MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M

ROLL NUMBER

DESCRIPTION

1381

2005 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1381

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1381

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 2/3/05

Tape Number	Side A	Side B	Meter #
1	x		22.7-29.3
Committee Clerk Signature			

Minutes: HB 1381 Public employees retirement system health insurance coverage of outpatient prescription drugs; provide an expiration date.

9 members present, 5 absent.

Sparb Collins-Executive Director of the North Dakota Employees Retirement System-Neutral-Testimony Attached.

Chairman Haas: These are biennial numbers correct?

Sparb: Yes, that is correct.

Rep. Meier: Are there any costs being covered by out patients right now?

Sparb: In general, yes. The cost that is being talked about here is contraceptives. That is where the $4.50 comes from.

Rep. Meier: Are there any costs being covered for contraceptives right now?

Sparb: Yes, when it is medically required, for a medical condition.

Chairman Haas: So it based on a prescription by the doctor.

Sparb: More then that it would have to be for a medical condition.

Chairman Haas: OK

Rep. Conrad: What this fiscal note says is that fertility drugs are covered in infertility treatments, is that what I am understanding.

Sparb: That is basically the information that we got back from Blue Cross.

Rep. Conrad: We need a fertility program, so we could cover contraceptives under fertility. Here you are saying we don't need this bill, for this infertility part.

Sparb: Some of the services are covered presently for the infertility treatments.

Rep. Conrad: What services are not covered?

Rod St. Aubyn-Representing Blue Cross Blue Shield of North Dakota-Oppose-Testimony Attached-There is a cap on infertility treatment and I think it is $20,000, our medical policies dictate for example certain procedures, there are numerous different infertility treatments and they will prove someone trying one, x number of times. This bill would totally lift that cap and also say if something did not work, your allowed three times this procedure in the covered benefit right now, but this bill would lift that and it would be unlimited. That is the difference in this bill versus covered benefits.

Rep. Conrad: If a woman is prescribed contraceptives for a medical condition and it is not to control her fertility, is that covered.

Rod: Yes, it is. If it is prescribed for specific medical condition and there are some rules, but they are covered under the benefit right now. Why is viagara covered and birth control pills are not. These prescriptions are an allowed benefit, if it is to treat a medical condition, so that is why birth control pills are not always covered, unless it is for a medical condition.

Chairman Haas: So what you are saying is that impotence is considered medical condition?

Rod: That is correct.

Rep. Amerman: Have you finalized a contract with PERS.

Rod: Yes, we were awarded the bid, but it is really depending on the appropriation by the Legislature.

Rep. Amerman: If you had locked in, there wouldn't be anyway you could raise deductibles or coinsurance once you have been locked in. Sparb says it maybe necessary to raise PERS deductibles or coinsurance to off set this bill, you wouldn't be able to do that once it is locked in.

Rod: I think is what he is saying is the contract there is x number of dollars that is available to him and all of sudden if he didn't have the appropriation authority, the only thing he could do is adjust the existing plan to allow for some cost shift to cover him.

Chairman Haas: You either raise the per monthly cost to appropriations, $4.50 month or you cut benefits to pay for it. It is one of those two options and the $4.50 is currently not in the Governors budget.

Rep. Klemin: If a participant in the plan wanted to pay for this, herself or himself, can that be done, instead of having the state pay for it.

Rod: You are saying as a rider can I pick that up and pay that $4.50, it is not that simple, because that is figured, assuming that every contract member is contributing and paying that amount, so if someone individually wanted to have that as a rider, the cost of that would be significantly higher.

Rep. Klemin: Are we looking at a relatively few people using this, compared to the cost that everyone is going to have to pay?

Rod: I think with any benefit you could argue that. We offer several plans and some offer that as benefit and some don't.

Rep. Sitte: We know that infertility rates have increased dramatically in recent years and I am wondering if there is any studies that link contraceptives to infertility?

Rod: I couldn't answer that, I really don't know.

Rep. Froseth: Was this bill reviewed legislative employment benefits committee.

Chairman Haas: Yes it was.

Sparb: I have to clear this up, there are two issues, first the bill itself, as 1381 stands, that part of the bill got an unfavorable recommendation by legislative employment benefits committee, the second issue is the amendment to 1381, if it is elected to have 1381 go forward, the amendment got no recommendation or neutral on that.

Rep. Conrad: If the doctor believes that going through a pregnancy would be dangerous to her, is she then allowed contraceptives?

Sparb: I would have to follow up on that.

Rep. Conrad: I would very much like the answer to that.

