2060.

**Kathy Allen, Benefit Programs Manager for the NDPERS**, appeared in support.  
**Attachment 1** (:44-6:53)

The hearing was closed.

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee  
Fort Union Room, State Capitol

SB 2060  
March 28, 2013  
20633

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to incorporation of Internal Revenue Code compliance under the highway patrolmen's system, committee designations, board's authority, etc.

## Minutes:

Attachment 1

**Chairman Jim Kasper** opened the session on SB 2060.

**Sparb Collins, Executive Director of PERS**, went over **Attachment 1**. (:28-7:46)

**Rep. Scott Louser** Page 5 where we are talking about the three year consecutive, could you give a couple more examples of how this would benefit an employee or how it would be to their detriment on what we are doing now.

**Sparb Collins** Right now we haven't run into any problems with it, because the characteristics of the law enforcement and national guard plan are if you are in law enforcement or national guard, you work right up to your normal retirement date and then you retire. Our concern is in the future, we might have a problem. That is somebody doesn't work up to their normal retirement date and leaves covered employment, goes somewhere, and then they come around to get a retirement benefit from us and they don't meet this three consecutive years immediately preceding retirement. Our concern is that because they do something different, there would be a gap, and we wouldn't be able to give them their benefit that they have earned over 20 years.

**Rep. Scott Louser** It seems to me that people that are approaching retirement whether they are in TFFR or PERS know that. Now we are saying you are free to leave prior to retirement.

**Sparb Collins** As you are in all the other retirement plans. These are the only ones that have the three years immediately preceding. For example, in the PERS plan if I have worked for the state for 20 years and 3 years before my normal retirement date, somebody at MDU gives me a job offer for twice as much, I can go over to MDU, take the job, and then I can draw from PERS when I qualify.

**Rep. Gail Mooney** Would another example be the case where they become injured and cannot work.

**Sparb Collins** That is a good point too. It is anything that would potentially interrupt this three years immediately preceding.

**Rep. Bill Amerman** Could you explain the \$190,000 on the fiscal note.

**Sparb Collins** There is a vendor that we employ to do the payments for the medical spending account and the dependent care account. That vendor charges a fee that per year runs about half that amount for the people in the plan. That is the provision for the continuing appropriation authority for us to pay that vendor that fee.

**Chairman Jim Kasper** What is the name of the vendor?

**Sparb Collins** ADP. They were just retained in January as a result of a bid. You can now directly submit claims, uploading them on the system, scanning them, or take a picture of them on your iphone and submit them. We use to process claims on people soft which is entirely a paper process. They couldn't upgrade their system to do these things without an awful lot of cost. We are trying to make it easy. The common complaint we had on this was it was too much paper.

**Rep. Vernon Laning** What years are required to be vested in the plan?

**Sparb Collins** It depends upon which plan you are talking about. It generally is three years. It takes ten years to get vested in the highway patrol plan. At three doesn't mean you are eligible to draw. They still have to wait until age 65. Their benefit is based off of three years which is 6%, 2% a year.

**Rep. Vernon Laning** It is 55 for highway patrol and national guard?

**Sparb Collins** Yes, they have lower limits because of the nature of their work.

**Rep. Gail Mooney** Tell me about the rule of 85 versus 90.

**Sparb Collins** In the main PERS system, you draw at age of 65 or you draw when you meet the rule of 85 which is your age and years of service equal to 85 and if they do, then you can draw an unreduced retirement benefit. If you retire early, your benefit is reduced by 6% for every year you retire early.

**Chairman Jim Kasper** Normal retirement age is 65?

**Sparb Collins** 65. Our average in the state is around 63.

**Rep. Gail Mooney** We are moving to the rule of 90?

**Sparb Collins** That was where we were.

**Chairman Jim Kasper** When we were at the rule of 90, you had to work longer before you could retire which means you work longer theoretically because you would not live as long

in retirement, we paid out less benefits. What is the result of the retirement plan unfunded liability when we move from the rule of 90 to the rule of 85?

**Rep. Scott Louser** It goes up.

**Sparb Collins** If there is an unfunded liability.

**Rep. Jason Dockter** My wife is a teacher and they went the opposite, 85 and 90. She was second tier, so she is the rule of 90 and they take the last five years instead of three.

**Sparb Collins** We did look at that. Our request was to go up by 4.12 to get back to 100%.

**Rep. Vernon Laning** made a motion for a Do pass and rerefer to appropriations.

**Rep. Vicky Steiner** seconded.

A roll call vote was taken and resulted in **DO PASS AND REREFER TO APPROPRIATIONS, 13-0, 1 ABSENT.** **Rep. Bill Amerman** is the carrier.

