

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/08/2015**

Bill/Resolution No.: HB 1154

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$971,416	\$844,464	\$971,416	\$844,464
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties		\$447,358	\$447,358
Cities		\$191,845	\$191,845
School Districts		\$478,407	\$478,407
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

A bill to allow the active DC 401(a) retirement plan members to move to the Defined Benefit plan.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Segal consulting estimates a cost of \$1,501,476 in additional required annual contributions for full participation. This would be approximately .17% of payroll.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*
- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- See 2B above. If the contribution increases as proposed in the executive budget, the fiscal impact would be eliminated. Administration can be done within the NDPERS budget.
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

This bill does not provide an appropriation to pay the actuarially required cost to make the proposed change.

**Name:** Sparb Collins

**Agency:** NDPERS

**Telephone:** 701-328-3900

**Date Prepared:** 01/14/2015

**2015 HOUSE GOVERNMENT AND VETERANS AFFAIRS**

**HB 1154**

# 2015 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Fort Union, State Capitol

HB 1154

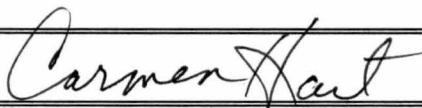
2/5/2015

23361

☐ Subcommittee

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A bill relating to an election for members of the defined contribution retirement plan to transfer to the public employees retirement system

### Minutes:

Attachments 1-17

**Chairman Kasper** opened the hearing on HB 1154.

**Rep. Jessica Haak**, District 12, appeared in support. Attachments 1-3 (:48-4:21)

**Rep. Schneider** What harm would it do to allow that choice and what impact would that have on the plan? Would that be negative or positive?

**Rep. Haak** This bill along with HB 1080 would increase the health of the fund as it stands today.

**Rep. Seibel** What happens if this bill passes and HB 1080 does not pass?

**Rep. Haak** If you look at the actuarial, it does have a negative impact on the fund if this bill would pass alone.

**Rep. Laning** Weren't the employees offered this option two years ago?

**Rep. Haak** Two years ago we passed a bill that would allow them to choose either one at the beginning of their employment. The plan they are on now did allow them to change.

**Chairman Kasper** You are indicating there are about 200 in the defined contribution plan that this would affect. When those people get into the defined contribution plan?

**Rep. Haak** It is my understanding that in 1999 WSI gave them the option of choosing defined benefit or defined contribution, and they went with the defined contribution.

**Chairman Kasper** At the time each employee was hired or there might have been an open opportunity afterwards, they on their own choice chose the defined contribution plan. Is that correct?

**Rep. Haak** That is correct. It is important to note that in 1987 there was a bill similar to this that passed sponsored by Rep. Martinson that did allow defined contribution employees to opt back into the plan.

**Chairman Kasper** What is the genesis of the bill? Are you hearing from the state employees that they are unhappy with the performance of the defined contribution plan? What caused you to want to bring forth this bill?

**Rep. Haak** It was a question that I asked of how this option would affect which led to the study of the fund. After I asked that question, I was contacted by several state employees seeing if I would be willing to pursue. We did look this over in the Employees Benefit Committee.

**Chairman Kasper** Did you do a survey of those 200 employees to see how they felt?

**Rep. Haak** This was presented to the Employees Benefit Committee before I had proposed the bill. It is my understanding PERS polled themselves, and this was presented to us in June 2014 so I did not contest this.

**Chairman Kasper** This survey was done in June 2014?

**Rep. Haak** It was presented to us in June 2014.

**Chairman Kasper** Do you know when the survey was completed?

**Rep. Haak** I do not recall that information, but I have a binder that I could look for and try to find for you.

**Rep. B. Koppelman** What happens if the other bill passes and your fails? Does the amount, if those 200 people stay defined contribution, jump to 16.12, or would they stay at their current rate?

**Rep. Haak** I would have to defer that question to Stuart.

**Stuart Savelkoul**, Assistant Executive Director of North Dakota United, appeared in support. We have some members here who will offer their testimony instead, and then I can answer any questions that haven't been answered by then. The circumstances under which WSI employees entered into this decision were different than what many folks would initially expect. He also had 10 other written testimonies provided to the committee. Attachments 6-17.

**Chairman Kasper** Does this bill pertain only to the employees at WSI?

**Stuart Savelkoul** The quick answer is no. The lion's share of the folks who made that switch in 1999 were employees of WSI.

**Rep. B. Koppelman** Are you able to answer the question I asked Rep. Haak?

**Stuart Savelkoul** Yes. If you pass this bill but 1080 does not pass, it will have a slight negative impact on the actuarial funded status of NDPERS. If you pass 1080 but don't pass this one, the fund improves. If you pass 1080 and this one, the fund improves more.

**Rep. B. Koppelman** My question was specific to the 200 individuals. If they stay where there at, the defined contribution plan, and 1080 passes, what is the effect on those individuals? Is their amount they pay into retirement going to increase, stay the same, or decrease?

**Stuart Savelkoul** HB 1080 will increase the employer contribution to state employee retirement and increase the employee contribution to retirement by 1% each. That would occur whether you were in the defined benefit plan or in the defined contribution plan.

