

# **TESTIMONY OF REBECCA FRICKE**

## **Senate Bill 2121 – Technical Corrections**

Good morning, Mr. Chairman and members of the Committee. My name is Rebecca Fricke and I am the Executive Director of the North Dakota Public Employees Retirement System, or NDPERS. I appear before you today in support of Senate Bill 2121.

Senate Bill 2121 proposes several technical corrections to the statutes we administer. These technical corrections are primarily changes to make our statutes consistent with how we are required to administer our programs. None of the provisions of this bill have an actuarial effect on the system, nor do they require any additional funding. I've attached the analysis performed by both our retirement plan consultant, GRS, and our insurance plan consultant, Deloitte, to this testimony.

Section 1 clarifies that for a temporary employee to participate in retirement, they cannot be actively contributing to any retirement fund. Previous language indicated pension only.

Section 2 has several updates needed due to the passing of House Bill 1309 during the last Legislative Session related to the Bureau of Criminal Investigation (BCI). Specifically, there were a number of areas within this section of code that were overlooked regarding the revised vesting schedule for new BCI agents for determining eligibility for benefits.

Section 2 also clarifies that the calculation of a judge's disability retirement benefit must be reduced by any social security benefits that the judge may be receiving, as the term "primary" is not defined by Social Security.

In addition, Section 2 includes an update regarding automatic distributions of account balances for non-vested members of the judges plan due to federal law provisions for these types of distributions.

Section 3 is a required revision due to changes in federal tax law related to the required minimum distribution age for the Main PERS plan. The proposed changes remove specific reference to the member's age and rather, allow the State to follow the federal tax law anytime it is modified.

Section 4 is a clarification related to district health units due to the Affordable Care Act and its impact on the NDPERS health insurance. Specifically, the NDPERS health

insurance cannot enroll new district health units unless they are considered a large employer under federal law.

Section 5 allows the NDPERS Deferred Compensation Plan to accept Roth contributions, which are after-tax in nature, into the plan. This is a required change due to the federal Secure 2.0 Act that requires this change for highly compensated employee catch-up deferrals as of January 1, 2026.

Section 6 removes the requirement that bonuses paid to members of the Defined Contribution Plan be annualized given this plan does not have a concern if bonuses result in salary spikes for members of this plan. The previous definition mirrored the defined benefit plan language where this would be a concern.

Section 7 corrects an erroneous reference to NDCC 54-52 that was passed last session in House Bill 1040. This same technical correction is being clarified in Section 10 of House Bill 1031, which is a bill that was introduced by Legislative Management.

The Employee Benefits Programs Committee (EBPC) reviewed a slightly different version of this bill during the interim, and gave it a favorable recommendation. However, following this recommendation, it was found that additional edits related to the BCI due to the passing of House Bill 1309 last session warranted additional modifications to the bill. Unfortunately, this determination was made after the final Committee meeting during the interim and therefore, the updated bill with these modifications and EBPC report reflects No Recommendation.

In summary, Senate Bill 2121 clarifies or corrects existing law, in addition to adding necessary language to ensure we comply with Internal Revenue Code changes. We appreciate your positive consideration of this bill. That concludes my testimony. I would be happy to answer any questions you may have.



June 6, 2024

Representative Austen Schauer, Chair  
Legislative Employee Benefits Programs Committee  
North Dakota State Government

**Re: North Dakota Public Employees Retirement System Legislative Studies – Provisions from  
Bill No. 25.0121.01000**

Dear Representative Schauer:

In accordance with your request, we have analyzed the impact of Bill No. 25.0121.01000 on the North Dakota Public Employees Retirement System (NDPERS). Our review is actuarial in nature; we are not attorneys and cannot provide legal advice.

**Systems Affected**

Deferred Compensation Plan for Public Employees, Defined Contribution Plan, and Public Employees Retirement System (PERS)

**Summary**

Bill No. 25.0121.01000 makes technical corrections to the Century Code.

- Section 1: Minor clarification to the definition of a temporary employee
- Section 2: Clarifies the Bureau of Criminal Investigation early retirement service requirements based on date of hire
- Section 3: Clarifies the offsets made to Judge's disability benefits due to Social Security and workforce and safety insurance benefits
- Section 4: Clarifies and updates Required Minimum Distribution language
- Section 5: Clarifies eligibility for Uniform Group Insurance Program
- Section 6: Provides clarification regarding ROTH IRAs in the Deferred Compensation Plan
- Section 7: Minor clarification to definition of "wages" and "salaries"
- Section 8: Corrects a reference to the Century Code

### **Actuarial Impact of Bill 121**

The changes in Sections 1, 2, 4, 7, and 8 are minor clarifications that have no actuarial impact. The change in Section 5 impacts the Group Insurance Plan, which is outside the scope of our review. The change in Section 6 impacts the Deferred Compensation Plan, and has no actuarial impact.