**FISCAL NOTE**  
**Requested by Legislative Council**  
**12/21/2012**

Bill/Resolution No.: SB 2060

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**Name:** Sparb Collins  
**Agency:** NDPERS  
**Telephone:** 701-328-3919  
**Date Prepared:** 01/02/2013

Date: 3-28-13  
 Roll Call Vote #: \_\_\_\_\_

**2013 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2060**

House Government and Veterans Affairs Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Laning Seconded By Steiner

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Bill Amerman	X	
Vice Chairman Randy Boehning	X		Rep. Gail Mooney	X	
Rep. Jason Dockter	X		Rep. Marie Strinden	X	
Rep. Karen Karls	X		Rep. Steven Zaiser		
Rep. Ben Koppelman	X				
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Gary Paur	X				
Rep. Karen Rohr	X				
Rep. Vicky Steiner	X				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Amerman

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

**REPORT OF STANDING COMMITTEE**

**SB 2060: Government and Veterans Affairs Committee (Rep. Kasper, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2060 was rereferred to the Appropriations Committee.**

**2013 HOUSE APPROPRIATIONS**

**SB 2060**

# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

SB 2060  
4/2/13  
Job 20792

Conference Committee

Committee Clerk Signature

*Meredith Traubolt*

### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new section to chapter 54-52.6 of the North Dakota Century Code, relating to plan modifications to the public employees retirement system defined contribution retirement plan required to maintain compliance with the Internal Revenue Code; to amend and reenact sections 39-03.1-11.2, 39-03.1-29, subsection 11 of section 54-52-04, sections 54-52-17, 54-52-23, 54-52-28, 54-52.3-03, and 54-52.6-13 of the North Dakota Century Code, relating to incorporation of Internal Revenue Code compliance under the highway patrolmen's retirement plan and public employees retirement system, updating appropriate committee designations for the savings clauses under the highway patrolmen's retirement plan and public employees retirement system, the board's authority to fund administrative expenses, normal retirement dates for a peace officer or correctional officer, normal retirement dates for a national guard security officer or firefighter, normal retirement dates for a peace officer employed by the bureau of criminal investigation, removal of the level social security retirement benefit option under the public employees retirement system, defrayal of expenses associated with the pretax benefits program, and distribution of a deceased participant's accumulated account balance under the defined contribution retirement plan; and to provide a continuing appropriation.

### Minutes:

You may make reference to "attached testimony."

**Rep. Jim Kasper, District 46:** Introduced the bill.

02:30

**Chairman Delzer:** Don't you think that any insurance costs associated with that medical spending account would cover that?

**Rep. Kasper:** In the technical sense it is not insurance. It deals with a vendor that is making reimbursements for a fee.

**Chairman Delzer:** They've been doing this, it's not new money, this is just money that they had. The Fiscal Note is what it costs and it's currently in their budget?

**Rep. Kasper:** Correct. It's in their budget, they've been spending it in the past, but they are just cleaning up the language. It's generated by the FICA tax savings the state realizes

when employees pre-tax their insurance premiums, medical expenses, and independent care expenses.

**Chairman Delzer:** Anything else in the policy that the Appropriations Committee should be aware of?

**Rep. Kasper:** No. The rest of it is clean up.

**Chairman Delzer:** Questions by the committee? Anyone want to hold this bill?

**Rep. Skarphol** moved Do Pass, seconded by **Rep. Monson**.

**Chairman Delzer:** Discussion? Seeing none, a roll call vote was done. The motion carried 19 Yes, 0 No, 3 Absent. **Rep. Monson** will watch the bill, and we give it back to **Rep. Amerman**, the policy carrier. We'll stand adjourned.

**FISCAL NOTE**  
**Requested by Legislative Council**  
**12/21/2012**

Bill/Resolution No.: SB 2060

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**Name:** Sparb Collins  
**Agency:** NDPERS  
**Telephone:** 701-328-3919  
**Date Prepared:** 01/02/2013

Date: 4/2/13  
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2060

House Appropriations Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Skarphol Seconded By Rep. Monson

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X		Rep. Streyle		
Vice Chairman Kempenich			Rep. Thoreson	X	
Rep. Bellew	X		Rep. Wieland	X	
Rep. Brandenburg	X				
Rep. Dosch	X				
Rep. Grande	X		Rep. Boe	X	
Rep. Hawken	X		Rep. Glassheim	X	
Rep. Kreidt			Rep. Guggisberg	X	
Rep. Martinson	X		Rep. Holman	X	
Rep. Monson	X		Rep. Williams	X	
Rep. Nelson	X				
Rep. Pollert	X				
Rep. Sanford	X				
Rep. Skarphol	X				

Total Yes 19 No 0

Absent 3

Floor Assignment Rep. Monson

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

**REPORT OF STANDING COMMITTEE**

**SB 2060: Appropriations Committee (Rep. Delzer, Chairman)** recommends **DO PASS**  
(19 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). SB 2060 was placed on the  
Fourteenth order on the calendar.

