

**2021 SENATE INDUSTRY, BUSINESS AND LABOR**

**SB 2300**

# 2021 SENATE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Fort Union Room, State Capitol

SB 2300  
2/2/2021 AM

relating to determination of full-time employment of the state
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**Chair Klein** opened the hearing at 10:32 a.m. All members were present. Senators Klein, Larsen, Burckhard, Vedaa, Kreun, and Marcellais.

### Discussion Topics:

- Full-time employee benefits
- Definition of a temporary worker
- Temp workers' inability to receive job benefits

**Senator Peipkorn** introduced the bill, testified in support, and submitted testimony #4915 [10:32].

**Valerie Barbie** testified in support and submitted testimonies #4815, 4816, 4817 [10:42].

**Scott Miller, Executive Director of the ND Public Employees System** testified neutral and submitted testimony #4258 [11:02].

**Additional written testimony:** 4263, 4403, 4510, 4676, 4697, 4746,

**Chair Klein** ended the hearing at 11:09 a.m.

*Isabella Grotberg, Committee Clerk*



## NORTH DAKOTA SENATE

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



### Senator Merrill Piepkorn

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### COMMITTEES:

Finance and Taxation  
Energy and Natural Resources

Feb 02, 2021

Good morning Chairman Klein and members of the Industry, Business and Labor Committee. I'm Senator Merrill Piepkorn, representing north Fargo's District 44. I'm here today to introduce Senate Bill 2300 which addresses the topic of transitioning temporary full-time state employees to full-time permanent employees.

Whether it's here in this building, on the greater capital campus, or in the many offices across the state, we are blessed in this state to be served by top quality, friendly and professional state employees. And whether I am conducting my own personal business or inquiring on behalf of a constituent, I have had overwhelmingly positive experiences with our state employees.

Many of these employees are temporary. According to the office of Management and Budget, as of December of 2020 the state employed 2218 temps, 1565 of which were full time. It is the view of the proponents of this bill that after a qualifying period of time, these temporary employees should at least be offered a permanent position with the accompanying benefits of permanent employment.

From the bill

Section 1, number 1

And

Section 1, number 2

Others will follow with personal stories and more statistics on the status of temporary full-time employees.

Thank you for your time this morning. I'm returning to my committee meeting next door, but I do urge you to carefully consider the value of all our state employees and consider the benefits of advancing our full-time temporary workers to full-time permanent employees. Even as we invest in them, they in turn are more able to invest and participate in their communities. I respectfully ask you consider a DO PASS vote on Senate Bill 2300.

<b>Agency Name</b>	<b>Temporary Count (Dec 2020)</b>
Governor's Office	4
Secretary of State	5
Office of Mgmt & Budget	7
Information Technology Dept	16
State Auditor	8
Attorney General	7
State Tax Commissioner	7
State Judiciary	207
Legal Counsel for Indigents	5
Public Employees Retire System	1
Ethics Commission	1
Public Instruction	2
ND Department of Trust Lands	9
State Library	2
School for the Deaf	18
School for the Blind	12
Career and Technical Education	84
ND Department of Health	984
Environmental Quality	8
Veterans' Home	66
Veterans Affair Department	1
Human Services	221
Protection and Advocacy	2
Job Service ND	70
Industrial Commission	21
Dept of Financial Institutions	4
Securities Commissioner	1
Bank of North Dakota	11
Housing Finance Agency	1
Workforce Safety & Insurance	7
Highway Patrol	10
Corrections & Rehab	118
Adjutant General	87
Department of Commerce	3
Department of Agriculture	29
Milk Marketing Board	1
Seed Department	12
State Wheat Commission	1
Historical Society	64
Council on the Arts	3
Game and Fish Department	17
ND Parks & Recreation Dept	29
Water Commission	5
Department of Transportation	47
<b>Total</b>	<b>2218</b>

February 2, 2021

In December of 2014 I documented the situation of being a temporary employee. September of 2015 I was finally made an FTE after my managers devised a plan to make me a permanent employee after 8.5 years of being temporary. The division administrative assistant had retired and had not yet been replaced. They worked with OMB to combine my duties in cultural resource management as 80% of the position and administrative duties as 20% percent. While this was a win for me to finally be able to participate in the retirement system, have quality healthcare without bleeding my bank account dry, and have access to paid time off as well as other perks, it was a disadvantage to my team in Cultural Resources because they lost at least 20% of my availability for highway projects. It had apparently been decided that we would not be pursuing an FTE position to be dedicated solely towards the archaeological and historic preservation needs of the department despite our legal obligations to do this work.

