

**2019 HOUSE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE**

**HB 1499**

# 2019 HOUSE STANDING COMMITTEE MINUTES

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

HB 1499  
1/31/2019  
31959

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature Carmen Hart
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### Explanation or reason for introduction of bill/resolution:

Relating to the duties of the employee benefits programs committee

### Minutes:

Attachments 1, 2, 3, 4
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**Chairman Kasper** opened the hearing on HB 1499.

**Rep. Matt Ruby** appeared in support of HB 1499. Attachment 1 (:08-1:11)

**Rep. Schauer:** Give us an idea how this is not streamlined government?

**Rep. M. Ruby:** He gave an example. I was put on the employee benefits to replace a member that didn't run for reelection, and we held a meeting to review any bill the chairman felt might affect employee benefits. We heard the report and held another meeting to give a recommendation. We kicked out over 10 bills in about an hour, so we do not get a really in depth feel for it. Those same reports could have come to a standing committee and bypassed the whole process.

**Rep. Rohr:** It is more than the fiscal note that you are addressing when it goes to this separate committee?

**Rep. M. Ruby:** We do get an overview of the bill, and they do discuss the fiscal note, but it is not a really in depth look at it.

**Rep. Rohr:** No criteria is used when looking at each of those bills?

**Rep. M. Ruby:** We as a committee usually know through the representative from PERS. They give us a feel if it affects the benefits or not.

**Rep. P. Anderson:** Did any of those 10 bills you went over in an hour have an actuarial report attached to them?

**Rep. M. Ruby:** Yes, I believe they all have to. My point this could all be presented to you rather than that committee.

**Rep. P. Anderson:** Actuarial reports take some time, so that is probably why we have the employee benefits committee that looks at them during the interim to make sure we have the actuarial report attached before given to the standing committee. How would you do that?

**Rep. M. Ruby:** What I referenced were bills after. They weren't discussed as thoroughly throughout the interim. They were ideas that got thrown in. There are still some that are going to come from the interim that we are going to look at, but not all of them are.

**Vice Chair Steiner:** Isn't it true that legislators are encouraged to have all their legislation in by a deadline, the preceding months before the session, so that committee can officially take jurisdiction so that the actuary can make a determination, and after that committee receives the recommendation from the PERS staff, there is a filter where the group says this plan is not going to work? The plan is only going to be 80% funded, so they are underwater. When you do an actuary on it, it shows it is either getting a little bit better or getting a little bit worse. What happens if the chairman says he is not going to take jurisdiction?

**Rep. M. Ruby:** I am not 100% sure.

## **Opposition**

**Fay Kopp, Chief Retirement Officer, ND Teachers' Fund for Retirement,** appeared in opposition. Attachment 2. (7:40-9:48)

**Vice Chair Steiner:** Should we make a mistake or the market crashes, we owe this plan the money and can't get out of it. I don't understand the filter, because we are responsible for any mistake we make.

**Fay Kopp:** I agree with you that the state is responsible for the benefits that are payable from the retirement system. With that in mind we believe that it is important for you as legislators to have all the information at an earlier junction to help you in making decisions at the front stage. The April 1 deadline for submitting bills gave the actuaries time to review this and gave the public an opportunity to weigh in. I think more study is certainly done when the bills are presented by that deadline or earlier. It may appear somewhat duplicative, but at the end of the day, the important part of it is that you are getting the information you need to make good decisions.

**Rep. P. Anderson:** Do you have any concerns if we did something as a legislature?

**Fay Kopp:** Certainly IRS compliance is a significant issue that we would be concerned about. Actuaries review it to ensure that there are no violations of IRS. It helps us to make sure that legislation does follow IRS qualification requirements, because if it does not, we could lose that tax qualified status.

**Chairman Kasper:** How would we fall out of IRS compliance?

**Fay Kopp:** Let's use a retiree reemployment bill for example, and this bill says there is no waiting period required before an employee return to covered employment. The IRS says that would not be a valid retirement, and we could lose our qualified status as a result of not

being in compliance with that particular provision. More often it comes into pace with compensation limits, benefit limits, and rollover provisions.

**Chairman Kasper:** I would assume if a bill had any of the issues you just talked about whether it went to the employee benefits committee first or a standing committee, you would be there to testify to set the record straight and discuss the concerns in the bill?