**2013 TESTIMONY**

**SB 2060**

## TESTIMONY OF SPARB COLLINS

### SENATE BILL 2060

Mr. Chairman, members of the committee my name is Sparb Collins. I am Executive Director of the North Dakota Public Employees Retirement System. I appear before you today on behalf of the PERS Board and in support of this bill. Senate Bill 2060 provides for miscellaneous changes to the PERS statutes relating to the Highway Patrol Plan (Sections 1 & 2), the PERS Deferred Comp Plan (Section 3), the PERS Hybrid Plan (Sections 4-6), the PERS Pretax Benefits Program (Section 7), and the PERS Defined Contribution Plan (Section 8 & 9).

Section 1, page 1 of the bill updates the IRS compliance provisions of the Highway Patrol retirement plan. Each session we must update these provisions to maintain our qualified plan status.

Section 2, page 3 of the bill updates the name for the legislative oversight committee in the Highway Patrol plan statute. North Dakota law provides for a legislative oversight committee for the PERS programs that meets during the interim and reviews each proposed bill relating to PERS. The committee conducts a study of the bill, holds hearings on the bill, and concludes the process by giving each bill a favorable, unfavorable or no recommendation. This bill received a favorable recommendation by that committee. This change merely updates the name to its existing name in its authorizing statute.

Section 3, page 3 of the bill relates to the deferred comp plan and would allow the PERS Board to utilize deferred comp provider fees to fund the administration of the deferred comp program subject to legislative appropriation. Our existing provider TIAA-CREF refunds back to the plan 7 basis points (which can vary year to year). Presently we refund that back to the member. This would allow the Board and legislature the additional option of using those funds to offset administrative expenses of the plan.

Section 4 has two changes. The first is in subsection 3 b, c & d on page 5 which removes the word “consecutive” before 36 months for eligibility for normal retirement in the National Guard and Law Enforcement plans. Please note it does not change the age requirement or service requirement. For the National Guard and the Bureau of Criminal Investigation plans it also removes the words “immediately proceeding retirement” to mirror the change that was made last session for the Law Enforcement plan. This change also does not affect the age or service requirement for retirement for members of this plan which means that this change will not allow earlier retirements.

The second change in Section 4 is on page 10 and proposes to eliminate the level social security option for several reasons:

1. Less than 5% of the members that retire select this option
2. Even though we counsel members carefully on this benefit, they are still surprised when their benefit is reduced in the future, so this option remains confusing ( and often disappointing).

The addition of the 20 year term certain option provides another alternative for members.

Section 5, on page 11 of the bill updates the name for the legislative oversight committee in the PERS Plan statute (NDCC 52-52). Section 2 of the bill made this change for the Highway Patrol plan.

Section 6, on page 12 of the bill updates the IRS compliance provisions of the PERS retirement plan as Section 3 of the bill did for the Highway Patrol plan. As with the Highway Patrol plan, each session we must update these provisions to maintain our qualified plan status.

Section 7, on page 14 of the bill allows the Board to pay a third party payer from the funds received from the pretax benefits program. NDCC section 54-52.3-06 of our existing statute appears to already provide that authority to the Board; however, NDCC

Section 54-52.3-03 may limit that authority, so it was felt that we should have this clarified in statute; therefore, this provision is being proposed. We recently changed the claims payment for our flex program from the PeopleSoft system to an outside vendor which gave rise to the need for this clarification. The cost of the outside vendor is \$2.85 per member per month and this is the amount shown on the fiscal note.

Section 8 of the bill has two proposed provisions relating to the PERS Defined Contribution retirement plan. The first is on page 14 and clarifies how the defined contribution assets are to be distributed if a named beneficiary predeceases the member. Specifically, the proposed provision provides the assets would then be distributed to the remaining survivors. The second proposal is on page 15 of the bill and standardizes the provisions relating to use of the retiree health credit by providing the same benefit option for Defined Contribution plan members as the Main/Hybrid plan members have.

Section 9, page 16 of the bill establishes a federal compliance section for the Defined Contribution plan similar to that for the PERS Hybrid Plan and Highway Patrol Plan.

Mr. Chairman, members of the committee this bill was reviewed by the Legislative Employee Benefits Committee and given a favorable recommendation. Also attached to my testimony is a table that summarized my testimony relating to this bill.

Thank you, and this concludes my testimony.