The change in Section 3 could have a very minor impact on disability benefits for some members in the Judges Plan, but the actuarial impact is expected to be immaterial.

### **Policy Issue Analysis**

#### **Benefits Policy Issues**

- Adequacy of Retirement Benefits

No impact.

- Competitiveness

The ability to offer ROTH IRA in the Deferred Compensation Plan will likely enhance the competitiveness of the plan.

- Benefits Equity and Group Integrity

No impact.

- Purchasing Power

No impact.

- Preservation of Benefits

No impact.

- Portability

No impact.

- Ancillary Benefits

No impact.



- Social Security

No impact.

#### **Funding Policy Issues**

- Actuarial Impacts

No impact.

- Investment Impacts

No impact.

#### **Administration Issues**

- Implementation Issues

None.

- Administrative Costs

No Impact.

- Needed Authority

The bill appears to provide appropriate levels of administrative and governance authority to the PERS Board to implement the changes made by the bill.

- Integration

None.

- Employee Communications

The ability to offer ROTH IRA in the Deferred Compensation Plan will need to be communicated to eligible employees.

If the clarification of offsets to the Judges disability benefits impacts any individuals, that change will need to be communicated to them.



- Miscellaneous and Drafting Issues

None.

**Disclosures and Additional Information**

We have reviewed the bill and provided a policy issue analysis from our perspective as actuaries. However, the policy issue analysis should not be considered to be comprehensive and there may be additional benefits policy, administration issues or legal issues that are not discussed in this letter.

The signing actuary is independent of the plan sponsor.

Bonita J. Wurst and Abra D. Hill are Members of the American Academy of Actuaries (MAAA) and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

Please let us know if you have any questions.

Sincerely,



Bonita J. Wurst, ASA, EA, MAAA, FCA  
Senior Consultant



Abra D. Hill, ASA, MAAA, FCA  
Consultant

cc: Rebecca Fricke, NDPERS  
Joshua Murner, Gabriel, Roeder, Smith & Company



## Memo

**Date:** June 7, 2024

**To:** Rebecca Fricke - Executive Director, North Dakota Public Employees Retirement System  
Representative Austen Schauer - Chair, Legislative Employee Benefits Programs  
Committee, North Dakota State Government

**From:** Tim Egan, Dan Plante, Ford Edgerton, and Karno Sarkar - Deloitte Consulting LLP

**Subject:** **FINANCIAL REVIEW OF PROPOSED AMENDMENT 25.0121.01000**

Deloitte Consulting LLP (Deloitte 'I') was engaged to review the proposed legislation and the potential financial impact to the Uniform Group Insurance Program (Program) administered by the North Dakota Public Employees Retirement System (NDPERS), as well as other considerations that may contribute to the evaluation of the legislation.

The information included in the review relies on data provided by NDPERS, as well as publicly available data and industry studies. From the data provided by NDPERS, some of these data sources were developed by NDPERS, while others were prepared or created by third parties and delivered to NDPERS.

As part of the review, all data was reviewed for reasonableness, but an audit was not performed on the data. To the extent the data contains errors or anomalies that were unknown at the time the data was provided, the analysis may be affected by those issues.

### **OVERVIEW OF PROPOSED AMENDMENT**

NDPERS requested an analysis of Section 5 of the legislation that impacts 54-52-1. Section 5 of the amendment reinstates the eligibility of certain political subdivisions to participate in and contribute to the Uniform Group Insurance Program. A permanent employee from these subdivisions may participate in the program's benefits, provided they meet the minimum requirements set by the Board.

The political subdivision is required to participate for a minimum period of sixty months. Should a political subdivision opt to withdraw from the Uniform Group Insurance Program before fulfilling this time requirement, they are obligated to reimburse the Board for the benefits they have received.

This amendment specifies that Garrison Diversion may participate in the Uniform Group Insurance Program under the same terms as state agencies. Other district health units may continue to participate in the Uniform Group Insurance Program under the same terms as state agencies if they participated in the plan before the enactment of the Affordable Care Act. The previous version did not state that eligibility required participation prior to the Affordable Care Act.

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## **ESTIMATED FINANCIAL IMPACT**

Based on the analysis review, it is anticipated the proposed amendment will have no financial impact on the Uniform Group Insurance Program.

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