**Fay Kopp:** We would do as much as we could within whatever time frames are available. There is more time to work with that bill sponsor when studied during an interim.

**Chairman Kasper:** If the employee benefits committee gives a negative report, what happens to the bill?

**Fay Kopp:** From the TFFR board's perspective, once the employee benefits committee would give a negative recommendation, we would take that recommendation back to the TFFR board and that board would decide whether or not they were going to submit that legislation.

**Chairman Kasper:** If a legislator bill receives a negative report from the employee benefits committee, does it still come back to the standing committee, or is it dead on arrival?

**Fay Kopp:** I believe it is up to that bill sponsor how they wish to handle it.

**Chairman Kasper:** The review of this bill said unfavorable, and we still have the bill before us?

**Fay Kopp:** Correct.

**Chairman Kasper:** It didn't stop that?

**Fay Kopp:** Correct.

**Vice Chair Steiner:** Could you get us a list of your board members.

**Fay Kopp:** Attachment 3 was provided later. She briefly mentioned the names of the board members. (16:00-16:42)

**Scott Miller, Executive Director of the ND Public Employees Retirement System,** appeared in opposition. Attachment 4. (17:00-21:29)

**Rep. Rohr:** Do you know the history of this committee?

**Mr. Miller:** Fay knows that.

**Rep. Schauer:** How much vetting is that when you look at 10 bills in an hour?

**Mr. Miller:** It is helpful when we have the interim to look at them. The 10 bills we looked at the other day were bills that popped up at the beginning of the session, but what we were

able to accomplish in between the time they were introduced and that meeting were to have our health insurance actuary and our pension actuary look at every one of those bills and let us know where the problems might lie.

**Chairman Kasper:** How long does it generally take if you need an actuarial study or opinion?

**Mr. Miller:** It really depends on the complexity of the project. Closing the DB plan and implementing the DC plan was a large project.

**Chairman Kasper:** How long did it take to get it back to you on that particular one?

**Mr. Miller:** About 10 days to 2 weeks.

**Chairman Kasper:** Is a month a reasonable time to get an actuarial report back?

**Mr. Miller:** I would think a month on just about any topic would be enough.

**Chairman Kasper:** If this bill were amended to put a date certain that any legislator who wished to introduce a bill that would impact the areas you are concerned about, and then that bill would go through legislative management and given to the various departments where it would impact to request an actuarial study, would that not solve the issue you are concerned about?

**Mr. Miller:** That would solve the timing issue.

Chairman Kasper closed the hearing.

# 2019 HOUSE STANDING COMMITTEE MINUTES

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

HB 1499  
1/31/2019  
31961

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature Carmen Hart
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### Explanation or reason for introduction of bill/resolution:

Relating to the duties of the employee benefits programs committee

### Minutes:

**Chairman Kasper** opened the meeting on HB 1499.

**Rep. Laning:** Rep. Matt Ruby was correct in that the elimination of that committee would probably speed things along, but there are billions of dollars and a lot of people involved in that. There are things there that require a lot more time to study. I feel the additional review time is worthwhile.

**Rep. P. Anderson:** I think it is in statue that before we can vote on them, we have to know the actuarial consequence of them.

**Rep. Schneider:** I served on this committee as well and remember some of the disputes between the senate part of it and leadership. I agree with Rep. Laning's statements about the importance of the committee and the thoughtful and labored work that gets done in there. I would support keeping it.

**Rep. Rohr:** She asked if the law clerk should look up that statue.

**Chairman Kasper:** Any bill that will impact the employee benefits either fiscally or materially has to go before the employee benefits committee.

**Rep. Rohr:** Who determines that?

**Chairman Kasper:** I think legislative council.

**Rep. Laning:** Legislative council will take a look at a lot of those bills and consider it. They pass that bill into the employee benefits committee. We review it, talk about it, and decide whether we want to assume jurisdiction or not. If you assume jurisdiction, then you must either put on a for or against type thing. If you don't assume jurisdiction, it just goes the

regular route. Any bill that the employee benefits committee reviews has to attach a letter indicating their decision.

