Testimony in Opposition TO HB 1040
Senate State and Local Government

Good morning Chairman Roers and members of the committee. My name is Sharon Schiermeister. I am a retired state employee and I am opposed to closing the PERS defined benefit (DB) retirement plan. Closing the DB plan could put my future retirement payments in jeopardy. During my testimony in front of the House GVA committee, I was told by the chairman that this bill would have no impact on retirees. I do not agree.

The Interim Retirement Committee recognized the importance of providing funding to ensure that all retirement benefits are paid if the DB plan is closed. This will require the state to substantially increase its contributions to the plan for the next 20 years in addition to hundreds of millions of dollars being transferred from the legacy earnings fund. What guarantee is there that future legislative bodies will make these payments?

My concern is based on how past legislative assemblies handled the funding for the DB plan, which I saw firsthand during my career at NDPERS. Included with my testimony is background information on the funding challenges the plan experienced as a result of the financial crisis in 2008-09, the proposed recovery plan, and actions taken by the Legislature from 2011 - 2021. The history shows 6 Legislative Assemblies were unwilling to fully fund the contribution increases proposed as part of the 4-year shared recovery plan. Three years of contribution increases were passed, but the last 1% employer and employee contribution increase never passed. There were several sessions where the requested contribution increases were given a favorable recommendation from the Legislative Employee Benefits Committee, included in the Governor's budget, and passed out of one chamber, but still failed. Even in years with a budget surplus, the additional contributions were not funded. Each time these requests were made, they were accompanied by an actuarial study showing the impact on the unfunded liability if these additional contributions were not made and yet they repeatedly did not get funded. This lack of funding contributed to the size of the unfunded liability we have today. Clearly, funding the DB plan has not been a priority.

I also find it interesting that HB 1040, as originally proposed, increased the state contribution effective 1/1/2025 but was amended to delay that increase to 1/1/2026. The fact that changes are already being made to limit the funding going into the plan clearly demonstrate that my concern is valid. If decisions like this keep getting made that delay funding for the plan, the retirement fund will be exhausted and unable to pay retirement benefits. And then what? Where will the money come from to pay future retirement benefits?

I would feel much more reassured if the Legislature would first address adequately funding the DB plan to restore it to 100% funded status before considering closing the DB plan and putting it on a fast path to insolvency. Therefore, I am respectfully requesting a DO NOT PASS recommendation on HB 1040.

PERS Recovery Plan
In the 2008/2009 fiscal year the financial market had a major correction that was preceded by the tech market collapse in 2001-2002. However, the most significant effect occurred in 2008/2009 when the PERS plan lost about 24.5%. The financial consultant to the State Investment Board, which manages the PERS assets, reported that out of 224 years of US stock performance only 4 years were worse than the returns in 2008. What the plan experienced was truly a unique and significant event. As a result of this dramatic downturn in the financial markets, the long term funded status of PERS was affected and projections showed the plan could become insolvent in approximately 2040. After a significant amount of study, a proposal was brought forward to increase the contributions by 8% over the period from January 2012 to January 2015 which was projected to close this funding deficit. It became known as the PERS 4-year recovery plan and was based upon the concept that the recovery should be shared between the employer and employee. As proposed, the State would pay approximately 25%, the political subdivision employers would pay 25% and the employees would pay the remaining 50%. Essentially, this was a 50/50 split between employers and employees. It was proposed to be spread over 4 years to reduce the effect of the increase in any given year on either party. The Teachers Fund For Retirement (TFFR) also had a similar recovery plan. This proposal came together in SB 2108 that was considered during the 2011 session. This proposal was intended to accomplish three objectives:

1. To stop the downward trend in the funded status of the plan
2. To stabilize the plan
3. To put the plan on a course back to 100% funded status

That session, the Legislature approved the first two years of the recovery plan which included the 2012 and 2013 contribution increases. This stopped the downward trend in the funded status and stabilized the plan. It should be noted that the Legislature passed the full 4 year recovery plan for TFFR and they are now projected to be fully funded by the year 2044.

In 2013 PERS proposed the last two years of the recovery plan contribution increases in SB 2059. It received a favorable recommendation from the Legislative Employee Benefits Committee and was included in the Governors Executive Budget Recommendation. The bill introduced by PERS did not pass, but the third year of the recovery plan was added to HB 1452 in conference committee and passed.

In 2015 PERS proposed in HB 1080 the last year of the recovery plan contribution increases along with some benefit modifications. This included changes to the final average salary calculation, early retirement benefit reduction and changing the Rule of 85 to Rule of 90 with minimum retirement age of 60. The bill was given “no recommendation” by the Legislative Employee Benefits Committee, and was included in the Governors Executive Budget Recommendation. The bill did not pass; however, the benefit changes were added in conference committee on the OMB bill at the end of the session and passed.

PERS submitted HB 1053 in 2017 for the last year of the recovery plan contribution increases. The bill received a favorable recommendation from the Legislative Employee Benefits Committee but was not included in the Governors Executive Budget Recommendation due to the fiscal constraints facing the State. The bill did not pass.

PERS submitted 3 bills in the 2019 session to address the funding concerns of the plan. This included SB 2048 for the last year of the recovery plan contribution increases, SB 2047 to reduce the benefit multiplier for new employees, and SB 2046 to discontinue the Retiree Health Insurance Credit (RHIC) program for new employees and direct the 1.14% employer contribution to the DB plan. These bills all received a favorable recommendation from the Legislative Employee Benefits Committee and the contribution increase was included in the Governors Executive Budget Recommendation. The bills to reduce the multiplier and discontinue the RHIC passed, but the contribution increase bill did not pass.

PERS submitted 2 bills in the 2021 session to address the funding concerns of the plan. This included SB 2042 to have employers pay the actuarially determined employer contribution and SB 2046 for the last year of the recovery plan contribution increases. Both bills received a favorable recommendation from the Legislative Employee Benefits Committee and the contribution increase was included in the Governors Executive Budget Recommendation. Both bills failed to pass.