**Rep. Louser** How is this different than what failed two years ago?

**Stuart Savelkoul** Your own chairman sponsored a piece of legislation that sought to allow state employees to make the choice going forward whether they wanted to be in a defined contribution plan or a defined benefit plan. That was just for new hires. We attempted to amend that bill so that new employees that wanted to opt for the defined contribution plan should be given the option and simultaneously we wanted to allow anybody who had previously chosen the defined contribution plan a one-time opportunity to come back into the defined benefit plan. Some folks might have voted against the amendment because it wasn't necessarily speaking to the true spirit of the bill. There was no stand-alone bill last time.

**Chairman Kasper** Thank you. You are correct.

**Rep. Louser** Are there any proposals in another bill or this that would allow for somebody that is currently in the DB plan to go to the defined contribution plan?

**Stuart Savelkoul** Yes, Senate Bill 2038.

**Cade Jorgenson**, WSI Employee, appeared in support. Attachment 4. (17:20-21:33)

**Rep. Louser** There is a lot of consideration that goes into which plan to pick when you are hired. There are a lot of benefits to both plans, one of which is the future returns, but only one of which is. On what basis did you choose defined contribution when you made your election?

**Cade Jorgenson** I became a regular state employee in 1997 after starting at WSI as a temporary non benefited employee. My background and education is insurance and management. WSI was a carousel of turnover. It was a higher carousel of turnover in management ranks, so what weighed heavily in my determination was portability in the fact

that if I wanted to have a career in management, I didn't know with any certainty that I could expect to do so within at least WSI for the state of North Dakota. The terminations that I saw coming and going with the state agency and the extensive turnover impacted significantly my decision to elect defined contribution.

**Rep. Laning** Do you know what the Segal analysis assumed for percent growth?

**Cade Jorgenson** My understanding from reading the Segal report is NDPERS board gave the assumption to the Segal group of an 8% return on investment. The assumptions to try to compare apples to apples was they converted defined contribution membership to be able to retire at the same rule of 85 that is present under the defined pension plan.

**Rep. Mooney** With WSI were you allowed either or then to opt in one plan or another?

**Cade Jorgenson** Yes, it was an option. Everybody had to make an individual decision as to whether to opt in or opt out. The following testimony might go into a little bit as far as what information was provided by the agency at that time. It was short of information and I think a lot of folks made an uninformed decision.

**Rep. Mooney** Do you have a sense compared to some of your fellow coworkers who opted with the other plan how well their plan did in comparison?

**Cade Jorgenson** I haven't discussed in detail with colleagues as far as what their retirement balances are. I take at face value that the Segal study that was recently done is very comprehensive in that regard and does a fair assessment. I believe their determinations are accurate.

**Rep. Karls** Do you have any idea how many would still be in the defined contribution plan?

**Cade Jorgenson** According to a June 2013 report, there were 227 participants in the defined contribution plan.

**Rep. Karls** How is that fund going to do with 27 people left in it? If 200 of them pull out now, does that mean there will be 27 left?

**Cade Jorgenson** That is correct, but you have to think of the defined contribution plan more as a 401K type of account. It is not a fund for the membership as a whole to draw from. It is an individual account that these folks are enrolled in.

**Rep. B. Koppelman** If we would allow you to switch today, would you have an instant increase in the value of your retirement and how much would that increase be?

**Cade Jorgenson** If I had the choice to make an election back, I would have to do my best to make another informed decision. It wouldn't be instantaneous for me. I would have to make some projections and comparisons. I can say with relative confidence that last time I did that projection over a year ago, defined pension plan with the same input, the projections are double the value of what I could get under defined contribution because of

the returns that professional rather than an individual trying to manage those dollars can account for.

**Rep. B. Koppelman** Would you ever be in favor of just allowing them to pick your funds in defined contribution?

**Cade Jorgenson** I am in favor of this bill. I am one of the lucky few who came in at the basement, so we have been in this plan for 15 years. I am still relatively young. I have colleagues who are at, past, or very near retirement who have no chance of making up the difference. I have the chance of making up the difference over the time. I think that choice is something I would very much like to see my colleagues be able to make. That would be a good option if the legislature sees fit to leave it as is and not give us the option. You could give us the option of buying into the state fund. That is not an option right now for us.

**Rep. Laning** If you were given the option to switch over, didn't you say that whatever funds you have in the defined contribution fund would switch over to the defined benefit? If that is instantaneously worth more to you in retirement, there has to be a liability to the state. Something is not connecting here.

**Cade Jorgenson** I'll let Stuart elaborate on that. By and large if you have a sum of money that is going to come in back to the state retirement system and they manage that fund better than the individuals that are doing that, that is where you get that difference in return, and that is why that is not the negative impact on the state pension plan.

**Vice Chair Rohr** I have a defined contribution plan, but I also have a financial advisor. He helps me manage all my funds. Isn't that what you did too?

**Cade Jorgenson** We do have the option of financial advisors through whoever is sponsoring our plan. The folks I know are availing themselves of that advice, but that advice is not translated to better returns.

**Rep. Louser** Do you know what the return has been historically on your plan?

**Cade Jorgenson** I don't know. I can estimate. Fidelity would not provide that for me. TIAA-CREFF has provided that for me. The Segal Study demonstrated that those returns are underperforming the pension plan. It also highlights the fact that a professionally managed fund is going to return at least one more percent per year than the individually managed.

**Rep. Louser** I would like a ballpark number, because the defined benefit plan is underperforming according to all of the numbers and the inputs into the fund. That is why we are considering changing every two years.