**Rep. Louser:** I think the system works very well in the interim. The frustration is when we get into session and pass a bill and realize that it had to go to that committee by rule. I don't see any way to walk this back. We have to have this safeguard, because it is there for the right reasons. **I make a motion for a DO NOT PASS.**

**Rep. Laning seconded the motion.**

**A roll call vote was taken. 9-4, 1 absent.**

**Rep. Laning will carry the bill.**

Date: 1-31-19  
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1499

House Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Rep. Louser Seconded By Rep. Laning

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	<input checked="" type="checkbox"/>		Rep. Pamela Anderson	<input checked="" type="checkbox"/>	
Vice Chair Vicky Steiner		<input checked="" type="checkbox"/>	Rep. Mary Schneider	<input checked="" type="checkbox"/>	
Rep. Jeff Hoverson	<input checked="" type="checkbox"/>				
Rep. Craig Johnson	<input checked="" type="checkbox"/>				
Rep. Daniel Johnston		<input checked="" type="checkbox"/>			
Rep. Karen Karls	<input checked="" type="checkbox"/>				
Rep. Ben Koppelman	<input checked="" type="checkbox"/>				
Rep. Vernon Laning	<input checked="" type="checkbox"/>				
Rep. Scott Louser	<input checked="" type="checkbox"/>				
Rep. Karen Rohr		<input checked="" type="checkbox"/>			
Rep. Austen Schauer	<input checked="" type="checkbox"/>				
Rep. Steve Vetter		<input checked="" type="checkbox"/>			

Total (Yes) 9 No 4

Absent 1

Floor Assignment Rep. Laning

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

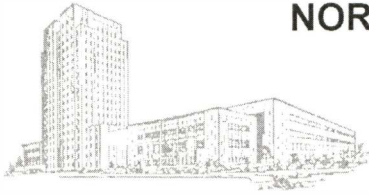


**REPORT OF STANDING COMMITTEE**

**HB 1499: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)**  
recommends **DO NOT PASS** (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING).  
HB 1499 was placed on the Eleventh order on the calendar.

**2019 TESTIMONY**

**HB 1499**



# NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



## Representative Matthew Ruby

District 40  
315 Fourth Street NW  
Minot, ND 58703-3129

C: 701-509-8149  
[mruby@nd.gov](mailto:mruby@nd.gov)

## COMMITTEES:

Energy and Natural Resources  
Human Services

31-Jan-2018

Good afternoon Chairman Kasper and committee,

The bill before you excludes bills put forth by legislators that affect employee benefits from the requirement to be heard by the employee benefits committee. Currently any bill that is put in by either of the branches of government must have the Employee Benefits Committee take jurisdiction and give a recommendation and actuary report. The thought process behind the bill is that we as legislators should not have to have bills previewed by the committee before they are sent to standing committees. The current practice just adds another layer that isn't needed. The bill also allows for a standing committee to approve an amendment that affects the benefits without it having to go back to the Employee Benefits Committee. I am not the expert on this topic and how it all works, but I will stand for questions if you have any.

# 2  
HB 1499  
1-31-19

## **HB 1499**

### **Testimony to the House Government and Veterans Affairs Committee January 31, 2019**

Fay Kopp, Chief Retirement Officer – ND Teachers' Fund for Retirement  
Deputy Executive Director – ND Retirement and Investment Office

On behalf of the Teachers' Fund for Retirement (TFFR) Board, I am testifying in opposition to HB 1499.

HB 1499 changes the powers and duties of the Legislative Employee Benefits Programs Committee. Legislators and legislative committees would no longer be required to submit proposed bills or amendments to the Committee for review to ensure an actuarial study is done, although executive and judicial branch entities would need to continue doing so.

According to TFFR's actuarial consultant, Segal, the bill itself does not have an actuarial cost impact. However, the bill could lead to a scenario that would have a significant impact on the financial health of TFFR and other ND public pension plans. Since no actuarial study would be required if this bill were passed, legislators or legislative committees might not identify the potential range and impact of the risk associated with bills or amendments. This could have significant actuarial cost impact on TFFR, affect the benefits payable from the retirement system which could adversely impact TFFR, or have administrative or IRS compliance implications. An actuarial study helps to identify and assess risks associated with proposed legislation. (Segal letter dated September 4, 2018).

During the interim, this bill was studied by the Legislative Employee Benefits Programs Committee. The Committee gave the bill an unfavorable recommendation.

The TFFR Board opposes HB 1499 due to concerns about the potential negative impact on the financial health of the TFFR plan.

Thank you.