Rep. Sandvig: Some states have gone to standard of care, rather then mandate, would that make any difference to the insurance company.

Rod: If it mandates and requires coverage and doesn't matter what you do, we try to establish are benefit plan on current medical recommendations.

Chairman Haas: When and under what criteria does Blue Cross Blue Shield or any health insurance company for that matter, voluntarily add coverage for a particular condition, as

opposed to having it mandated. What is the procedure for that within the health care insurance industry.

Rod: We do have our medical management teams that review these and we actually have internal committees that will review possible changes. We have a rewrite committee and they will look at all out benefits and make recommendations for rewriting future contracts and this is a two year cycle, basically.

David Straley-Represents a Coalition of a number of Associations-Oppose-Testimony Attached

Chairman Haas: Thank you very much. Any more questions on HB 1381?

The hearing will be closed on HB 1381.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1381

House Government and Veterans Affairs Committee

❑ Conference Committee

Hearing Date 2/04/05

Tape Number	Side A	Side B	Meter #
4	x		4.6-6.5
Committee Clerk Signature			

Minutes: HB 1381 Public employees retirement system health insurance coverage of outpatient prescription drugs; provide an expiration date.

9 members present, 0 absent.

Discussion and voting.

Chairman Haas: This is the insurance mandate for Blue Cross Blue Shield for any health insurance plan. The fiscal note on this raises the cost of the public employees health insurance plan by $4.50 per month, per contract. None of that money is currently in any budget. It is a pretty huge fiscal note. Is there a motion?

Rep. Froseth: I motion a DO NOT PASS.

Chairman Haas: We have a DO NOT PASS, seconded by Rep. Horter, is there any further discussion. I will ask the clerk to take the roll on HB 1381 DO NOT PASS.

VOTE: YES 8 NO 1 ABSENT 5 HB DO NOT PASS 1381

REP. HORTER WILL CARRY THE BILL

FISCAL NOTE

Requested by Legislative Council
01/18/2005

Bill/Resolution No.: HB 1381

1A. **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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			$403,043	$1,071,372	$403,043	$1,071,372
Appropriations			$403,043	$1,071,372	$403,043	$1,071,372

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			$185,112	$97,524	$122,256	$185,112	$97,524	$122,256

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

The provisions of this bill apply to PERS as follows:

• Outpatient prescription drugs for hormone replacement therapy and for osteoporosis treatment and management are already covered by the NDPERS benefit, so they would not have an added cost to NDPERS.

• The additional cost to NDPERS to cover outpatient prescription drugs for contraceptives and infertility therapy through their regular drug benefit is estimated at $4.50 per contract per month (spread over all contracts) for the 7-1-05/6-30-07 biennium.

• The infertility drugs are covered under the current benefit, but this assumes that the infertility drugs would be processed under the drug benefit rather than the infertility benefit and they would no longer accumulate toward the $20,000 lifetime infertility maximum.

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.*

   B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Is the additional premium required to support the provisions of the bill

   C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The additional appropriation authority necessary to pay the cost of the additional premiums required to support the provisions of this bill

Name:	Sparb Collins	**Agency:**	PERS
Phone Number:	328-3901	**Date Prepared:**	01/23/2005

Date: 2/4/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1381

House House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Not Pass

Motion Made By Rep Froseth Seconded By Rep Horter

Representatives	Yes	No	Representatives	Yes	No
Chairman C.B. Haas	✓		Rep. Bill Amerman	✓	
Bette B. Grande - Vice Chairman	✓		Rep. Kari Conrad		✓
Rep. Randy Boehning	✓		Rep. Louise Potter	AB	
Rep. Glen Froseth	✓		Rep. Sally M. Sandvig	AB	
Rep. Pat Galvin	✓				
Rep. Stacey Horter	✓				
Rep. Jim Kasper	AB				
Rep. Lawrence R. Klemin	✓				
Rep. Lisa Meier	AB				
Rep. Margaret Sitte	AB				

Total (Yes) 8 No 1

Absent 5

Floor Assignment Rep Horter

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

REPORT OF STANDING COMMITTEE

HB 1381: Government and Veterans Affairs Committee (Rep. Haas, Chairman) recommends **DO NOT PASS** (8 YEAS, 1 NAY, 5 ABSENT AND NOT VOTING). HB 1381 was placed on the Eleventh order on the calendar.