**Cade Jorgenson** I might be around five.

**Chairman Kasper** You said you were not able to get your returns from the people who are managing your money currently?



**Cade Jorgenson** From the inception of the plan to current, I have not been able to match or exceed the returns in the pension plan, the benchmark the pension plan has set for itself.

**Chairman Kasper** I thought you said that you are unable to get the information about the annual return on your defined contribution from the money managers currently?

**Cade Jorgenson** The current provider, TIAA-CREFF, will give me that return. However, we have Fidelity Investments for about a decade, and I was not able to get that through Fidelity.

**Chairman Kasper** Fidelity is no longer available as an option?

**Cade Jorgenson** Correct.

**Jolene Rohde**, Impairment Auditor at WSI, appeared in support. Attachment 5. (36:43-44:28)

**Rep. Louser** Are you suggesting that the decision you made was based on the administrative suggestion or was there some other reason that you chose defined contribution?

**Jolene Rohde** My decision was made largely on the suggestions and of what administration told us was the future of North Dakota Workers' Compensation Bureau, what is now WSI. The leadership at that time was very adamant that our agency would be moving to privatized status and that we would indeed lose our retirement.

**Chairman Kasper** In your testimony you have made some pointed statements. Is there any documentation that you employees were given back in 1999 that could verify the statements that you are making here in your testimony?

**Jolene Rohde** There are less of us that are still at WSI that were there in 1999. We were called into the boardroom and what I have testified to is what we were told.

No opposition.

Neutral

**Sparb Collins**, NDPERS, appeared in a neutral position.

**Chairman Kasper** There has been some testimony that defined contribution plans maybe do not have as good of money managers in them as the defined benefit plans, and, therefore, the returns don't seem to be quite as good. What are your thoughts on the money managers and how they are selected in both the defined contribution and defined benefit plans?

**Sparb Collins** As it relates to this plan, one of the major dilemmas with the defined contribution plan that was created in 1999 was the employees made their decisions, they set up their asset allocations in December, we transferred the money in February, and the

tech market busted almost right away. They struggled back, and in 2008 we had the worst market downturn. Timing contributed terribly to this situation.

**Chairman Kasper** I provide 401K employees advice on their retirement plans with my business. In those cases the employees are managing their own accounts. That crash of 2001 came about. The worse thing that can occur for an employee to make a decision when the market goes down is to transfer out of the position that you have and go into cash. I can certainly understand and sympathize with employees who are managing their own accounts and make those decisions because maybe somebody just didn't sit down with them and say let's look at the history of what occurs. Have you heard anecdotal or any people talking to you directly about the WSI situation where they were told they were going to privatize or you need to do this or you are going to lose your accounts?

**Sparb Collins** Anecdotal, yes. We had a study done by Segal about a year ago that took a look at the impact on these participants. In most cases, they would have been better off if they had stayed in the defined benefit hybrid plan.

**Vice Chair Rohr** On the bottom of Jolene's testimony, they had the employees sign this form. How binding is that? Are these employees that are on defined contribution still signing that?

**Sparb Collins** If people join today, the same form is signed because that is what is in the statute.

**Rep. Laning** If they are allowed to transfer their funds from defined contribution into the defined benefit, is there a significant liability for the state at that point?

**Sparb Collins** There was an interim study done by the Employee Benefits Committee. That study was done by the PERS actuary, Segal Consulting Firm. They took a look at what the actuarial impact might be based upon the existing contribution levels that are in the plan. That is 14.12% right now. At 14.12% that is actuarially not sufficient to pay for everybody coming back into the plan. At 14.12% it is short by about 1.38% for each of those members. Yes, at 14.12% there is going to be a slight impact. If you take a look at the recovery plan and it passes here and in the Senate, the contribution level would go up to 16.12%. That is a 2% increase in contributions. That is going to be more than the 1.38 that is necessary. At that level the overall effect on the plan would be positive.

**Rep. Steiner** How realistic is that 100%? Is that best case scenario?

**Sparb Collins** If you want to get a good feel for that, you would ask the people from WSI if they think most of them are going to come over or not.

**Rep. B. Koppelman** If you had two individuals that had 10 years to retirement and one had \$200,000 cash value and the other had \$150,000 cash value, would there have to be some baseline so that those two individuals sort of bought in at the same amount of money?

**Sparb Collins** The Segal Study looked at the actual cash balances. We just drew down the actual balances of everybody and then determined this would be the amount of cash

coming over and this would be the amount that would be needed. There was no review as to whether somebody had gains or losses. There are other variables too in terms of what it actually costs. It depends on their years of service and salary.

**Rep. B. Koppelman** I meant two people on the same pay grade.

**Sparb Collins** We don't necessarily have any information too on how the investing pattern may have changed over time. Right now a lot of our people are in targeted funds.

The hearing was closed.

**Rep. B. Koppelman** I don't know if we do this, how that reflects to them. I don't know if we have time to figure out any sort of a hybrid middle ground alternative.

**Chairman Kasper** What do we want to do with the bill?

**Rep. B. Koppelman** If we defeat this bill, then they maintain their 401k like plan and get to retirement whenever their personal finances allow. If we pass this bill regardless of how they invested in the past, they get automatically get elevated to the level of somebody in their equivalent pay grade and years, etc. for retirement. Is that the consequences of an up or down on this bill?