# NDPERS Proposed Legislation for 2013 Session

## SB 2060: PERS Administrative Bill

<b>Bill Section (bill page number)</b>	<b>Reason for Proposed Change</b>
<b>Section 1</b> (page 1 of the bill)	<i>Updates the federal compliance provisions for the Highway Patrol plan</i>
<b>Section 2</b> (page 3 of the bill)	<i>Updates the name for the Legislative Oversight Committee in the Highway Patrol plan</i>
<b>Section 3</b> (page 3 of the bill)	<i>Allows the Board to utilize deferred comp provider fees to fund the administration of the deferred comp program subject to legislative appropriation.</i>
<p><b>Section 4 -</b> Subsection 3 b, c &amp; d (page 5 of the bill)</p> <p><b>Section 4</b>, subsection 9 (page 10 of the bill)</p>	<p><i>This change is proposed to allow members of the National Guard and Law Enforcement plans with 3 years of service to be vested and not to require 3 consecutive years/immediately proceeding thereby making it the same as our other plans</i></p> <p><i>We are proposing to eliminate the level social security option for several reasons:</i></p> <ol style="list-style-type: none"> <li><i>1. Social Security no longer will provide the benefit estimate that we relied upon to do the adjustment</i></li> <li><i>2. Less than 5% of the members that retire select this option</i></li> <li><i>3. Even though we counsel members carefully on this benefit, they are still surprised when their benefit is reduced in the future – so this option remains confusing.</i></li> </ol> <p><i>The addition of the 20 year term certain option provides another alternative for members</i></p>
<b>Section 5</b> (page 11 of the bill)	<i>Updates the Legislative Oversight Committee name in the PERS retirement statute</i>
<b>Section 6</b> (page 12 of the bill)	<i>Updates the PERS retirement plan federal compliance provision</i>
<b>Section 7</b> (page 14 of the bill)	<i>Allows the Board to pay a third party payor from the funds received from the pretax benefits program</i>

<p><b>Section 8</b> subsection 2 (page 14 of the bill)</p>	<p>Currently, the Defined Contribution (DC) Plan statute does not provide direction on how the funds should be distributed in the event that a named beneficiary predeceases the member. The proposed change adds language that if a primary beneficiary predeceases the participant and the deceased participant never updated their beneficiary designation, the predeceased beneficiary's share will be redistributed to the remaining surviving primary beneficiaries. The language further clarifies distribution protocol if there are no remaining primary beneficiaries. This change would make the plan consistent with the Hybrid plan.</p>
<p><b>Section 8</b>, subsection 3 (page 15 of the bill)</p>	<p><i>The change is to make the DC Plan consistent with the Hybrid plan related to designating individuals in addition to the spouse for the retiree health credit. This provision was originally provided to insure DC members got the same options as hybrid plan members, this addition ensures the same provisions.</i></p>
<p><b>Section 9</b> (page 16 of the bill)</p>	<p><i>Establishes a federal compliance section in the DC plan</i></p>

# TESTIMONY OF SPARB COLLINS

## SENATE BILL 2060

Mr. Chairman, members of the committee good morning my name is Sparb Collins. I am the Executive Director of the North Dakota Public Employees Retirement System (PERS). I appear before you today on behalf of the PERS Board and in support of this bill. Senate Bill 2060 provides for miscellaneous changes to the PERS statutes relating to the Highway Patrol Plan (Sections 1 & 2), the PERS Deferred Comp Plan (Section 3), the PERS Hybrid Plan (Sections 4-6), the PERS Pretax Benefits Program (Section 7), and the PERS Defined Contribution Plan (Section 8 & 9). Attached to my testimony is a summary of the changes in this bill for your information and reference.

Today I will focus on Section 7 on page 14 of the bill which is the section that relates to the fiscal note. The Pre-tax benefits programs of PERS allows members who elect to participate in this program the opportunity to pay on a pre-tax basis certain eligible premiums, health expenses and dependent care expenses. This program was started by the state in 1989 and the program expenses are funded from the savings that accrue to the employer as a result of employee's participation. Consequently, this is a special fund program. In order for a member that elects to participate in this program to get their eligible expenses reimbursed, they must submit a copy of the expense and then it is reimbursed from their account. PERS has been using the PeopleSoft system to pay these expenses. However, this system is limited in that it can only process expenses on a paper basis. Over the years the industry technology in this area has grown and capabilities of other processing systems have expanded dramatically.

Attached are several charts that show the participation in this program. As they show, the number of members participating in the program has decreased slightly as well as the average and total deferrals. One of the reasons for this decline is the Affordable Care Act (ACA) which limited the total deferrals to the medical account to \$2,500 - the old limit was \$6,000. As we look to the future with the limitation in place, we believe that we will have to make it easier for members with smaller accounts to be in the plan. The

primary reason they do not is the paper work. In recognition of this, we have changed the claims processing format this year from using PeopleSoft to hiring a new claims payment firm. This new format will add additional options for claims payment processing beyond the traditional paper process. The new options are a debit card, auto adjudication and mobile applications. This will make it easier for our members to use this program by reducing paperwork and will facilitate small accounts. As we look to the future, we expect to see the number of users increase as well as the deferrals that fund this program. The cost of these new capabilities is \$2.85 per member per month. That is the cost shown on the fiscal note.