2005 TESTIMONY

HB 1381

REPORT OF THE LEGISLATIVE COUNCIL'S EMPLOYEE BENEFITS PROGRAMS COMMITTEE PROPOSED AMENDMENTS TO HOUSE BILL NO. 1381

Sponsor: Public Employees Retirement System Board

Proposal: Appropriates $403,044 in general funds and $458,580 in other funds to various state agencies for the purpose of defraying the cost of the additional health insurance premiums necessary to pay the cost of the provisions of the bill.

Actuarial Analysis: The appropriation is sufficient to fund the benefit enhancement.

Committee Report: No recommendation.

Testimony on HB 1381
House Government and Veterans Affairs Committee
February 3, 2005

Mister Chairman and committee members, for the record I am Rod St. Aubyn, representing Blue Cross Blue Shield of North Dakota and our 449,538 members. I appear before you today to oppose HB 1381, another insurance mandate that will undoubtedly raise health insurance premiums and force some employers to either consider raising their employees' contributions or worse yet, discontinuing providing health insurance as an employee benefit. I do not need to tell you that health care costs have risen significantly in the last several years. As an insurer, we have no choice, but to pass these increases on to our members in the form of higher insurance premiums. It's interesting that this exact bill (HB 1247) was introduced last session and heard in the House Human Services Committee on January 21, 2003. As far as my testimony goes, not much has changed – other than the cost of health care. It continues to increase.

We oppose all health insurance mandates for several reasons. Those reasons include:

- Mandates increase health care costs, utilization, and health insurance premiums.
- Mandates only affect part of the insured population.
- Mandates take away flexibility and choice.
- Mandates tie the hands of insurers when technology and research changes medical procedures.

Mandates increase health care costs and health insurance premiums.

Mandated coverage can significantly increase the cost of health care coverage premiums, with one actuarial firm estimating that 12 of the most common mandates in the United States increase the cost of health insurance by 30 percent. This is the third legislative session that BCBSND has provided legislators with a CD that we call the Legislative Blue Book. One of the sections of that CD shows the cost of health insurance mandates for BCBSND members. I have included a copy of the 2003-2004 report for your review. For the period of August 1, 2003 through July 31, 2004, health insurance mandates have cost our members $167,192,334. Compare that to the first year (1991 Legislative Session) when we compiled this same data for the same mandates (August 1, 1999 through July 31, 2000). The total then was $99,983,387. This is a 67% increase over a period of 5 years. I have also included a summary of the mandate costs for the last 3 sessions for your review. About 92 to 93 cents of every premium dollar goes directly to providers and pharmaceuticals. Only 7 to 8 cents is applied to administration and overhead. So as utilization and health care costs increase there is only one way to absorb those costs – increase health insurance premiums.

Mandates only affect part of the insured population.

Mandated coverage only applies to fully insured group insurance. These mandates do not apply to individual coverages or self-funded group insurance. Of our group insurance, approximately 50% of our plans are self-funded. Employers are struggling to maintain health insurance as a benefit for their employees. Their options are becoming fewer and fewer. Many have resorted to changing plans with higher deductibles, higher co-pays, or forcing the employee to pay a greater share of the premium in an effort to hold down the company's premiums. However, we are seeing more and more companies switching to self-funded plans, so they can design their own benefits. You may have read about a well-known Fargo hotel/motel company operating in several states that recently dropped their insurance benefit for their employees. This left their employees searching for individual coverage. The major difference between group coverage and individual coverage is that group coverage is guaranteed issue, while the individual applicant must medically qualify. This can result in people becoming uninsured or paying significantly more for high-risk coverage. Employers are concerned!

Mandates take away flexibility and choice.

Mandates dictate to employers that no matter which plan they provide, they must include all the mandates. The employers do not have any options to pick and choose optional coverages. Their only option is to go to other plans with higher deductibles and co-pays. It would be like mandating that all pickups that are sold must include leather seats, a moon roof, 6 CD Changer Stereo System, 4 wheel drive, and a GPS. Even if the individual just wants a basic farm pickup, the dealer would be unable to sell him one because of the mandates. In this particular case, we offer some plans with contraceptive benefits and others without the benefit. That way the employer has a choice of coverages.

Mandates tie the hands of insurers when technology and research changes medical procedures.

The entire area of health care is constantly changing. What is standard practice today is almost assured to not be the same in 10 years. When mandates are developed, it becomes very difficult, if not impossible to eliminate them in the future when technology or scientific evidence changes current medical practice. For example, for prostate cancer screening, there is little support today for annual PSA exams, which is currently mandated. I have included a summary of several guidelines for prostate cancer screening for your review.