**Chairman Kasper** That is correct. There is another Senate bill that is a companion bill with this.

**Rep. B. Koppelman** Is it reasonable to think that if our opinion was that we would maybe be okay with this if the other one passed that something like this could be amended to that bill?

**Chairman Kasper** That is correct.

**Rep. Schneider** I have a little perspective on this because of the special circumstances that are involved in just this group. There were some circumstances at WSI that were not happening in the rest of the state agencies. Because of the special circumstances within the agency I think, in this one case, we should really be giving these people a second chance.

**Rep. Louser** I struggled with this in the interim committee and with respect to Rep. Schneider's comments, if we do it for one group, we have to do it for all. I struggle with if it was poor advice or it was a legitimate decision.

**Rep. B. Koppelman** It doesn't take everybody automatically.

**Rep. Mooney** I would like to mirror what Rep. Schneider has hit on.

**Rep. Laning** Are all new employees offered the option today?

**Sparb Collins** Yes, since the beginning of this last biennium.

**Chairman Kasper** Can they move back and forth once they make an election or once they make an election, is that where they stay?

**Chairman Kasper** That is where they stay.

**Rep. B. Koppelman** When they studied this and you looked at the different people that this would affect, were there some that you think would likely stay with their defined contribution or are they all worse off than the defined benefit?

**Sparb Collins** It seemed to me that the vast majority were worse off. The ones that potentially would have a good shot at it are the brand new employees.

**Rep. Louser** Was this the bill draft that we saw in the interim committee that had no recommendation tie vote?

**Sparb Collins** I don't remember.

**Rep. Seibel** Did each person manage their own funds, or was there a company managing them for them?

**Sparb Collins** This is called a 401a plan because that is what we can do in the public sector. In the private sector it would be called a 401K plan. We have a company that does this both for our defined contribution and 457 plan. We have a whole list of funds that people can elect to participate in that are diversified. In addition to that, there are what we call target date funds. There are advisors available to help them \_ their asset allocation. We have an investment window. If you are not happy with our collection of funds, you can sign another document saying you can go out of the PERS over sighted investments.

**Vice Chair Rohr** They have the ability to sit down with this individual and do an assessment profile?

**Sparb Collins** Yes. This has improved. This is the third company we have been on, not because any company was poor. When we went to bid, we got better financing arrangements.

**Rep. Laning** made a motion for a DO PASS AND REREFER TO APPROPRIATIONS.

**Rep. Mooney** seconded the motion.

**Rep. B. Koppelman** I am going to resist this motion just because we don't have enough time to put this bill into better shape.

**Rep. Steiner** Do we have to include everybody on this second go at it, and does that change the fiscal note?

**Chairman Kasper** The fiscal note is about \$1.7 million.

**Rep. Steiner** Right, but are there others that would be eligible to come in on a second go? If we offer it to some, are there other groups that come in?

**Chairman Kasper** Sparb, this is limited to the 200 people we are talking about?

**Sparb Collins** It is all active.

**Chairman Kasper** How many is that?

**Sparb Collins** We have something like 265 or 280.

**Chairman Kasper** Is this a one-time election?

**Sparb Collins** One time.

**Rep. Mooney** If we pass 1080 to go with this, we're actually neutral in our dollar amounts.

A roll call vote was taken. 9 Yeas, 5 Nays, 0 Absent.

**Rep. Wallman** will carry the bill.

Date: 2-5-15  
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1154

House Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☒ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Laning Seconded By Mooney

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper		<input checked="" type="checkbox"/>	Rep. Bill Amerman	<input checked="" type="checkbox"/>	
Vice Chair Karen Rohr		<input checked="" type="checkbox"/>	Rep. Gail Mooney	<input checked="" type="checkbox"/>	
Rep. Jason Dockter	<input checked="" type="checkbox"/>		Rep. Mary Schneider	<input checked="" type="checkbox"/>	
Rep. Mary C. Johnson	<input checked="" type="checkbox"/>		Rep. Kris Wallman	<input checked="" type="checkbox"/>	
Rep. Karen Karls	<input checked="" type="checkbox"/>				
Rep. Ben Koppelman		<input checked="" type="checkbox"/>			
Rep. Vernon Laning	<input checked="" type="checkbox"/>				
Rep. Scott Louser		<input checked="" type="checkbox"/>			
Rep. Jay Seibel	<input checked="" type="checkbox"/>				
Rep. Vicky Steiner		<input checked="" type="checkbox"/>			

Total (Yes) 9 No 5

Absent 0

Floor Assignment Wallman

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1154: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)**  
recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee**  
(9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1154 was rereferred to the  
**Appropriations Committee.**

**2015 HOUSE APPROPRIATIONS**

**HB 1154**



# 2015 HOUSE STANDING COMMITTEE MINUTES

**Appropriations Committee**  
Roughrider Room, State Capitol

HB 1154  
2/11/2015  
23687

☐ Subcommittee  
☐ Conference Committee



## Explanation or reason for introduction of bill/resolution:

Relating to an election for members of the defined contribution retirement plan to transfer to the public employees retirement system.

## Minutes:

No attachments

### Chairman Jeff Delzer

Called the meeting to order.

**Representative Jim Kasper District 46, Fargo** spoke as chairman of the Government and Veteran's Affairs, originating committee of the bill, where it was passed 9-5. There was compelling testimony. Only affects about 270 employees. He spoke regarding employees who felt they were misled by the Workforce Safety & Insurance (WSI) when they chose the defined contribution plan. They would like to have this one time opportunity to choose to go to the defined benefit plan.