In March of 2016 I learned how lucky I was to have been brought on as an FTE. My coworker who was a temporary employee was suddenly let go the day before he was to close on his home. This was a hard blow for him and our team. The coworker this temporary person closely coordinated with is now doing both sets of job duties to this day.

I often wonder how much I am missing in retirement benefits due to being held in limbo as a temporary employee for 8.5 years, what would that be with compounded interest? Could I have my student loans paid off by now if I hadn't had to choose to put \$400 give or take per month towards having health insurance all of those years. Could I have swung getting a Masters degree during those years of employment had tuition reimbursement been a possibility for me? How much further ahead I could be had I been an FTE versus a temporary employee for those 8.5 years?

Today the situation doesn't seem to have improved. The state of ND has over 2200 temporary employees and the majority are working full-time, the majority of which are women, a protected class that is clearly being taken for granted and advantage of. 25% of the full-time temporary employees are receiving health benefits. The main reason this percent is so low is because they are paying premiums for just single coverage it is \$687 and \$1,656 for family. The agency may choose to cover some amount of that, which may explain why 25% have opted in for coverage, but that data was not provided. The one nice thing about this is that these employees can choose to go to the marketplace and select other coverage and not have to worry about pre-existing conditions preventing them from having an option in what they can afford to pay for a premium, but this does not ensure that people are getting quality insurance or accessibility to the care they may need. How can one choose to put 10% towards retirement, purchase health insurance at this obscene cost, pay for food and shelter let alone childcare or anything else? Are these state employees surviving as wards of the state, with Medicaid and SNAP benefits to get by?

My concern is that the state of ND is treating temporary employees like interns or worse. Walmart, Target, and Starbucks all provide healthcare at little cost to their employees. I think we have all heard about Walmart employees living on food stamps and low-income housing. Two of these employers I have worked for, and they also provide paid time off. Starbucks provides investment opportunities and is even investing in their employee's education. ND holds on to their temporary

employees indefinitely because these are needed and necessary positions, which are integral to the function of these agencies. Nearly half of the temporary employees are working for Dept of Health. I cannot imagine how an agency would function without 984 employees. This is creating an imbalance in our working environment. We certainly do not do this to our contractors. They are paid enough to cover their employee's wages, insurance, retirement and other overhead costs. We are not paying employees enough to cover these costs and come out with a living wage. We can tell these people to pull themselves up by their bootstraps, but they can't even afford to buy bootstraps. They can't afford to stay home sick. They can't afford to take a needed vacation or time off to care for a loved one.

There is a line between being fiscally responsible and just taking advantage of your community and work force. Obviously, these are not temporary positions and either the state chooses to remain exploiting their human resources, or their status needs to be changed. The state of ND has made it clear what benefits an employee deserves, to be successful and well compensated, but has also drawn a line in the sand that temporary employees should be disenfranchised. All employees need to be able to afford to contribute to their retirements, healthcare, and not just paying off debt, but also fully able to participate in supporting their communities economically.

Valerie Barbie  
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December 5, 2014

Temporary employees face numerous challenges as state employees from the ability to access training, attend conferences, stay current in their profession, and obtain financial assistance to further their education and advance in their career and agency. Even raises were recently few and far between and reviews have not been mandatory, nor consistent. How does one know how to improve, grow, and feel valued by their employer without this basic documentation and guidance? What record of good employment exists for the employee if a future employer should inquire about reviews and quality of work? Many permanent temporary employees are working full time jobs for the state of ND and are in the same position for years, even decades with no opportunity to advance. They receive no benefits, or cannot afford to pay for the benefits they are offered upon hiring such as retirement and healthcare. I had to turn down the retirement plan at hiring because I could not afford to sacrifice 10% of my pay at \$13 an hour. The retirement plan is a onetime offer unless one changes their classification or position. I now pay a financial advisor several hundred a year to create and manage a retirement plan for me that in no way will compare with what I could have had with the state because it all comes out of my pocket and after tax. Until I married, I was paying the full premiums for the state health plan because I did not qualify for individual insurance outside of a group, I have pre-existing conditions, so I paid thousands of dollars a year to have coverage. Now we have ACA coverage coming, but we are still second-class employees because we have to pay for our plans and the family plan at \$758 is unaffordable to most anyone who will really need it, such as a single parent, but maybe our state expects these families to be so poor and in dire straits that they will qualify for Medicaid and SNAP.