Review of HB 1381

We offer several insurance products to give our members choices. As I mentioned before, we currently offer a product with contraceptive coverage. We also currently provide benefits for hormone replacement therapy, infertility therapy, and osteoporosis treatment. However, all of these are managed based on medical policies. If this bill is to pass, it further limits our ability to offer products many of our employer groups want.

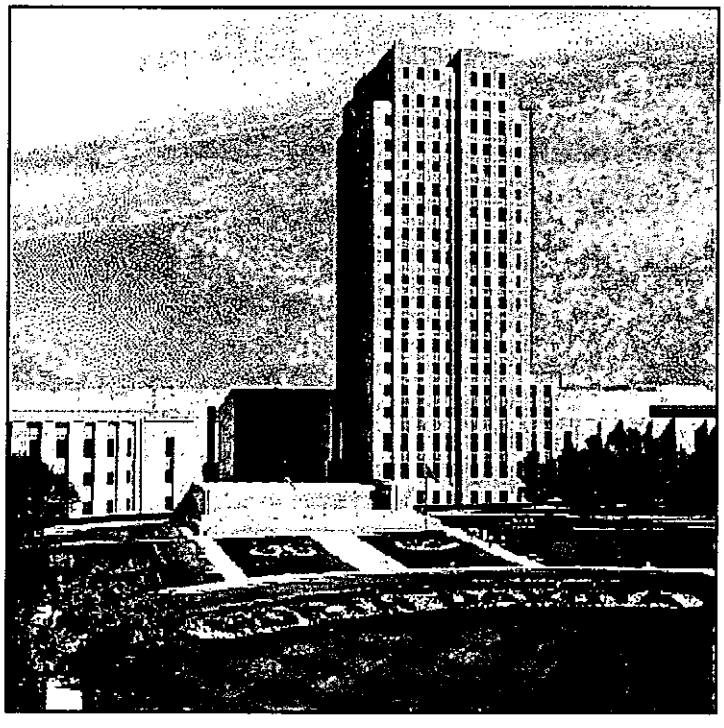
This bill raises many questions. Among those questions are the following:

- We currently maintain a drug formulary. Will this bill prevent any of the drugs for these specified mandates being off our formulary?
- Will this require an insurer to pay for over-the-counter items such as calcium, health food items, food supplements, vitamins, condoms, spermicidal foam, etc.?
- Will this require the payment for drugs that are investigational or experimental and not approved by the FDA for use.
- Can an insurer establish medical policies concerning these mandated benefits or limitations?
- What is to be covered in the infertility therapy, i.e. all ultrasounds, surgical procedures associated with harvesting and implantation of eggs, and associated costs? Even though, this may be extreme, will "cloning" be a covered service under this bill? I'm sure that this is not the intent, however, the way the bill is worded and if someone pushed the issue, it is possible the courts could rule that it may be a covered benefit. Is this bill limited to pharmacy or do all "therapies" require coverage?
- We currently have a $20,000 lifetime limit for infertility procedures and prior approval is required. Would limits and prior approval to assure that an approved procedure is being performed be eliminated?

There are many more questions that could be posed.

In closing, if you support this bill and vote to approve it, you are essentially telling policy holders and employers across the state that you have made an informed decision to raise the cost of their insurance even more than current trends and limit their choices. We urge you to consider the consequences of this bill and give HB 1381 a Do Not Pass. Mr. Chairman, I would be willing to try to answer any questions the committee may have.

The Cost of Health Insurance Mandates



This won't cost much.

Alcohol/Drug Abuse Treatmnt
$7,882,653

This won't cost much.

Breast Reconstruction
$403,101

This won't cost much.

Dental Anesthesia
$104,148

This won't cost much.

Minimum Maternity Stay
$14,197,355

This won't cost much.

Emergency Services
$76,246,373

This won't cost much.

Mammography Screening
$4,049,638

This won't cost much.

TMJ Disorders
$114,829

This won't cost much.

Prostate Cancer Screening
$323,999

This won't cost much.

Lic. Addiction Counselors
$1,464,519

This won't cost much.

Mental Health
$28,874,732

This won't cost much.

Chiropractors
$10,537,716

This won't cost much.

Nurse Practitioners
$6,816,191

This won't cost much.

Psychiatric Nurses
$383,707

This won't cost much.

Psychologists
$6,199,756

This won't cost much.

Social Workers
$1,673,206

This won't cost much.

Nurse Anesthetists
$6,357,354

This won't cost much.

Nurse Midwives
$432,523

This won't cost much.

Professional Counselors
$1,130,534

The Cost of Health Insurance Mandates

While BCBSND does not necessarily oppose many of these mandated benefits and providers, it is important to note the true costs of establishing mandates.