### Chairman Jeff Delzer

Of the 261 or whatever, how many were workers comp?

**Kasper:** we don't know how many are workers comp that are left, but this bill affects a total right around 268 or 269 employees who chose over the years to enrollment to the defined contribution plan.

**Chairman Jeff Delzer:** What's the time frame, do you give them 3 months to do it?

**Kasper:** Bill allows a time frame of 3 months and during that time frame its an open decision. Then they would have the opportunity to decide and then the during that period of then the chance to go back from defined contribution to defined benefit would be closed.

### Chairman Jeff Delzer

What about going from defined benefits to defined contributions, is that still there?

**Kasper** this does not address that, this only addresses from defined contribution to defined benefits.

**Chairman Jeff Delzer**

Was there any question how they would cover the costs?

**Kasper:** Sparb Collins has testimony in regards to the impact to the defined benefit fund. Depending on how many transferred their accounts, there could be a positive effect, in reviewing this from actuarial tables. Until we know how many would choose the option, we don't know what the impact will be.

**Chairman Jeff Delzer:** That's not what the fiscal note says.

**Kasper:** The fiscal note says their projected costs are expenditure about \$1.7M.

**Representative Skarphol**

Would this take them to 100% funding level for those employees, is that what's required to move them over to 100% funding?

**Kasper:** no general fund dollars involved. We are dealing with what the employers and the employees have contributed to the defined contribution plan over the years. So whatever those balances are for each employee, they roll over into the defined benefit plan and then that gives them an account balance and if they meet the retirement rules as they move forward they would have their defined benefits calculated from that point.

**Chairman Jeff Delzer;** when you had the discussion, this was put before employee benefits and then came out without recommendation; did you have that discussion?

**Kasper:** it came out of the Employee Benefits without recommendation.

**Chairman Jeff Delzer** currently the law is that they have a onetime opportunity to switch from defined benefits to defined contribution. And that's just one time.

**Kasper:** This deals with the other way; defined contribution to defined benefit.

**Representative Boehning:** when we are transferring back in from defined contribution; if there is a really bad year, how is that money going to be made up; are we going to make them whole, do we have to make up some difference in that or is the plan just going to pick it up and give them the bonus?

**Kasper:** on page 2; line 12; it says the Public Employees Retirement system shall credit the transferring employee with the service credit and salary history reflected on the PERS data base. So they are going to get credit and that will determine what their retirement benefit will be. The potential shortfall is if the amount of money being transferred, from their account is not currently actuarially equivalent to what they need to have in that fund. As I said; the actuary said if a large number transfer over there may be a positive effect. If not many transfer, it could be a shortfall, but it's a minimal effect to the soundness of the defined benefit plan at this point.

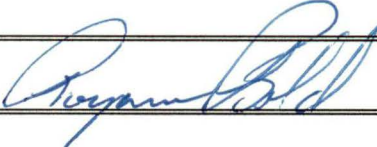
**Chairman Jeff Delzer:** closed hearing on HB 1154.

# 2015 HOUSE STANDING COMMITTEE MINUTES

## Appropriations Committee Roughrider Room, State Capitol

HB 1154  
2/12/2015  
23802

- ☐ Subcommittee  
☐ Conference Committee



### Explanation or reason for introduction of bill/resolution:

Relating to an election for members of the defined contribution retirement plan to transfer to the public employees retirement system.

### Minutes:

Chairman Delzer: Opened discussion on HB 1154. I have some concerns about this allowing anyone to sit back I understand there may be some consternation about some of the workers compliance but we don't know those numbers and this is for everybody. If the people were actually told what they said they were told that might make you feel a little different. We found out that if you had the study done and you were a young person going to work for the state it showed that if it was apples to apples on the same expected return that the decline contribution would be a better thing even without any extra savings. The problem is like on our defined benefit they say we get 8% but they don't take into account the fact that you're at a billion here you lose 25% you are getting 8% on the 750 million in the future so you are still getting 8%. Our smoothing would have fell off and I think there are a couple on unemployed benefits and I don't know if you know differently. I would have a hard time supporting this bill.

Representative Kempenich: It has been a while since I have been on employee benefits but I know when we first moved over and went to defined contributions there was some of these folks doing real well. When they made decision in what they were doing they are all adults and you have to do diligence.

**I am going to move a do not pass.** Many years ago we had this debate and it becomes an issue that truthfully we should be moving the other way instead of going backwards.

Chairman Delzer: Out if the interim committee and it was in the senate but there is a bill going strictly define contribution in the future. There has been discussion that we will take the 1% added contribution out of the budget but 1080 also makes some reductions in the benefits for new hires and that bill will come out of GVA. That should help the unfunded liability as well on that issue and if the senate floor overturns the committee recommendation then the house would have the define contribution bill out of the committee.

House Appropriations Committee

HB 1154

2/12/2015

Page 2

Representative Kreidt: Second the motion.

