

TESTIMONY OF SCOTT MILLER

Senate Bill 2170 – Canadian Reference Drug Pricing

Good Morning, my name is Scott Miller. I am the Executive Director of the North Dakota Public Employees Retirement System, or NDPERS. I am here to testify in a neutral position regarding Senate Bill 2170.

SB 2170 would impose price controls on prescription drugs sold in North Dakota by implementing reference-based pricing using prevailing drug prices in Canada as the reference price. The Insurance Commissioner will be required to set a list of the top 250 drugs each year based on cost data provided by NDPERS, and then must determine the referenced rate for each drug by comparing to Canadian provincial drug costs. The Bill goes on to impose penalties on sellers who violate those prices, or who pull out of North Dakota. This bill does not comply with the statutory requirement that mandates first apply to the NDPERS group insurance plan.

Unfortunately, our consultant, Deloitte, was unable to estimate the actuarial impact of this bill based on the information available, the number of assumptions that would need to be made, and the uncertainty of how the bill could be implemented and administered. They noted that if the price controls required by this legislation cause companies to lose money, it is likely they will withdraw from the state and jeopardize access to needed medications for North Dakota residents.

There could also be questions as to the availability and willingness for the Canadian supply chain to provide cost details to the Insurance Department as the basis of the reference price. Further, all participants in the American supply chain would need to reduce pricing enough so that the total cost to pharmacies is below the reference rate, or local pharmacies may ultimately end up being reimbursed by payors less than their cost to acquire those drugs. This could put local North Dakota pharmacies in jeopardy.

Deloitte also noted that the reference rates required by this bill may conflict with federal most favored nation (MFD) requirements which restricts manufacturers from offering rates lower than what the federal government pays for Medicaid.

Finally, there are a few very large wholesalers that distribute the majority of drugs throughout the country, and they are unlikely to establish offices in North Dakota as required by this bill. If so, this could significantly reduce the availability of medications.