Benefits	Professional	Institutional
Alcohol/Drug Abuse Treatment	$ 2,037,705	$ 5,844,948
Breast Reconstruction	$ 231,087	$ 172,014
Dental Anesthesia	$ 54,447	$ 49,701
Emergency Services	$ 4,090,709	$ 72,155,664
Mammography Screening	$ 3,086,035	$ 963,603
Mental Health (General)	$ 16,316,437	$ 12,558,295
Minimum Maternity Stays	$ n/a	$ 14,197,355
Prostate Cancer Screening	$ 273,640	$ 50,359
TMJ Disorders	$ 54,118	$ 60,711
	$ 26,144,178	$106,052,650

Providers	Professional
Chiropractors	$ 10,537,716
Nurse Midwives	$ 432,523
Nurse Anesthetists	$ 6,357,354
Nurse Practitioners	$ 6,816,191
Nurse, Psychiatric	$ 383,707
Professional Counselors	$ 1,130,534
Psychologists	$ 6,199,756
Licensed Addiction Counselors	$ 1,464,519
Social Workers	$ 1,673,206
	$ 34,995,506

TOTAL $167,192,334

(*Dollar amounts are based on claims incurred 8/1/2003 – 7/31/2004 paid through 10/31/2004)

Health Insurance Mandate Comparison

Benefits	08/1999 - 07/2000 Prof. & Insti.	08/2001 - 07/2002 Prof. & Insti.	08/2003 - 07/2004 Prof. & Insti.
Alcohol/Drug Abuse Treatment	$4,176,377	$6,174,592	$7,882,653
Breast Reconstruction	$523,856	$314,789	$403,101
Dental Anesthesia	$76,252	$68,244	$104,148
Emergency Services	$45,804,202	$48,097,757	$76,246,373
Mammography Screening	$1,290,844	$2,135,269	$4,049,638
Mental Health (General)	$21,223,774	$22,928,041	$28,874,732
Minimum Maternity Stays	$5,506,438	$10,970,781	$14,197,355
Prostate Cancer Screening	$81,466	$55,150	$114,829
TMJ Disorders	$745,644	$527,995	$323,999
Total	**$79,428,853**	**$91,272,618**	**$132,196,828**
Providers	**Professional**		
Chiropractors	$6,735,257	$6,766,233	$10,537,716
Nurse Midwives	$345,121	$280,833	$432,523
Nurse Anesthetists	$3,916,399	$4,480,820	$6,357,354
Nurse Practitioners	$2,304,480	$3,677,698	$6,816,191
Nurse, Psychiatric	$408,210	$405,751	$383,707
Professional Counselors	$512,902	$722,496	$1,130,534
Psychologists	$4,459,820	$4,657,986	$6,199,756
Licensed Addiction Counselors	$879,991	$1,029,712	$1,464,519
Social Workers	$992,354	$1,156,633	$1,673,206
Total	**$20,554,534**	**$23,178,162**	**$34,995,506**
Total Benefits & Providers	**$99,983,387**	**$114,450,780**	**$167,192,334**

TESTIMONY OF
SPARB COLLINS
ON
HOUSE BILL 1381

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 neither in support or opposed to HB 1381. Instead I am here pursuant Chapter 54-03-28 (2) passed by the last Legislative session. That legislation states:

> b. The application of the mandate is limited to the public employees health insurance program and the public employee retiree health insurance program. The application of such mandate begins with every contract for health insurance which becomes effective after June thirtieth of the year in which the measure becomes effective.

Consequently, if this bill is passed it will become effective on July 1, 2005 for members of the PERS health insurance plan. Since this provision was not anticipated and, therefore, not funded in the health insurance premium requested by PERS and submitted by the Governor as part of the executive budget, the addition of this benefit will have an added cost. To determine this cost we requested that our health insurance carrier, Blue Cross Blue Shield, review the bill and determine the additional premium necessary to support this new benefit. They have indicated that it would cost $4.50 more per contract per month to add this benefit to our plan design for 2005-2007. This estimate is the basis for the fiscal note. Since this is not provided for in the proposed premium recommended by the Governor and presently being considered by the legislature, I have attached a proposed amendment to this

bill to add the additional appropriation authority to each agencies budget to pay the cost of the enhancement. If this bill were to pass and the additional appropriation authority was not granted, it may be necessary for the PERS Board to increase member's deductibles and/or co insurance to offset the cost of the enhancement or pass through the premium increase with state agencies having to make up the difference out of their budgets or try to make up the difference from other sources such as experience gains.