A Roll Call Was Taken: Yes 15, No 6, Absent 2 (Nelson, Boe)

Motion carries

Representative Kempenich will carry the bill

Date: 2/12/15Roll Call Vote #: 1

## 2015 HOUSE STANDING COMMITTEE

## ROLL CALL VOTES

BILL/RESOLUTION NO. 1154House Appropriations Committee☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:	<input type="checkbox"/> Adopt Amendment	<input checked="" type="checkbox"/> Do Not Pass	<input type="checkbox"/> Without Committee Recommendation
	<input type="checkbox"/> Do Pass		<input type="checkbox"/> Rerefer to Appropriations
	<input type="checkbox"/> As Amended		
	<input type="checkbox"/> Place on Consent Calendar		
Other Actions:	<input type="checkbox"/> Reconsider	<input type="checkbox"/> _____	

Motion Made By: Kempenich Seconded By: Kleidt

Representatives	Yes	No	Absent	Representatives	Yes	No	Absent	Representatives	Yes	No	Absent
Chairman Jeff Delzer	✓			Representative Nelson				Representative Boe			
Vice Chairman Keith Kempenich	✓			Representative Pollert	✓			Representative Glassheim		✓	
Representative Bellew	✓			Representative Sanford	✓			Representative Guggisberg		✓	
Representative Brandenburg	✓			Representative Schmidt	✓			Representative Hogan		✓	
Representative Boehning	✓			Representative Silbernagel	✓			Representative Holman		✓	
Representative Dosch		✓		Representative Skarphol	✓						
Representative Kreidt	✓			Representative Streyle	✓						
Representative Martinson		✓		Representative Thoreson	✓						
Representative Monson	✓			Representative Vigasaa	✓						
	7	2			8		1			4	1

## Totals

(Yes)	15
No	6
Absent	2
Grand Total	23

Floor Assignment: Kempenich

If the vote is on an amendment, briefly indicate intent: \_\_\_\_\_

**REPORT OF STANDING COMMITTEE**

**HB 1154: Appropriations Committee (Rep. Delzer, Chairman)** recommends **DO NOT PASS** (15 YEAS, 6 NAYS, 2 ABSENT AND NOT VOTING). HB 1154 was placed on the Eleventh order on the calendar.

**2015 TESTIMONY**

**HB 1154**

#1 1154  
2-5-15

Chairman Kasper and members of the House Government and Veterans Affairs committee

I am here to present House Bill 1154. This bill will allow state employees who are currently enrolled in the defined contributions retirement plan a one time opportunity to enter back into the defined benefits retirement plan and bring all of their assets into the plan. The employee benefits committee explored this bill and an actuarial was given to the bill. The actuarial cost analysis was that it would have an impact on the Hybrid Plan and due to the transfer of funds and crediting of service, both the assets and the liabilities would increase as a result of the transfer. However, this was with the prediction that 100% of DC participants would elect to transfer into the Hybrid Plan, as previous analysis conducted showed that all DC plan members had an account balance less than the actuarial present valuable compared to the Hybrid Plan.

The costs of this bill would be offset at the passage of House Bill 1080. This bill would increase the amount employees are contributing to the retirement plan, which increases the overall "health" of the fund. Currently, the fund is funded at about three quarter's market value. Should that bill pass, it would increase the fund of the PERS retirement plan. This was also included in Governor's Budget.

In June of 2014 the Employee Benefits committee was presented information regarding the status of the funds, legislative initiatives for each fund, and various options for the committee to consider regarding the overall improvement of each fund. In the report, a survey or poll had been conducted of those who had decided to join the defined contribution plan. When asked if they felt they made the right decision selecting the DC plan over the DB plan 76% of participants disagreed and 74% of participants disagreed they would have enough money to retire with the defined contribution plan. Now several of them are here today and they will be able to elaborate further with their story regarding the retirement plans.

This bill would allow roughly <sup>200</sup>~~70-90~~ employees the option to return to the defined benefit plan if they so choose. It is important to have experienced state employees to help the public with the many services that are required from employees. By offering this option to return to the defined benefit plan it ensures that these employees will indeed remain and experienced staff members will continue to serve the public.

Thank you for your time and consideration on this bill.

I would be happy to stand for any questions.

Rep. Jessica Haak District 12





5990 Greenwood Plaza Boulevard Suite 118 Greenwood Village, CO 80111-4708  
T 303.714.9900 www.segalco.com

#2  
1154  
2-5-15  
DIRECT DIAL NUMBER  
(303) 714-9952

E-MAIL ADDRESS  
bramirez@segalco.com

October 17, 2014

Mr. Sparb Collins  
Executive Director  
State of North Dakota Public Employees' Retirement System  
400 East Broadway, Suite 505  
P.O. Box 1657  
Bismarck, ND 58502

Re: **Technical Comments – Bill Draft No. 15.0043.02000**

Dear Sparb:

The following presents our analysis of the proposed changes found in draft Bill No. 15.0043.02000:

**Systems Affected:** North Dakota Public Employees Retirement System (PERS) Hybrid Plan

**Summary:** The proposed legislation would allow current active Defined Contribution (DC) participants the option to participate in the PERS Hybrid Plan. This election would take place during a three-calendar-month period beginning no later than February 1, 2016. Participants' Defined Contribution accumulated fund balances (less rollovers) would be transferred to the PERS Hybrid plan, and the participant would be credited with benefits as if they had always participated in the PERS Hybrid plan. The opportunity for DC Plan participants to participate in the Hybrid Plan is limited only to currently active employees with a participating employer whose DC Plan account balances are not subject to any court order, such as a qualified domestic relations order.

**Actuarial Cost Analysis:** This bill will have an actuarial cost impact on the Hybrid Plan. Due to the transfer of funds and the crediting of service, both the assets and the liabilities would increase as a result of the transfer.

