January 13, 2023

Government and Veterans Affairs Committee

Testimony on HB's 1040 and 1039

Mr. Chairman and members of the Government and Veterans Affairs Committee, it is my privilege to appear before you today in opposition to HB's 1040 and 1039. I worked for the State Auditor's Office for over 36 years before retiring because of health issues in September of 2013. I believe these bills will be detrimental to the hiring and retaining of future state employees. In addition, I believe they also will cause current and retired state employees genuine concern as to whether the state will live up to its responsibility to pay their full retirement benefits as promised when they were initially hired.

Two of the primary reasons that state employees remain with the state are the defined benefit retirement program and the excellent health care benefits. Terminating the defined benefit retirement plan removes one of these incentives. We have already heard the Governor and legislators speak about spending tens of millions of dollars on workforce recruitment and retention in the upcoming biennium. Does this effort exclude state employees? Removing half their incentive to remain employed with the state certainly appears as though it does. Why would the Legislature exclude state employees from the state's efforts? Spending millions of dollars to help private employers retain their employees while passing legislation which damages the state's ability to retain its employees makes absolutely no sense.

Switching the plan to a defined contribution plan is going to cost significantly more money over the next 20 years than fixing the plan according to actuarial calculations (hundreds of millions of dollars). Why not invest the money to fix the plan and keep one of the best aspects of employment with the state of North Dakota? As I stated in the prior paragraph, the Governor and legislators have indicated their intent to spend millions of dollars to help private sector employers retain their employees. It seems ludicrous that legislators are going to turn around and spend hundreds of millions of dollars over the next 20 years to close the defined benefit plan and reduce the retention rate of state employees.

The state employees overwhelmingly prefer the defined benefit retirement plan (as survey results show) so why invest significantly more money over the next 20 years to give them something they don't want? Most other states provide a defined benefit plan and some of those that previously switched to a defined contribution plan have either switched back or are considering it.

Media reports cite that the turnover rate for state employees last year was 14% which was the highest ever I believe. Salary studies have consistently shown that state employees are generally paid less than their private sector counterparts. These salary studies include comparisons of fringe benefits and the state's defined benefit retirement plan generally is used to offset a portion of the difference in salaries. Closing of that plan will only increase the difference and logically will result in more turnover. Those of you who are business owners or management understand the true cost of turnover.

The defined benefit plan provides the state employees a significantly better retirement benefit. Based on certain assumptions (i.e. annual rate of return), for an employee with 21 years of service who averaged $40,000 of annual salary, the defined benefit plan would provide almost double the annual retirement benefit. If the state is going to remove this substantial safety net, I believe substantially higher salaries are going to be needed in order to retain staff at the levels that are currently retained. This is especially true for the professional classifications such as lawyers, accountants, architects and engineers.

There are many other ways that the switch to a defined contribution plan is disadvantageous to state employees. For example, in the defined benefit plan their investments are pooled and the investment risks are shared by the entire pool vs the individual investor having the risk of the investments under a defined contribution plan. In the defined benefit plan experts make the investment management decisions while the individuals make those decisions in the defined contribution plan. In addition, as shown earlier the employee can estimate their future income in the defined benefit plan while in the defined contribution plan future income is uncertain.

In the interest of fairness, I am curious why the Teachers Fund for Retirement (TFFR) defined benefit plan is not included in this legislation. Its latest audit shows its retirement fund has more than $1 billion in unfunded liabilities. I understand that the organization has taken steps to bring the unfunded liabilities under control by the year 2045. The question remains why isn't the Legislature pursuing other options for the PERS defined benefit plan? Why are we pursuing this "nuclear option" rather than some other approach? Did the interim committee consider a combination of raising the employer and employee contributions as well as contributions from the general fund and Legacy Fund earnings and request an actuary to calculate the impact on the PERS retirement fund over 30 years? Wouldn't that be worth considering before killing the defined benefit plan?

A cynical person might speculate that politics had a hand in excluding certain groups from these two bills. The vast majority of state employees live in and around Bismarck-Mandan and thus those legislators are going to receive the phone calls and emails complaining about closing the plan. If the TFFR plan was included, legislators from across the state would be subjected to the complaints. In any case it is unfair to subject state employees to the "nuclear option" without seriously considering other options. The state did increase the contributions about 10-12 years ago as a result of trying to help the plan (as a result of a consultant's recommendation). The recommendation was that state employees and the state would each increase their contribution 1% for 4 straight years. However, the Legislature ceased its commitment to this plan after 3 years.

Current and retired employees will have real and understandable concerns about receiving their full and promised retirement benefits if the defined benefit plan is ended. While this legislature can pass a law requiring future contributions from Legacy Fund earnings, future legislatures can just as easily repeal that section of the law. This legislature cannot bind future legislatures to supporting the full payment of the commitments made to the current and retired state employees.

In summary, I believe these bills will result in spending hundreds of millions of additional dollars over the next 20 years to close the plan than would be necessary to fix it. In addition, the end result will be a retirement plan the vast majority of state employees do not want and ultimately this will result in damaging the hiring and retention of state employees. This is ironic and entirely unfair to state employees as it comes at a time when the Governor and the Legislature are proposing to spend significant state funds to help private entities hire and retain employees. Furthermore, passage of these bills will only cause current and retired state employees serious and understandable concern as to the state's intention of honoring their responsibility to pay them their full retirement that they earned and were promised when they were hired.

I respectfully request that you give HB's1040 and 1039 a do not pass recommendation. Thank you for your time and I would do my best to answer any questions the committee may have.