Mr. Chairman, members of the committee I would request that the attached amendment be added to the bill and be a part of its consideration. Thank you for providing me this opportunity.

PROPOSED AMENDMENT TO HOUSE BILL 1381

Page 1, line 3, after the semicolon insert "to provide an appropriation;"

Page 2, after line 2, insert the following:

SECTION 3. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from other funds derived from federal funds and other income, to the following departments for the purpose of defraying the cost of the additional health insurance premiums necessary to pay the cost of the provisions of this bill, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

	Department	General	Other
101	Office of the Governor	$1,728	$0
108	Office of the Secretary of State	$2,627	$73
110	Office of Management and Budget	$12,771	$3,213
112	Information Technology Department	$1,526	$22,990
117	Office of the State Auditor	$3,496	$1,580
120	Office of the State Treasurer	$648	$0
125	Office of the Attorney General	$13,022	$4,582
127	Office of the Sate Tax Commissioner	$12,636	$0
140	Office of Administrative Hearings	$0	$756
150	Legislative Assembly	$14,364	$0
160	Legislative Council	$3,348	$0
180	Judicial Branch	$32,962	$950
190	Retirement and Investment Office	$0	$1,620
192	Public Employees Retirement System	$0	$3,024
201	Department of Public Instruction	$2,880	$6,192
226	State Land Department	$0	$1,836
250	State Library	$2,282	$310
252	School for the Deaf	$4,942	$242
253	N.D. Vision Services	$2,054	$646
270	Dept of Career and Technical Ed	$1,590	$786
301	North Dakota Department of Health	$10,050	$20,730
313	Veterans Home	$6,594	$3,558
316	Indian Affairs Commission	$324	$0
321	Department of Veterans Affairs	$648	$0
325	Department of Human Services	$119,052	$88,200
360	Protection and Advocacy Project	$608	$1,984
380	Job Service North Dakota	$93	$35,439
401	Office of the Insurance Commissioner	$0	$4,104
405	Industrial Commission	$4,652	$748
406	Office of the Labor Commissioner	$731	$241
408	Public Service Commission	$2,703	$1,509
412	Aeronautics Commission	$0	$540
413	Department of Financial Institutions	$0	$2,592
414	Office of the Securities Commissioner	$864	$0
471	Bank of North Dakota	$0	$18,576
473	North Dakota Housing Finance Agency	$0	$3,780
475	North Dakota Mill & Elevator Association	$0	$12,636
485	Workforce Safety & Insurance	$0	$22,248
504	Highway Patrol	$16,882	$2,126
512	Division of Emergency Management	$1,434	$1,266

530	Department of Corrections & Rehabilitation	$57,578	$5,818
540	Adjutant General	$3,613	$9,563
601	Department of Commerce	$3,890	$1,726
602	Department of Agriculture	$3,039	$2,361
616	State Seed Department	$0	$2,268
627	Upper Great Plains Transportation Institute	$209	$5,083
628	Branch Research Centers	$6,332	$1,984
630	NDSU Extension Service	$15,034	$13,694
638	Northern Crops Institute	$488	$376
640	NDSU Main Research Center	$23,458	$12,938
649	Agronomy Seed Farm	$0	$324
701	State Historical Society	$5,387	$661
709	Council on the Arts	$540	$0
720	Game & Fish Department	$0	$15,336
750	Department of Parks & Recreation	$4,843	$449
770	State Water Commission	$1,122	$6,978
801	Department Of Transportation	$0	$109,944
	Total	$403,044	$458,580

Page 2, line 3, replace "3" with "4"

Renumber accordingly

Testimony of David Straley
Greater North Dakota Chamber of Commerce
Presented to the House GVA Committee
February 3, 2005

GREATER NORTH DAKOTA CHAMBER of COMMERCE

HB 1381

Mr. Chairman and members of the House Government and Veterans Affairs Committee, my name is David Straley. I am here today representing a coalition of a number of associations, many of which are in this room together with 17 chambers of commerce that speak for over 7,400 member businesses. I am here today to urge you to **oppose** House Bill 1381.

The business community feels that mandates, such as the one included in HB 1381, are part of the reason for increased health care costs. We understand that although the bill sponsors have good intentions, it comes with a problem. That problem is the mandate. Mandates have unintended consequences, ones not easily foreseeable, and it is because of this that we oppose this bill.

We want to make it eminently clear that we are not targeting any group. However, we oppose bad economic policy. Mandates restrict competition, infringe on free enterprise, and can result in supply/distribution problems in the economy. It takes away flexibility and choice for both the employer and the consumer, thus hurting those you are trying to help.

