

# **TESTIMONY OF REBECCA FRICKE**

## **House Bill 1248 – Employee Benefits Programs Committee Jurisdiction of Health and Retiree Health Bill Proposals and Insurance Mandate Process**

Good Morning, Mr. Chair and members of the Committee. My name is Rebecca Fricke and I am the Executive Director of the North Dakota Public Employees Retirement System, or NDPERS. I appear before you today in opposition of House Bill 1248, specifically the changes being made in Section 2 of the bill. However, if Section 2 were removed from this bill so that the current law remain, then the NDPERS Board's position would be neutral.

Section 2 of House Bill 1248 removes the requirement that proposed bills that have a fiscal impact on the health and retiree health plans for state employees and employees of political subdivisions fall under the jurisdiction of the Employee Benefits Programs Committee. In addition, also removed is the authority for NDPERS to request of an independent actuary and consultant the cost and technical analysis of any proposed bills of this nature once the Committee has taken jurisdiction.

These changes will be problematic for NDPERS to be able to provide independent, timely and thorough analysis of the impact of a bill if the bill no longer goes through the process that is currently in law for the Employee Benefits Programs Committee to take jurisdiction. A significant concern is whether accurate cost analysis will be able to given within the narrow window of when a bill is first introduced, the fiscal note is required and the committee hears the bill. In order for the committee and legislative body to fully understand the cost impact of the proposed bill on the state's health plan, there needs to be adequate time for the analysis to be done by the independent actuary.

As an example, we can look to the current session. As of January 20, there have been ten bills introduced that have an impact on the NDPERS health or retiree health plans that the Employee Benefits Programs Committee took jurisdiction of. Of these ten, eight went through the Interim Employee Benefits Programs Committee and were analyzed throughout the previous summer and fall. Had these bills not gone through the current process found in NDCC 54-35-02.4, NDPERS would not be able to have cost impacts to be able to submit fiscal notes within required timeframes. Nor would NDPERS be able to provide technical comments on each of the bill's impact to know if the proposal is compliant with federal law and to provide other considerations of the bill's impact to the state's health plan that may help the legislative body in their decision on the bill. Without the current process, it is likely we would need to rely on the insurance carrier to provide us with cost and technical analysis. This could result in an inflated fiscal note as there are often times when the NDPERS actuary or consultant projects a cost that is less than the carrier projects.

For this reason, NDPERS offers an amendment to this bill. The amendment is attached to my testimony and labeled as Amendment 1, which removes Section 2 from the bill. I did visit with Speaker Weisz regarding the concerns and he is aware that I am bringing forward this amendment.

The amendment would keep the current process in law as it relates to proposed bills that impact the health and retiree health plans of state employees and employees of political subdivisions. This would mean that the Employee Benefits Programs Committee would still take jurisdiction of these types of proposed bills and provides the authority for the analysis of the bill proposal to be prepared by the actuary and consultant.

As far as the remainder of the bill, Section 1 is not within my purview. Section 3 repeals NDCC 54-03-28 related to insurance mandates and the NDPERS pilot program. It is my understanding that this section was put into law in the early 2000s to allow the mandate to be applied to the state's health plan for a biennium for purposes of determining potential cost and impact should the legislative body wish to approve the coverage for the larger commercial market regulated by the Insurance Department.

NDPERS does not have a concern with how this process works, other than, when it comes to proposing a bill to move the coverage to the larger commercial market, it may make more sense to have the bill proposal come from a sponsor other than NDPERS, given the bill moves the coverage requirement out of the NDPERS section of code under 54-52.1 and places the mandated coverage in the Insurance Department's section of code. Amendment 2 offered in my testimony is to remove the NDPERS Board as the entity required to submit the bill following the pilot program. In my discussion with Speaker Weisz, he asked that I bring forward this amendment for consideration. We would be more than happy to discuss other possible changes in this process if the Committee wishes.

This concludes my testimony. I ask that you consider adopting the first amendment (labeled Amendment 1) to Section 2 to continue the current law related to bill proposals that have a fiscal impact on the health and retiree health plans of state employees and political subdivision employees to allow independent, reasonable cost and technical analysis of the impact to the NDPERS health insurance plans. This will then allow the legislative body to consider any of these bill proposals with a more thorough understanding of the cost and potential impact of the proposal on the state's health plan.