I have expressed my frustrations to my management, but I always hear that our legislature has to make a position. Well, that cannot happen unless my director asks for that position. The next thing I hear is that I need to get a Master's degree to qualify for the position, that is if we should ever get an FTE position. What is the incentive for me to add \$40k in debt for a MA when there is no guarantee of a position because the state of ND will not commit, or offer me any financial assistance? Most people in my field with a MA make 5 to 10k more than I currently earn. It doesn't seem logical to go that deep in debt with 6% and up interest rates for a job that pays a few grand more than I make now as a full-time temp with a BA and all the student loans to boot. My colleagues are near retirement. I have been in my temp job for almost a decade and I am the only person trained to fill their shoes. My colleagues

have been mentoring me to fill one of the positions upon their retirement, but I have to have a MA to actually do so. The potential to find anyone with similar knowledge and skills is limited due to the nature of our work, and the job description being different from the private sector. These positions have a learning curve and most people would be starting from the ground up and need to learn a new and different skill set, and navigate complicated politics. We are and will be suffering from "brain drain" and our agency needs temporary employees like myself to be able to acquire the education with tuition reimbursement FTE's have so we can advance into these jobs, climb the ladder and stay in ND.

The state of ND has created a situation of the haves and have nots and the temporary employees have not in countless ways. We take on huge financial burdens that colleagues doing the same job in the next cubicle do not. We put off having families because we cannot afford children, maternity leave, or daycare while our colleagues in an FTE position can do all of this and more. I want to raise my family here, but first I have to be able to afford to start one. I am at work sick spreading my illness because I cannot afford the unpaid time off, but when my colleagues are sick, they can keep their illness at home because they have sick leave. I work weekends to make up lost hours due to illness and mandatory holidays, which my colleagues receive pay for. Temps cannot go on vacation without eating every hour they are absent from work. The financial hampering created by our lack of classification hurts our economy by severely limiting the spending ability of a large group of people within the community. Long term temporary employees do not qualify for loans or mortgages because they can never get away from that dirty word temporary. Our positions are renewed yearly and that makes us high risk in the eyes of a banks. North Dakota is holding back countless people from the greatest investment most of us ever make in our lives besides education and retirement. It cannot possibly hurt the state government to make these positions into FTE's. We are a financially stable state with a great need in our agencies for FTE's and instead we fill the gap by creating second class employees that are not worthy of anything bestowed upon our colleagues who are lucky enough to be in a FTE position. We spend billions on infrastructure, but cannot make enough FTE's to improve the quality of life for all of our state employees. When I and my colleagues have objected to the overload of work, lack of staff, and need for my position to be made FTE to deal with the massive growth and needs in our state we have been shown the door. I have seen one FTE and one temp walk out that door together in protest to the inability of getting the temp a raise. Yet temps all hope that being temporary is a shoe in to the next level of our careers, but when some eventually become fed up and leave they take all the state has invested in their training, knowledge, and skills to an employer



who will value them. I value my agency and its mission, my colleagues, my job, my duties and responsibilities as a public servant. I love what I do for the state I grew up in, and I want to grow in my career with the state, but my state does not value my service. How can it as long as it treats me as a second-class employee?

Inequality in the workplace destroys morale and the feeling that we are all players on the same team. The inability of management to set goals, build leadership and foster personal growth with long term temporary employees leads to a disjointed partnership, a feeling of we are going and growing nowhere together. Temps are left to pull themselves up by their bootstraps while our colleagues who are FTE have opportunities and the partnership with management to reach goals, be leaders, and go from young professionals into positions of management and to receive recognition, which temps can only dream about. Temps have become an integral part of the system and cannot be done away with without creating undue burdens and total dysfunction in the state agencies. North Dakota you can't have young professionals as cheap labor and say you foster careers, and professional growth. You cannot be a leader when you are leaving untold numbers of employees and educated professionals behind, feeling taken advantage of, and keep them hidden from the public view and afraid to speak out because their job could just disappear tomorrow. You have created a lie by calling us temporary when the need is clearly there for us to work full time year after year, decade upon decade. You keep up this lie so you can have cheap labor, and pretend you are not growing government. As long as this state is growing, the government must grow with it, in order to complete its mission and responsibilities to the citizens. The responsible thing to do is to grandfather these people in and make their year after year positions into FTEs. Long term temp employment keeps people poor, and disadvantaged. We do not have equal opportunities in our state, we are second class employees who can never get ahead, we are the children you leave behind so you can get ahead. You cannot water only half of your garden and expect a bountiful harvest. We cannot progress as a state unless we progress together and create a future for all of our state employees. Invest in your employees and we will all reap the rewards.