As you will note in the proposed bill before you, we are proposing that this be paid through a continuing appropriation. Section 54-52.3-06 of our existing statute appeared to already provide that authority to the Board

**54-52.3-06. Deposit of program moneys - Appropriation.**

All moneys collected pursuant to elections made by public employees under the pretax benefits program for the medical spending account and the dependent care account must be deposited in an account with the Bank of North Dakota. All moneys deposited in the account, not otherwise appropriated, are hereby appropriated for the purpose of making payments to employees participating in the program. The board shall transfer any surplus in the pretax benefits account at the end of the plan year to the payroll clearing account.

However, our attorney noted that a subsequent change to the statute in NDCC Section 54-52.3-03 may have limited that authority since it does not specifically identify these expenses.

The amount necessary to pay consultants retained by the board, any insurance costs associated with the medical spending account, and medical reimbursements for the medical spending account if funds are insufficient to pay claims are hereby appropriated from the savings and revenue generated by the program. All other expenses of administering the program must be paid in accordance with the agency's appropriation authority as established by the legislative assembly.

Consequently, it was felt that we should clarify the above and that is what is proposed in Section 7 of the bill which makes it clear that these expenses can be paid directly from the program funds.

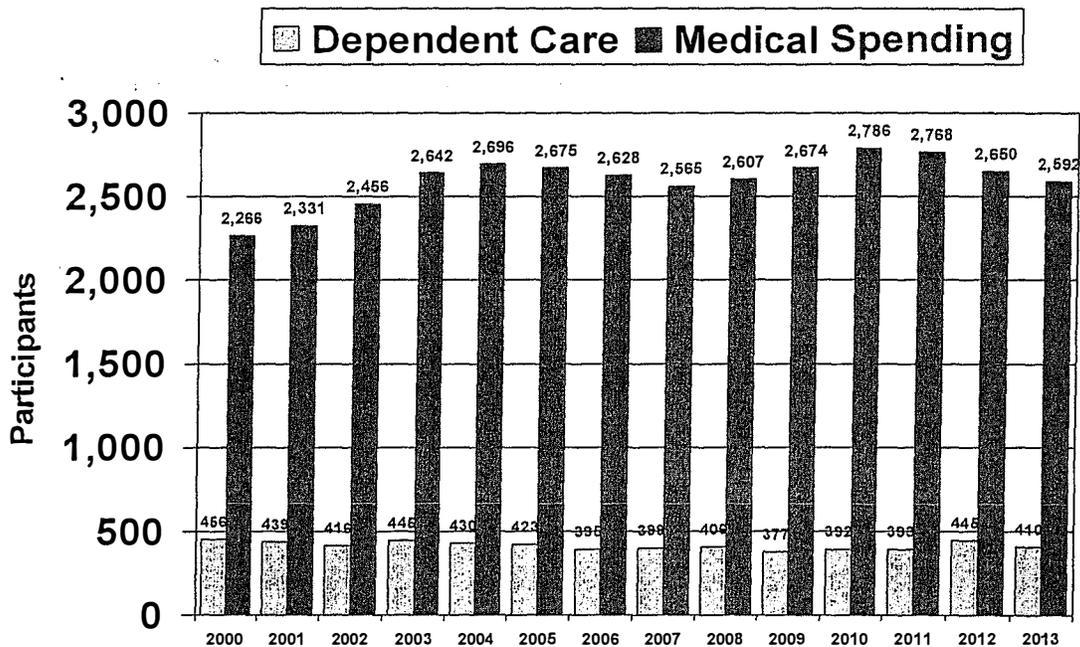
The amount necessary to pay consultants retained by the board, vendors retained by the board to provide claims administration services, any insurance costs associated with the medical spending account, and medical reimbursements for the medical spending

account if funds are insufficient to pay claims are hereby appropriated from the savings and revenue generated by the program. All other expenses of administering the program must be paid in accordance with the agency's appropriation authority as established by the legislative assembly.