This concludes my testimony and I'd be happy to answer any questions you may have.

Sixty-ninth  
Legislative Assembly  
of North Dakota

**PROPOSED AMENDMENTS TO**

**HOUSE BILL NO. 1248**

Introduced by

Representatives Weisz, Frelich, McLeod, M. Ruby

Senators Lee, Dever

1 A BILL for an Act to amend and reenact sections 26.1-36-09.12 ~~and 54-35-02.4~~ of the North  
2 Dakota Century Code, relating to medical services related to suicide ~~and the powers and duties~~  
3 ~~of the employee benefits programs committee~~; and to repeal section 54-03-28 of the North  
4 Dakota Century Code, relating to the cost-benefit analysis requirement for health insurance  
5 mandated coverage of services.

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

7 **SECTION 1. AMENDMENT.** Section 26.1-36-09.12 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **26.1-36-09.12. Medical services related to suicide.**

10 An insurance company, nonprofit health service corporation, or health maintenance  
11 organization may not deliver, issue, execute, or renew ~~any~~ hospital, surgical, medical, or major  
12 medical benefit policy on an individual, group, blanket, franchise, or association basis unless  
13 the policy, contract, or evidence of coverage provides benefits, of the same type offered under  
14 the policy or contract for illnesses, for health services to any individual covered under the policy  
15 or contract for injury or illness resulting from suicide, attempted suicide, or self-inflicted injury.  
16 ~~The medical benefits provided for in this section are exempt from section 54-03-28.~~

17 ~~**SECTION 2. AMENDMENT.** Section 54-35-02.4 of the North Dakota Century Code is~~  
18 ~~amended and reenacted as follows:~~

19 ~~**54-35-02.4. Employee benefits programs committee – Powers and duties.**~~

20 ~~1. — During each interim, the employee benefits programs committee shall consider and~~  
21 ~~report on the legislative proposals over which the committee takes jurisdiction and~~  
22 ~~which fiscally impact the retirement programs of state employees or employees of any~~  
23 ~~political subdivision, and health and retiree health plans of state employees or~~  
24 ~~employees of any political subdivision. A majority of the members of the committee~~

1 ~~has sole authority to determine whether a legislative proposal affects a program. The~~  
2 ~~committee shall make a thorough review of each proposal the committee takes under~~  
3 ~~its jurisdiction, including an actuarial report. The committee shall take jurisdiction over~~  
4 ~~a proposal that authorizes an automatic increase or other change in benefits beyond~~  
5 ~~the ensuing biennium which would not require legislative approval. The committee~~  
6 ~~shall include in the report of the committee a statement that the proposal would allow~~  
7 ~~future changes without legislative involvement. The committee shall report the findings~~  
8 ~~and recommendations of the committee, along with any necessary legislation, to the~~  
9 ~~legislative management and to the legislative assembly.~~

10 ~~2.—To carry out the responsibilities of the committee, the committee, or the designee of~~  
11 ~~the committee, may:~~

12 ~~a.—Enter contracts, including retainer agreements, with an actuary or actuarial firm~~  
13 ~~for expert assistance and consultation. Each retirement, insurance, or retiree~~  
14 ~~insurance program shall pay, from the program's retirement, insurance, or retiree~~  
15 ~~health benefits fund, as appropriate, and without the need for a prior~~  
16 ~~appropriation, the cost of an actuarial report required under this section which~~  
17 ~~relates to that program.~~

18 ~~b.—Call on personnel from state agencies or political subdivisions to furnish such~~  
19 ~~information and render such assistance as the committee from time to time may~~  
20 ~~request.~~

21 ~~c.—Establish rules for the operation of the committee, including the submission and~~  
22 ~~review of proposals and the establishing of standards for actuarial reports.~~

23 ~~3.—The committee may solicit draft measures and proposals from interested persons~~  
24 ~~during the interim between legislative sessions, and also may study measures and~~  
25 ~~proposals referred to the committee by the legislative assembly or the legislative~~  
26 ~~management.~~

27 ~~4.—A copy of the committee's report concerning a legislative measure, if that measure is~~  
28 ~~introduced for consideration by a legislative assembly, must be appended to the copy~~  
29 ~~of that measure.~~