Thank you, Chairman Haas and members of the House Government and Veterans Affairs Committee, for this opportunity to discuss the business community's position on HB 1381. We urge a **DO NOT PASS** for HB 1381. Thank you and I would be happy to answer any questions at this time.

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The following chambers are members of a coalition that support our policy statements:

Beulah
Bismarck-Mandan
Bottineau
Cando
Crosby
Devils Lake
Dickinson
Fargo
Grand Forks
Greater North Dakota Chamber of Commerce
Hettinger
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Langdon
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Watford City
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March 24, 2005

Mr. John D. Olsrud
Director
North Dakota Legislative Council
600 E Boulevard
Bismarck, ND 58505-0360

Re: Analysis of House Bill 1381

Dear Mr. Olsrud:

This letter presents our cost-benefit analysis of the mandate included in House Bill No.1381. You asked that we provide information to help determine the following:

a. the extent to which the proposed mandate would increase or decrease the cost of the service;
b. the extent to which the proposed mandate would increase the appropriate use of the service;
c. the extent to which the proposed mandate would increase or decrease the administrative expenses of insurers and the premium and administrative expenses of insureds; and
d. the impact of the proposed mandate on the total cost of health care.

You originally asked us to prepare a letter intended for use by North Dakota legislators and officials for the purpose of considering this proposed legislation. However, I understand that the proposed legislation has been tabled for this session. Therefore, you asked that we provide you with our findings to date and cease with any further research. I understand that you will file a copy of this letter with the proposed legislation for documentation purposes. Additional research would be needed to fully quantify the expected cost of this mandate should it be reintroduced. This letter should not be used for other purposes and was not prepared for the benefit of any third party. In doing our work, we have relied on the data and information cited in this letter. This information includes the copy of House Bill 1381 which you provided. If there are changes to this bill, the comments here may no longer be appropriate.

This bill would have provided coverage for certain outpatient prescription drugs and devices, including osteoporosis treatment and therapy, hormone replacement therapy, contraceptives, and infertility therapy. We address each of these coverages individually.

This mandate would have introduced some added administrative costs. These include updating contracts and other policyholder communications, changes in claims processing systems to allow payment of these claims, and additional agent or broker commissions

where they apply. However, we would not expect any extraordinary administrative expenses due to this mandate.

For the first two years, this mandate would have applied only to the state employee group. After that, the mandate might have applied to all other commercial individual and group health insurance products. In as much as the population demographics differ between the state employee group and the general insurance population, the resulting impact of this mandate would differ accordingly. While the following description applies to the North Dakota population, we have noted where adjustments may need to be made to estimate the impact on the state employee plan.

Osteoporosis Treatment

We researched the drugs used to treat this condition, primarily using the *Milliman Care Guidelines 8th Edition (CGs)*, published in 2002. Due to cost trends since then, the price of these drugs may be higher now. The *CGs* describe the best practices for treating common conditions in a variety of care settings. The *CGs* are designed to assist physicians and other healthcare professionals in providing optimal care. They show what is currently being done by providers and hospitals across the United States, as supported by the latest research in risk and medical management.

According to the *CGs*, the following are the drugs most commonly used to treat osteoporosis:

- Calcium and Vitamin D: These drugs are generally available over the counter, and so may not be covered by the mandate. At the time of publication (2002), the CGs showed the typical price of these drugs ranging from $0.63 to $6.44 per month.

- Estrogens: The CGs reported the typical price of these drugs as ranging from $7 to $33 per month, depending on the drug. Insurance carriers often pay something less than these prices for drugs—discounts in the range of 10 – 20% are common.

- Anti-Resorptive Drugs: These drugs serve as a protective coating for the bones and prevent disintegration. The CGs showed the typical price of these drugs as ranging from $10 to $500 per month.

- Selective Estrogen Receptor Modulators: These are used as an alternative to estrogen replacement. The CGs showed the typical price ranging from $73 to $214 for a one month supply.

The extent to which mandating coverage for these drugs would impact their appropriate use in aggregate is highly dependent on the degree to which the benefits are already covered. Generally, insurance plans do provide coverage for these drugs, except where they are available on an "over the counter" basis. A survey of the top carriers in the state would help to ascertain the extent of existing coverage in North Dakota. Also, since most of these drugs are relatively inexpensive, insureds are more likely to be paying for them out-of-pocket than

they might be for a more expensive drug. In that case, insuring them may not significantly increase their use.