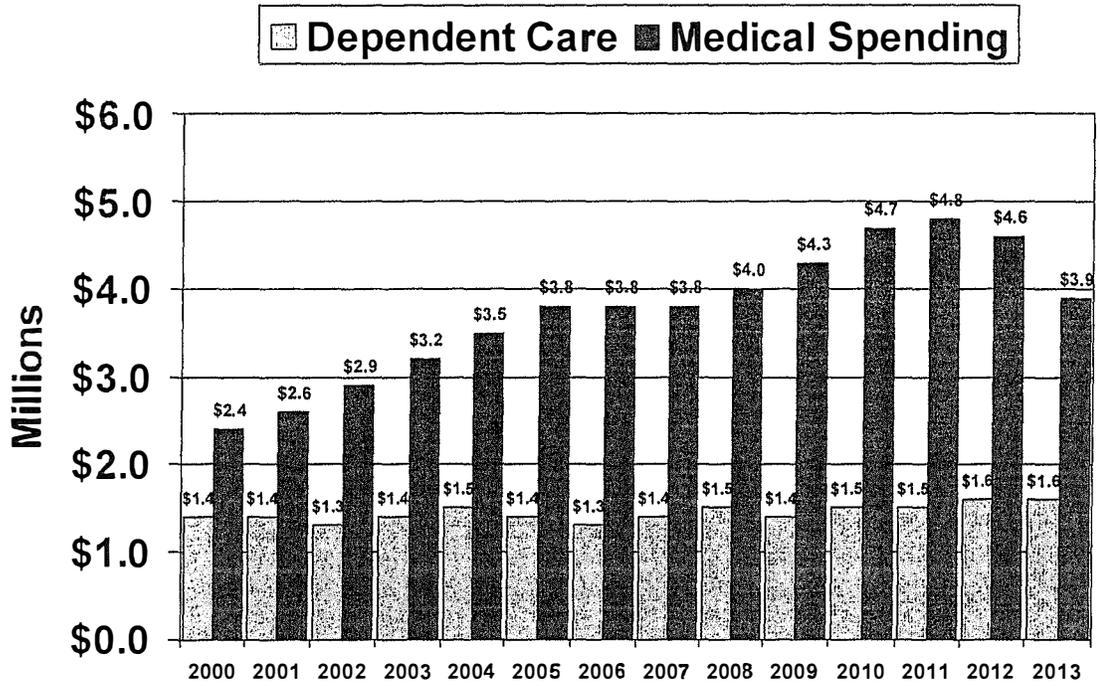
The fiscal note shows what that expense would be through this continuing appropriation. Also included for your information are several charts that show the participation in this program and the funds set aside by members for these expenses.

Mr. Chairman, the other parts of this bill do not have any fiscal effect. I would be happy to go through them if you would like, if not this concludes my testimony and thank you.