30 ~~5.—If a legislative measure affecting a public employees retirement program, public~~  
31 ~~employees health insurance program, or public employee retiree health insurance~~

1           ~~program is introduced in either house without a report from the committee, the~~  
2           ~~chairman and vice chairman of the employee benefits programs committee shall~~  
3           ~~request an actuarial report from the program affected and shall provide the report to~~  
4           ~~the standing committee to which the measure is referred. During the legislative~~  
5           ~~session, the employee benefits programs committee chairman and vice chairman,~~  
6           ~~working together, have sole authority to determine whether a legislative measure or~~  
7           ~~amendment affects a program under this subsection and subsection 6.~~

8           ~~6.—During a legislative session, if an amendment is made to a legislative measure which~~  
9           ~~fiscally impacts a public employees retirement program, public employees health~~  
10           ~~insurance program, or public employee retiree health insurance program, the~~  
11           ~~employee benefits programs committee chairman and vice chairman shall request~~  
12           ~~from the affected program an actuarial report on the amendment and shall provide the~~  
13           ~~report to the standing committee to which the bill is referred.~~

14           ~~7.—Legislation enacted in contravention of this section is invalid, and any benefits~~  
15           ~~provided under the legislation must be reduced to the level current before enactment~~  
16           ~~of the legislation.~~

17           **SECTION 2. REPEAL.** Section 54-03-28 of the North Dakota Century Code is repealed.

Sixty-ninth  
Legislative Assembly

**PROPOSED AMENDMENTS TO**

Sixty-ninth  
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**HOUSE BILL NO. 1248**

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1 A BILL for an Act to amend and reenact ~~sections~~section 26.1-36-09.12, ~~and 54-35-02.4 of the~~  
2 ~~North Dakota Century Code, relating to medical services related to suicide and the powers and~~  
3 ~~duties of the employee benefits programs committee; and to repeal section~~ and subsection 3 of  
4 section 54-03-28 of the North Dakota Century Code, relating to medical services related to  
5 suicide and the ~~cost benefit analysis requirement for health insurance mandated coverage of~~  
6 ~~services~~powers and duties of the employee benefits committee.

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

8 **SECTION 1. AMENDMENT.** Section 26.1-36-09.12 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **26.1-36-09.12. Medical services related to suicide.**

11 An insurance company, nonprofit health service corporation, or health maintenance  
12 organization may not deliver, issue, execute, or renew ~~any~~a hospital, surgical, medical, or major  
13 medical benefit policy on an individual, group, blanket, franchise, or association basis unless  
14 the policy, contract, or evidence of coverage provides benefits, of the same type offered under  
15 the policy or contract for illnesses, for health services to any individual covered under the policy  
16 or contract for injury or illness resulting from suicide, attempted suicide, or self-inflicted injury.  
17 ~~The medical benefits provided for in this section are exempt from section 54-03-28.~~

18 **SECTION 2. AMENDMENT.** Subsection 3 of section 54-03-28 of the North Dakota Century  
19 Code is amended and reenacted as follows:

20 3. A committee of the legislative assembly may not act on a legislative measure that the  
21 legislative management or committee determines mandates health insurance coverage  
22 of services or payment for specified providers of services unless the measure as  
23 recommended by the committee provides:

24 a. The measure is effective through June thirtieth of the next odd-numbered year

- 1 following the year in which the legislative assembly enacted the measure, and  
2 after that date the measure is ineffective.
- 3 b. The application of the mandate is limited to the public employees health insurance  
4 program and the public employee retiree health insurance program. The  
5 application of such mandate begins with every contract for health insurance which  
6 becomes effective after June thirtieth of the year in which the measure becomes  
7 effective.
- 8 c. That for the next legislative assembly, the public employees retirement system  
9 shall prepare ~~and request introduction of a bill to repeal the expiration date and to~~  
10 ~~extend the mandated coverage or payment to apply to accident and health~~  
11 ~~insurance policies. The public employees retirement system shall append to the~~  
12 ~~bill~~ a report regarding the effect of the mandated coverage or payment on the  
13 system's health insurance programs. The report must include information on the  
14 utilization and costs relating to the mandated coverage or payment and a  
15 recommendation on whether the coverage or payment should continue. ~~For~~  
16 ~~purposes of this section, the bill is not a legislative measure mandating health~~  
17 ~~insurance coverage of services or payment for specified providers of services,~~  
18 ~~unless the bill is amended following introduction so as to change the bill's~~  
19 ~~mandate.~~