It is difficult to predict which participants will elect to participate in the Hybrid Plan. However, previous analysis has concluded that for nearly all DC plan members, the account balance is less than the actuarial present value of comparable service under the Hybrid Plan. For this reason, we have previously assumed that 100% of DC participants will elect to transfer in this analysis.

Based upon analysis, the Unfunded Actuarial Accrued Liability (UAAL) for members as of July 1, 2014 would be \$40,506,274 offset by assets from the existing DC Plan of \$27,952,921. If this were to be amortized using the current 20 year policy of the PERS Plan for Main members, the required annual contribution would be \$876,102. In addition to this amortization amount, the annual employer Normal Cost (total Normal Cost less member contributions) would be \$625,374. This would result in an annual required employer contribution of \$1,501,476 on behalf of the DC Plan participants, which is approximately 8.5% of DC Plan participant payroll (a total of 15.5% of payroll including employee contributions). This is based on the projected annual payroll of \$17,575,003 for DC Plan members.

If these participants were allowed to enter the PERS plan and were subject to the same contributions as current PERS Main members, the resulting 14.12% of pay contribution would be approximately 1.38% of payroll less than actuarially required for these participants. Under the recommended 16.12% of contribution, the addition of these members would result in an actuarial gain to the System.

*Technical Comments:* Our comments on the bill are as follows:

#### General

Allowing participants to choose their type of benefit exposes the Hybrid Plan to antiselection risk. This is the risk that participants will behave in ways that will have the greatest cost impact to the Plan. Any analysis of provisions involving choice should consider this effect.

#### Benefits Policy Issues

##### > Adequacy of Retirement Benefits

To the extent that Defined Contribution members elect a Hybrid Plan benefit that has a greater value than their current account balance, the bill will improve benefit adequacy for this group of employees.

##### > Benefits Equity and Group Integrity

To the extent that Defined Contribution members elect a Hybrid Plan benefit and receive a similar benefit to similarly situated Hybrid Plan participants, the bill will improve benefit equity and group integrity.

##### > Competitiveness

No impact.

> Purchasing Power Retention

To the extent that Defined Contribution members elect a Hybrid Plan benefit that has a greater value than their current account balance, the bill will improve purchasing power for this group of employees.

> Preservation of Benefits

No impact.

> Portability

No impact.

> Ancillary Benefits

- *Death and Disability Benefits:* The DC plan does not provide additional death and disability benefits outside of payment of the participant's account balance. To the extent that Defined Contribution members elect to participate in the Hybrid Plan, these employees will receive additional death and disability benefits.
- *Social Security:* No impact.

**Funding Policy Issues**

> Actuarial Impacts

This bill would have an actuarial impact on the Hybrid Plan as discussed above.

> Investment Impacts

- *Cash Flow:* The Hybrid Plan will receive increased funds as a result of the bill. These will come from the initial transfer of DC account balances and the ongoing contributions for transfers. Additional benefit payments will also be expected to be paid as a result of the granting benefits to former Defined Contribution participants.
- *Asset Allocation:* Because the bill would affect a relatively small portion of the Hybrid Plan's employees, the bill is not expected to create new investment asset allocation issues.

**Administration Issues**

> Implementation Issues

This bill would present implementation issues for the PERS. The bill specifies that the Board shall determine the method by which a participating member may make a written election. System staff would be responsible for notifying the affected members and processing the

forms in accordance with the bill. The provision that the spousal signature requirement may be waived in extenuating circumstances will require that the Board or System staff make determinations in those cases.

In addition, for employees who purchased service in the Hybrid Plan, then transferred to the Defined Contribution Plan and now transfer back to the Hybrid Plan under this bill, it is unclear how future service purchases would be handled. It may be necessary for PERS to verify that any requests for future service purchases by such employees do not violate permissive service credit purchasing limits under Internal Revenue Code section 415(n) or the Hybrid Plan's own rules limiting service credit purchases.

> Administrative Costs

The bill would have an impact on the administrative resources of the PERS in addressing the implementation issues discussed above.

> Needed Authority

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

> Integration

No impact.

> Employee Communications

The PERS would need to notify the affected participants of their option to elect under the bill. It may also be appropriate for the PERS to assist participants in making this election by estimating the value of benefits under the Hybrid Plan on an individual basis. It may be necessary to create a system to perform these calculations.

> Compliance Issues

Pursuant to Internal Revenue Code section 415 and the regulations thereunder, annuity benefits attributable to a plan-to-plan transfer are not subject to annual benefit dollar limitations. However, it is our understanding that this exception only applies to the extent that the actuarial value of the service credited from the transfer is not greater than the amount of the asset transfer. Thus, it appears that actuarial value of the service credited which exceeds the value of the assets transferred for any individual will be subject to the Code section 415(b) annual benefit limit. For DC Plan participants who transfer to the Hybrid Plan and then retire with less than ten years of participation in the Hybrid Plan, their annual benefit may be limited to the extent that this excess annuity value (when added to subsequently earned Hybrid Plan benefit) is greater than the prorated annual benefit limitation. Thus, it may be advisable for PERS to test the Code section 415(b) limit applicable to individual participants who retire from the Hybrid Plan within 10 years of transferring from the DC Plan under this bill.