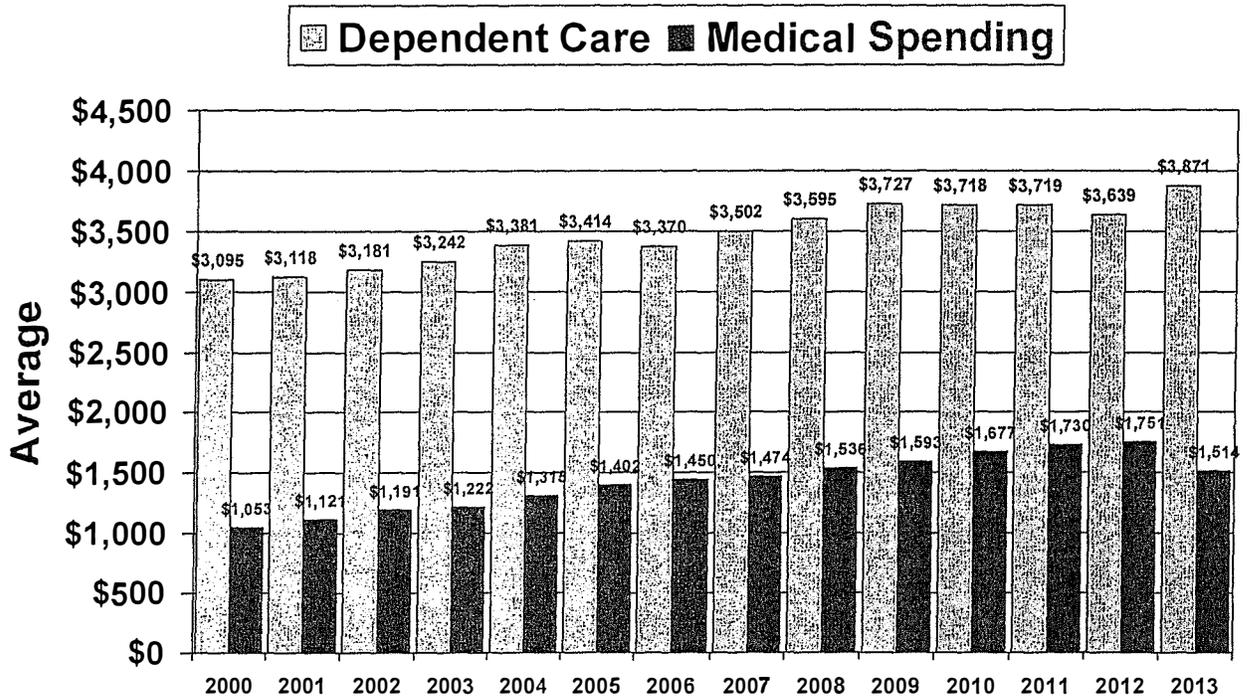
## NDPERS Flexcomp Participation



# NDPERS Flexcomp Participation



# NDPERS Flexcomp Participation



# NDPERS Legislation for 2013 Session

## SB 2060: PERS Administrative Bill

<b>Bill Section (bill page number)</b>	<b>Reason for Proposed Change</b>
<b>Section 1</b> (page 1 of the bill)	<i>Updates the federal compliance provisions for the Highway Patrol plan</i>
<b>Section 2</b> (page 3 of the bill)	<i>Updates the name for the Legislative Oversight Committee in the Highway Patrol plan</i>
<b>Section 3</b> (page 3 of the bill)	<i>Allows the Board to utilize deferred comp provider fees to fund the administration of the deferred comp program subject to legislative appropriation.</i>
<p><b>Section 4 -</b> Subsection 3 b, c &amp; d (page 5 of the bill)</p> <p><b>Section 4, subsection 9</b> (page 10 of the bill)</p>	<p><i>This change is proposed to allow members of the National Guard and Law Enforcement plans with 3 years of service to be vested and not to require 3 consecutive years/immediately proceeding thereby making it the same as our other plans</i></p> <p><i>We are proposing to eliminate the level social security option for several reasons:</i></p> <ol style="list-style-type: none"> <li><i>1. Social Security no longer will provide the benefit estimate that we relied upon to do the adjustment</i></li> <li><i>2. Less than 5% of the members that retire select this option</i></li> <li><i>3. Even though we counsel members carefully on this benefit, they are still surprised when their benefit is reduced in the future – so this option remains confusing.</i></li> </ol> <p><i>The addition of the 20 year term certain option provides another alternative for members</i></p>
<b>Section 5</b> (page 11 of the bill)	<i>Updates the Legislative Oversight Committee name in the PERS retirement statute</i>
<b>Section 6</b> (page 12 of the bill)	<i>Updates the PERS retirement plan federal compliance provision</i>
<b>Section 7</b> (page 14 of the bill)	<i>Allows the Board to pay a third party payor from the funds received from the pretax benefits program</i>

<p><b>Section 8</b> subsection 2 (page 14 of the bill)</p>	<p>Currently, the Defined Contribution (DC) Plan statute does not provide direction on how the funds should be distributed in the event that a named beneficiary predeceases the member. The proposed change adds language that if a primary beneficiary predeceases the participant and the deceased participant never updated their beneficiary designation, the predeceased beneficiary's share will be redistributed to the remaining surviving primary beneficiaries. The language further clarifies distribution protocol if there are no remaining primary beneficiaries. This change would make the plan consistent with the Hybrid plan.</p>
<p><b>Section 8</b>, subsection 3 (page 15 of the bill)</p>	<p><i>The change is to make the DC Plan consistent with the Hybrid plan related to designating individuals in addition to the spouse for the retiree health credit. This provision was originally provided to insure DC members got the same options as hybrid plan members, this addition ensures the same provisions.</i></p>
<p><b>Section 9</b> (page 16 of the bill)</p>	<p><i>Establishes a federal compliance section in the DC plan</i></p>

A Attachment 1

## TESTIMONY OF NDPERS

### SENATE BILL 2060

Mr. Chairman, members of the committee my name is Kathy Allen. I am Benefit Programs Manager for the North Dakota Public Employees Retirement System. I appear before you today on behalf of the PERS Board and in support of this bill. Senate Bill 2060 provides for miscellaneous changes to the PERS statutes relating to the Highway Patrol Plan (Sections 1 & 2), the PERS Deferred Comp Plan (Section 3), the PERS Hybrid Plan (Sections 4-6), the PERS Pretax Benefits Program (Section 7), and the PERS Defined Contribution Plan (Sections 8 & 9).

Section 1 of the bill updates the IRS compliance provisions of the Highway Patrol retirement plan. Each session we must update these provisions to maintain our qualified plan status.

Section 2 of the bill updates the name for the legislative oversight committee in the Highway Patrol plan statute. North Dakota law provides for a legislative oversight committee for the PERS programs that meets during the interim and reviews each proposed bill relating to PERS. The committee conducts a study of the bill, holds hearings on the bill, and concludes the process by giving each bill a favorable, unfavorable or no recommendation. This bill received a favorable recommendation by that committee. This change merely updates the name to its existing name in its authorizing statute.

Section 3 of the bill relates to the deferred comp plan and would allow the PERS Board to utilize deferred comp provider fees to fund the administration of the deferred comp program subject to legislative appropriation. Our existing provider TIAA-CREF refunds back to the plan 7 basis points (which can vary year to year). Presently we refund that back to the member. This bill would allow the Board and legislature the additional option of using those funds to offset administrative expenses of the plan.