20 **SECTION 3. AMENDMENT.** ~~Section 54-35-02.4 of the North Dakota Century Code is~~  
21 ~~amended and reenacted as follows:~~

22 **~~54-35-02.4. Employee benefits programs committee – Powers and duties.~~**

- 23 ~~1.—During each interim, the employee benefits programs committee shall consider and~~  
24 ~~report on the legislative proposals over which the committee takes jurisdiction and~~  
25 ~~which fiscally impact the retirement programs of state employees or employees of any~~  
26 ~~political subdivision, and health and retiree health plans of state employees or~~  
27 ~~employees of any political subdivision. A majority of the members of the committee~~  
28 ~~has sole authority to determine whether a legislative proposal affects a program. The~~  
29 ~~committee shall make a thorough review of each proposal the committee takes under~~  
30 ~~its jurisdiction, including an actuarial report. The committee shall take jurisdiction over~~  
31 ~~a proposal that authorizes an automatic increase or other change in benefits beyond~~  
32 ~~the ensuing biennium which would not require legislative approval. The committee~~  
33 ~~shall include in the report of the committee a statement that the proposal would allow~~

- 1 ~~future changes without legislative involvement. The committee shall report the findings~~  
2 ~~and recommendations of the committee, along with any necessary legislation, to the~~  
3 ~~legislative management and to the legislative assembly.~~
- 4 ~~2.—To carry out the responsibilities of the committee, the committee, or the designee of~~  
5 ~~—the committee, may:~~
- 6 ~~a.—Enter contracts, including retainer agreements, with an actuary or actuarial firm~~  
7 ~~— for expert assistance and consultation. Each retirement, insurance, or retiree~~  
8 ~~— insurance program shall pay, from the program's retirement, insurance, or retiree~~  
9 ~~— health benefits fund, as appropriate, and without the need for a prior~~  
10 ~~— appropriation, the cost of an actuarial report required under this section which~~  
11 ~~— relates to that program.~~
- 12 ~~b.—Call on personnel from state agencies or political subdivisions to furnish such~~  
13 ~~— information and render such assistance as the committee from time to time may~~  
14 ~~— request.~~
- 15 ~~c.—Establish rules for the operation of the committee, including the submission and~~  
16 ~~— review of proposals and the establishing of standards for actuarial reports.~~
- 17 ~~3.—The committee may solicit draft measures and proposals from interested persons~~  
18 ~~— during the interim between legislative sessions, and also may study measures and~~  
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- 21 ~~4.—A copy of the committee's report concerning a legislative measure, if that measure is~~  
22 ~~— introduced for consideration by a legislative assembly, must be appended to the copy~~  
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- 24 ~~5.—If a legislative measure affecting a public employees retirement program, public~~  
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26 ~~— program is introduced in either house without a report from the committee, the~~  
27 ~~— chairman and vice chairman of the employee benefits programs committee shall~~  
28 ~~— request an actuarial report from the program affected and shall provide the report to~~  
29 ~~— the standing committee to which the measure is referred. During the legislative~~  
30 ~~— session, the employee benefits programs committee chairman and vice chairman,~~  
31 ~~— working together, have sole authority to determine whether a legislative measure or~~  
32 ~~— amendment affects a program under this subsection and subsection 6.~~
- 33 ~~6.—During a legislative session, if an amendment is made to a legislative measure which~~



1                   ~~fiscally impacts a public employees retirement program, public employees health~~  
2                   ~~insurance program, or public employee retiree health insurance program, the~~  
3                   ~~employee benefits programs committee chairman and vice chairman shall request~~  
4                   ~~from the affected program an actuarial report on the amendment and shall provide the~~  
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6                   ~~7.—Legislation enacted in contravention of this section is invalid, and any benefits~~  
7                   ~~provided under the legislation must be reduced to the level current before enactment~~  
8                   ~~of the legislation.~~  
9                   ~~**SECTION 3. REPEAL.** Section 54-03-28 of the North Dakota Century Code is repealed.~~