The state employee summary plan description does not explicitly exclude coverage for these drugs. If they are covered, we would expect that impact of this coverage on this group would have been negligible. If not, we would need to do additional analysis to quantify the impact.

Hormone Replacement Therapy

Hormone Replacement Therapy (HRT) involves taking estrogens or estrogens in combination with other hormones. HRT is used to treat problems often associated with menopause such as night flashes, night sweats, and sleeplessness. Hormones may also be used to prevent long-term conditions common in postmenopausal women, such as osteoporosis. (This was discussed above).

A study on the risks and benefits of combined estrogen and progestin in healthy menopausal women sponsored by the National Institutes of Health (NIH) was stopped early due to an increase in the risk of breast cancer. Investigators reported that the overall risks of using certain HRT may outweigh the benefits. They also found increased incidence of coronary heart disease, stroke, and blood clots. The effects of using of estrogen alone are less clear, but these effects are being investigated in a 2005 study sponsored by the Women's Health Institute (WHI). (1)

According to a 2001 report on Hormone Replacement Therapy by the National Center for Health Statistics, "half of all post menopausal women in the U.S. reported having ever used HRTs." This study also found that, among women who used HRT and were at least 10 years post menopause, 24% took these drugs for less than 1 year and 34% used the drugs for one to five years (2). The longer term use of this drug is more frequently associated with conditions related to osteoporosis as described above.

In general, the relatively low unit cost of these drugs along with the typically short duration of usage in other than osteoporosis therapy, would argue that the cost of the mandate might not be significant. However, historically at least, utilization has been fairly widespread among middle aged to older women which may indicate more significant cost. We would need to gather additional data on these factors to determine the net effect. It would also be useful to understand the degree to which these drugs are currently covered by health insurers in the state of North Dakota.

Contraceptives

According to the 2004 Milliman *Health Cost Guidelines (HCGs)*, oral contraceptives (the most common type of prescription contraceptives) make up about 3.4% of prescription drug costs, when covered. According to the 2004 HCGs, this is about 0.5% of total claim costs for a comprehensive major medical plan before cost sharing. The HCGs also indicate that, in a

typical commercially insured population with coverage for contraceptives, there are 537 prescriptions filled for oral contraceptives per year per 1,000 insureds.

According to the 2002 *CGs*, the price for prescription oral contraceptives ranges from $33 to $45 per month. The typical price of Norplant, a single dose alternative which protects against pregnancy for up to five years, is slightly over $500 per dose.

The impact the mandate would have had on appropriate use is a point of debate. Some sources say that because of the cost of contraceptives, some people either go without contraception or use less effective (but also less expensive) forms of contraception. Others contend that the majority of those who would use contraceptives currently have access to them and they would use them regardless of whether or not they are covered. In a report prepared by Milliman for the State of Texas, we estimated that 25% to 75% of gross healthcare costs for oral contraceptives will be recovered through reduced pregnancy and delivery costs. (1)

Infertility

According to the CDC, 3% of women have ever used ovulation drugs, the most common form of treatment for infertility. Based on research we performed in developing our 2004 Milliman *Health Cost Guidelines*, the per member per month cost of infertility drugs and supplies ranges from $0.25 to $0.35. This would equate to less than 0.25% of premium for a comprehensive major medical plan covering a typical commercial population.

The state employee plan currently covers these services up to a maximum of $20,000 per member lifetime.

Of course, fertility treatment would presumably lead to an increase in other costs related to pregnancy and childbirth. This is particularly the case since those undergoing fertility treatment are subject to higher rates of higher risk (and cost) pregnancies, including a higher incidence of multiple births. Multiple birth infants are more likely to be of very low birth weight. In a study done in 1995 by the Alabama Department of Health, 14.8% of multiple birth babies were of low birth weight when compared to 1.5% of singleton babies. Low birth weight increases morbidity and mortality of infants during the first year of life. This results in a corresponding increase in the cost to provide care. We would need to do additional analysis to quantify the impact of these factors.

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This letter contains estimates of future experience, based on the assumptions described herein. It is certain that actual experience will not conform exactly to the assumptions used in this analysis. If actual experience is different from the assumptions used in the calculations, the actual amounts will also deviate from the projected amounts.

John, if you have questions regarding this letter, or would like us to do additional analysis, please feel free to contact me at (952) 820-2481 or leigh.wachenheim@milliman.com.

Sincerely,

Leigh M. Wachenheim

Leigh M. Wachenheim, FSA, MAAA
Principal & Consulting Actuary

LMW/djv

cc: Jim Poolman, Insurance Commissioner

Bibliography:

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