

TESTIMONY OF SCOTT MILLER

House Bill 1041 – Penalty for Statutory Violations

Good Morning, my name is Scott Miller. I am the Executive Director of the North Dakota Public Employees Retirement System, or NDPERS. I appear before you today in support of House Bill 1041.

House Bill 1041 expands the list of statutory violations for which NDPERS can assess a penalty against a governmental unit. Currently, NDPERS is required to assess a penalty against political subdivisions that do not submit required contributions within the statutory timeframe. Having the ability to assess these penalties has been helpful in gaining compliance with statutory responsibilities.

This bill expands the ability to assess those penalties – \$50 and 1% of the amount due – to two additional problems. The first problem this bill seeks to address is errors by political subdivisions regarding what payments to their employees are subject to retirement contributions. NDPERS provides our participating employers with regular and detailed education on what constitutes wages and salaries for purposes of determining the appropriate retirement plan contribution. We have been providing that education for many years. Despite this education, we have some entities that do not seem particularly attentive to those statutory requirements, which results in contribution errors that we need to fix. Depending on what those errors are, there are times when our accountants spend days going back sometimes decades to correct contribution errors – and that is for a single person. We hope the penalty provisions in this bill will help those entities elect to become more attentive to their statutory and contractual requirements. Note that most of these types of errors are over-reporting of income, and so only the \$50 penalty would usually apply, rather than the 1%.

The second problem this bill is trying to address is the failure of some governmental units to pay insurance premiums by the date we have established so that we can appropriately forward those monies on to the carrier. When a governmental unit fails to timely pay those premiums, we are still required to pay our carriers for that coverage. The only funds available to pay for that coverage are from our insurance reserve fund. This has become a significant issue – in just the month of May of last year, we floated almost \$470,000 out of our reserve fund for just 4 political subdivisions. Every dollar of reserve fund money we have to use to pay for this coverage results in less interest income in our reserve fund. Clearly, we have an issue here for which we need some extra authority.

Further, the statutory purpose for that reserve fund is not to help our governmental entities float their insurance premium payments. Establishing a penalty structure will not only encourage governmental units to timely pay their premiums, but will also reimburse our reserve fund for the loss of interest income if those units continue to decline to timely submit those required premiums.

Please note this is not an attempt to play "Gotcha!" with our political subdivisions. Even with the penalty authority we have now, we first try to work with the political subdivision to provide guidance, education and assistance to help them come into compliance before we assess a penalty. Unfortunately, some entities continue to decline to follow statutory requirements. This bill is to try to encourage them come into statutory compliance.

This concludes my testimony. I ask for your favorable consideration of this bill. I would be happy to answer any questions you may have.