Always,

Temporary

## **TESTIMONY OF SCOTT MILLER**

### **Senate Bill 2300 – Long-Term Temporary Employee and Contract Worker Benefits**

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 2300.

This Bill requires the state to transition temporary and contract employees to full-time equivalent positions if they are employed in that capacity for 24 months. The state would have to provide full-time benefits, and apparently give retroactive retirement credit for the previous 24 months.

We have concerns with both our retirement plan and our group insurance plan. First, granting retroactive retirement service credit to temporary employees and contract workers would negatively affect the retirement plan funding, which is already a problem. There is nothing in the bill regarding payment for that service credit, so every person granted that credit will be an actuarial loss to our system.

Further, while temporary employees now have the ability to voluntarily participate in our retirement plan, contract workers cannot. Under the Internal Revenue Code (IRC), only people who meet the definition of “employee” can be a part of the retirement plan. Contract workers cannot, by definition, be employees. As such, they cannot participate in our retirement plan under the IRC. This bill would create some issues for us as far as being able to remain a qualified retirement plan under the IRC.

From the health plan perspective, “full-time” temporary is not defined and could conflict if it is below our NDCC definition for eligibility for health plan (which mirrors the federal government requirements). Also, where it talks about eligibility for “benefits”, we are unclear whether this is meant to include dental, vision, deferred compensation and flexcomp, and would conflict with our NDCC for eligibility as it relates to all these plans as only permanent employees are eligible to participate (not temporary), other than flexcomp. Flexcomp may conflict with Section 125 of IRC, which we are looking into. It does conflict with our flexcomp plan document.

Finally, allowing contract workers that are by definition not governmental employees to participate in our health plan may cause our health plan to lose its status as a “governmental plan”. If we were to lose that status, a host of ERISA requirements would immediately apply.

## **TESTIMONY OF DERRICK HOHBEIN**

### **Senate Bill 2300 – Long-Term Temporary Employee and Contract Worker Benefits**

Good morning, my name is Derrick Hohbein. I am the Chief Operating/Financial Officer of the North Dakota Public Employees Retirement System, or NDPERS. I appear before you today in a neutral of Senate Bill 2300. I am available should there be any questions related to the impact of the bill on any of the NDPERS benefits.

Thank you Chair and Committee,

I am a current state employee and none of this testimony was written during my work hours.

I am testifying on this bill due to the nature of long term TEMP status in the state of North Dakota. I worked for the NDDOT between 2014 and 2016. I was a long term TEMP employee. The work I did was necessary and when the department was forced to cut its TEMP staff, I along with many other long term temporary workers lost our good paying and necessary jobs.

I worked within the Environmental Technical Services Section. I worked with landowners to certify the use of their land for material source approval. I would go in and draw maps on what land would be environmentally sound to mine. I would also work on projects and became a bit of a Swiss Army Knife for the section. I worked directly with much of the staff and worked on a good deal of projects and made sure that work was done correctly, efficiently, and effectively.

I had worked for nearly 2 years at the position when I decided I could buy a house. It would have given my family and I further stability in Bismarck and allowed my children access to a backyard and their own bedrooms. I would have moved out of the 2 bedroom I lived in and given them a little bit of a better life than they had. Unfortunately, the price of oil sank.

The price of oil is an odd thing, to some it means cheaper cost of living, a smaller price paid to fill the tank, and lesser cost of getting goods due to cost of delivery. We in North Dakota have learned that the cost of oil affects us much differently. The decisions of the legislature and state funds hinge on the price of oil. It was a rough couple months of low oil prices for North Dakota, which means that it was time to scrap hard working people.