#3  
HB 1499  
1-31-19

**NDLA, H GVA - Hart, Carmen**

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**From:** Kopp, Fay L.  
**Sent:** Friday, February 01, 2019 8:02 AM  
**To:** -Grp-NDLA House Government & Veterans Affairs; NDLA, H GVA - Hart, Carmen  
**Subject:** HB1499 - TFFR information request

Chairman Kasper and House Government & Veterans Affairs Committee Members:

Here is the information your Committee requested at the Hearing for HB 1499 on January 31, 2018:

- 1) The 7-member TFFR Board of Trustees consists of 3 active and 2 retired members appointed by the Governor, and 2 elected state officials as follows:

Rob Lech, President	Active Administrator, Jamestown
Toni Gumeringer	Active Teacher, Bismarck
Cody Mickelson	Active Teacher, Jamestown
Mel Olson	Retired Member, Fargo
Mike Burton, Vice Pres.	Retired Member, Fargo
Kirsten Baesler	State Superintendent
Kelly Schmidt	State Treasurer

- 2) The Legislative Employee Benefits Programs Committee resulted from a 1975-76 Legislative Council study. The Committee was established by statute in 1977 as a response to difficulties experienced in past legislative sessions resulting from inadequate prior study of the actuarial impacts of proposed legislative changes on retirement programs for public employees according to the ND Legislative Council Background Memorandum on the Employee Benefits Programs Committee, September 2017. This background memo includes history, statutory responsibilities, and study plan of the Committee. Here is a link to the Legislative Council Memorandum. <https://www.legis.nd.gov/files/resource/committee-memorandum/19.9017.0000.pdf>

Please contact me if there is additional information I can provide. Thank you.

Fay Kopp

*Fay Kopp | NDRIO Deputy Executive Director | NDTFFR Chief Retirement Officer  
ND Retirement & Investment Office | ND Teachers' Fund for Retirement  
3442 East Century Avenue | PO Box 7100 | Bismarck ND 58507-7100  
Phone 701.328.9895 or 800.952.2970 | fax 701.328.9897  
[www.nd.gov/rio](http://www.nd.gov/rio) | email [fkopp@nd.gov](mailto:fkopp@nd.gov)*

#4  
HB 1499  
1-31-19

## **TESTIMONY OF SCOTT MILLER**

### **House Bill 1499 – Jurisdiction of the Employee Benefits Programs Committee**

Good afternoon, my name is Scott Miller. I am the Executive Director of the North Dakota Public Employees Retirement System (NDPERS). On behalf of the NDPERS Board, I am before you today to testify in opposition to House Bill 1499. The Employee Benefits Programs Committee gave this bill an unfavorable recommendation.

North Dakota Century Code section 54-35-02.4 provides the powers and duties of the Employee Benefits Programs Committee (Committee). That section requires the Committee to consider and report on those legislative proposals which affect, actuarially or otherwise, the state's retirement systems and health plans. The Committee is required to make a thorough review of those measures, specifically including an actuarial review.

The thorough review the Committee conducts on every bill that might affect NDPERS plans is tremendously beneficial. There are a myriad of state and federal laws with which we must comply, the violation of which could result in significant penalties. One of the worst of those penalties could be the loss of retirement plans' qualified status. That would result in the immediate taxation of the billions of dollars we have in the retirement trust fund. Conducting a thorough review of the potential consequences of adopting a legislative proposal is imperative to ensure the continued viability of our programs.

HB 1499 continues the requirement that bills submitted by the Executive and Judicial branches go to the Committee for this review. However, HB 1499 removes the requirement that bills submitted by legislators or the Legislative branch also go through the Committee for review. Removing that requirement results in the significant risk of detrimental unintended consequences, including:

1. Actuarial Risk – the risk that a change results in significant actuarial change.
2. Tax Qualification Risk – the risk that a change to one of our programs could cause us to lose our tax qualified status.
3. Administrative Risk – the risk that a change is adopted that we simply cannot administer.
4. Unfunded Mandate Risk – the risk that a mandate is created that has not been properly budgeted.

# 4  
HB 1499  
1-31-19

In summary, we believe the vetting process required by North Dakota Century Code section 54-35-02.4 is imperative to ensure that our plans continue to be viable and compliant with the applicable federal and state requirements. The potential for dramatic and detrimental unintended consequences is multiplied if you were to remove that vetting requirement. We urge a do not pass on HB 1499.