Section 4 has two changes. The first is in subsection 3 b, c & d on page 5 which removes the word "consecutive" before 36 months for eligibility for normal retirement in

the National Guard and Law Enforcement plans. Please note it does not change the age requirement or service requirement. For the National Guard and the Bureau of Criminal Investigation plans it also removes the words "immediately preceding retirement" to mirror the change that was made last session for the Law Enforcement plan. This change also does not affect the age or service requirement for retirement for members of this plan which means that this change will not allow earlier retirements.

The second change in Section 4 is on page 10 and proposes to eliminate the level social security option for several reasons:

1. Less than 5% of the members that retire select this option
2. Even though we counsel members carefully on this benefit, they are still surprised when their benefit is reduced in the future, so this option remains confusing ( and often disappointing).

Section 5 of the bill updates the name for the legislative oversight committee in the PERS Plan statute (NDCC 52-52). Section 2 of the bill made this change for the Highway Patrol plan.

Section 6 of the bill updates the IRS compliance provisions of the PERS retirement plan as Section 3 of the bill did for the Highway Patrol plan. As with the Highway Patrol plan, each session we must update these provisions to maintain our qualified plan status.

Section 7 of the bill allows the Board to pay a third party payer from the funds received from the pretax benefits program. As you will note in the proposed bill before you, we are proposing that this be paid through a continuing appropriation. Section 54-52.3-06 of our existing statute appeared to already provide that authority to the Board:

**54-52.3-06. Deposit of program moneys - Appropriation.**

All moneys collected pursuant to elections made by public employees under the pretax benefits program for the medical spending account and the dependent care account must be deposited in an account with the Bank of North Dakota. All moneys deposited in the account, not otherwise appropriated, are hereby appropriated for the purpose of making payments to employees participating in the program. The board shall transfer any surplus in the pretax benefits account at the end of the plan year to the payroll clearing account. (underlining added)

However, our attorney noted that a subsequent change to the statute in NDCC Section 54-52.3-03 may have limited that authority since it does not specifically identify these expenses.

The amount necessary to pay consultants retained by the board, any insurance costs associated with the medical spending account, and medical reimbursements for the medical spending account if funds are insufficient to pay claims are hereby appropriated from the savings and revenue generated by the program. All other expenses of administering the program must be paid in accordance with the agency's appropriation authority as established by the legislative assembly.

We recently changed the claims payment processing for our flex program from the PeopleSoft system to an outside vendor. The cost of the outside vendor is \$2.85 per member per month and is included in the fiscal note. Consequently, it was felt that we should clarify the above which is what is proposed in Section 7 of the bill which makes it clear that these expenses can be paid directly from the program funds.

Section 8 of the bill has two proposed provisions relating to the PERS Defined Contribution retirement plan. The first is on page 14 and clarifies how the defined contribution assets are to be distributed if a named beneficiary predeceases the member. Specifically, the proposed provision provides the assets would then be distributed to the remaining survivors. The second proposal is on page 15 of the bill and standardizes the provisions relating to use of the retiree health credit by providing the same benefit option for Defined Contribution plan members as the Main/Hybrid plan members have.

Section 9 of the bill establishes a federal compliance section for the Defined Contribution plan similar to that for the PERS Hybrid Plan and Highway Patrol Plan.

Mr. Chairman, members of the committee this bill was reviewed by the Legislative Employee Benefits Committee and given a favorable recommendation. Also attached to my testimony is a table that summarized my testimony relating to this bill.

Thank you, and this concludes my testimony.

# NDPERS Legislation for 2013 Session

## SB 2060: PERS Administrative Bill

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<b>Section 4</b> , subsection 9 (page 10 of the bill)	<p><i>We are proposing to eliminate the level social security option for several reasons:</i></p> <ol style="list-style-type: none"> <li><i>1. Social Security no longer will provide the benefit estimate that we relied upon to do the adjustment</i></li> <li><i>2. Less than 5% of the members that retire select this option</i></li> <li><i>3. Even though we counsel members carefully on this benefit, they are still surprised when their benefit is reduced in the future – so this option remains confusing.</i></li> </ol> <p><i>The addition of the 20 year term certain option provides another alternative for members</i></p>
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<p><b>Section 8</b> subsection 2 (page 14 of the bill)</p>	<p>Currently, the Defined Contribution (DC) Plan statute does not provide direction on how the funds should be distributed in the event that a named beneficiary predeceases the member. The proposed change adds language that if a primary beneficiary predeceases the participant and the deceased participant never updated their beneficiary designation, the predeceased beneficiary's share will be redistributed to the remaining surviving primary beneficiaries. The language further clarifies distribution protocol if there are no remaining primary beneficiaries. This change would make the plan consistent with the Hybrid plan.</p>
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