I had found a nice duplex I was going to buy. I would live on the top level and rent out the basement. It had a large yard, a shed, and a garage. My closing date was March 12th. March began like any other month, I was working on the final arrangements to buy my house, working to help a local charity I was involved in, and working my job. The Department head called me into the office and let me know that I would be laid off, not because of anything I had done, not because the work I did wasn't necessary, but because the coffers of the state said they couldn't afford me. My last day would be March 12th. I would no longer be able to buy a house. I no longer had a plan to move forward. It was hell and why did this happen? Because the state was too poor to handle mine and my fellow workers' salaries any more. The legislature hadn't granted enough Full Time Employment positions to cover the work needed to be done at the NDDOT.

The legislature role of determining the needs of departments and what is "good" politically when it comes down to budgeting. The people that head departments know their needs and shouldn't have to beg for the meager staffing they receive. These decisions need to come from a level that understands the workings inside the department and what is necessary. A good guy post for this would be positions that are kept for 2 years to become Full Time Employees. Please support this bill.

Joseph Roberson-Kitzman

## **TESTIMONY OF REBECCA FRICKE**

### **Senate Bill 2300 – Long-Term Temporary Employee and Contract Worker Benefits**

Good morning, my name is Rebecca Fricke. I am the Chief Benefits Officer of the North Dakota Public Employees Retirement System, or NDPERS. I appear before you today in a neutral position on Senate Bill 2300. I am available should there be any questions related to the impact of the bill on any of the NDPERS benefits.

**NORTH DAKOTA SENATE**

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**COMMITTEES:**

Education  
Government and Veterans Affairs

***SB 2300 Testimony******Senate Industry Business & Labor Committee******Fort Totten Room 2/02/21 @ 10:30 am***

*Chairmen Klein members of the Senate Industry Business & Labor Committee for the record my name is Richard Marcellais Senator from Rolette County District 9.*

*I am here this morning to testify in favor of SB 2300 - relating to determination of full time employment of the state.*

*Temporary employment is not clearly defined in the North Dakota Century Code.*

*Chairman Klein members of the Senate Industry Business & Labor Committee, I urge Do Pass on Senate Bill 2300.*



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*Great Public Schools**Great Public Service*

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**Testimony before the Senate Industry, Business and Labor Committee**  
**SB 2300**  
**February 2<sup>nd</sup>, 2021**

Good morning Chairman Klein and members of the Committee. My name is Tom Gerhardt and I'm the Director of Public Affairs for North Dakota United. North Dakota United has over 11,000 members statewide in K-12 education, higher ed faculty and staff, and public employees.

I write in support of SB 2300 which would offer benefits to temporary full-time state employees with two or more years of consecutive service and respectfully urge a DO PASS recommendation.

SB 2300 would provide temporary, full-time employees with salary and benefits equal to that which is provided to full-time permanent employees, the ability to be eligible for annual raises in the same percentages as provided full-time employees, and the ability to participate in the public employees retirement system.

These employees provide valuable services to the state of North Dakota. As a former manager, I know turnover comes with a cost. It's inefficient and exhausting. SB 2300 will make it easier to recruit and retain quality employees in North Dakota.

There are many reasons a person may wish to work in a temporary, full-time position. Perhaps they have children at home to take care for or an elderly parent. We believe with two years of service they have proven their value and commitment to the state.

For these reasons, Chairman Klein, I urge a DO PASS recommendation for SB 2300.

Thank you for your time and consideration.



## **TESTIMONY OF MARYJO ANDERSON**

### **Senate Bill 2300 – Long-Term Temporary Employee and Contract Worker Benefits**

Good morning, my name is MaryJo Anderson. I am the Retirement Programs Manager of the North Dakota Public Employees Retirement System, or NDPERS. I appear before you today in a neutral position regarding Senate Bill 2046. I am available should there be any questions related to the impact of the bill on any of the NDPERS benefits.

# Bill Actions for SB 2300

Introduced by Sen. Piepkorn, Marcellais, Oban

Introduced by Rep. Dobervich, Schneider

A BILL for an Act to create and enact a new section to chapter 54-06 of the North Dakota Century Code, relating to determination of full-time employment of the state.

Date	Chamber	Meeting Description	Journal
01/25	Senate	Introduced, first reading, referred Industry, Business and Labor Committee	<u>SJ 270</u>
02/02	Senate	Committee Hearing 10:30	
02/08	Senate	Request return from committee	<u>SJ 421</u>
		Withdrawn from further consideration	<u>SJ 421</u>