> Miscellaneous and Drafting Issues

The language in this bill indicates that DC Plan participants who elect to transfer to the Hybrid Plan waive all rights to the DC Plan account balance. It is unclear whether this includes the right to the value of mandatory employee contributions, since employee contributions under the Hybrid Plan are immediately vested. Thus, you may wish to consider communicating that transferring participants retain their rights to receive mandatory employee contribution amounts after the transfer, regardless of vesting status under the Hybrid Plan, in the notice to participants of the option to transfer.

The information contained in this letter is provided within our role as the plan's actuary and benefits consultant and is not intended to provide tax or legal advice. We recommend that you address all issues described herein with your legal counsel. The calculations summarized were prepared under the supervision of Tammy F. Dixon, FSA, EA, MAAA. Please call if you have any questions or comments.

Sincerely,

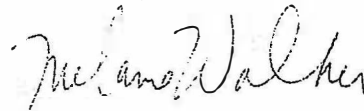


Brad Ramirez, FSA, MAAA, FCA, EA  
Vice President and Consulting Actuary

/csw

cc: Tammy Dixon  
Laura Mitchell

Sincerely,

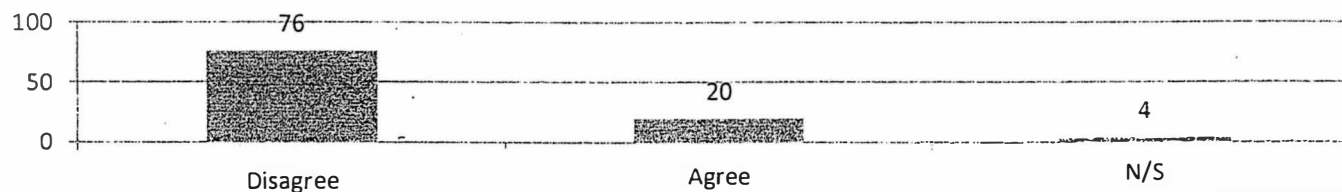


Melanie Walker, JD  
Vice President

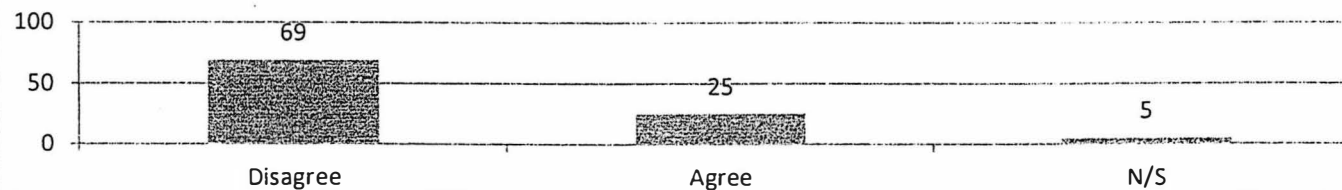
#3  
1154-15  
2-5-15

## DC Questions

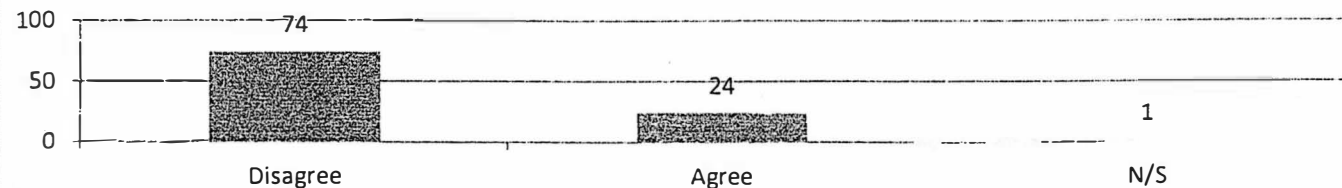
14. I feel I made the right decision selecting the DC 401(a) plan over the Defined Benefit plan. 54 9 13 7 8 5 4



17. I would recommend the PERS Defined Contribution 401(a) plan to other employees? 47 15 7 15 9 1 5



18. I am confident I will have enough money to retire. 47 13 14 6 16 2 1



# 4  
1154 2-5-15

**2015 House Bill No. 1154**  
**Testimony Before the House Government and Veterans Affairs Committee**  
**Cade Jorgenson**  
**February 5, 2015**

Mr. Chairman, Members of the Committee:

Good afternoon; my name is Cade Jorgenson. I am employed by Workforce Safety & Insurance and am providing testimony in support of HB 1154. I took annual leave to appear before your committee. I request your support in allowing defined contribution plan members the option of transferring to the public employees retirement system (the defined benefit plan).

Despite admirable goals in establishing the defined contribution plan, the plan has significantly underperformed expectations and the defined benefit plan. The Segal analysis conducted for the Employee Benefits Program Committee concludes the majority of the current defined contribution plan members are projected to receive significantly less retirement income under the defined contribution plan than projected under the defined benefit plan.

The defined contribution plan has presented unexpected challenges. My investment company (initially Fidelity and currently TIAA-CREFF) is chosen for me along with certain pre-approved mutual funds I may invest in. While that selection and "approved fund" process is intended to afford protections from poor providers and unsound funds, in my personal experience several of those pre-approved funds I invested in went south and were later restricted by the State due to poor fund management or mismanagement. Defined contribution members have experienced returns substantially inferior to what has been achieved through the defined benefit plan.

Other employment factors have only served to compound the retirement puzzle for defined contribution members. My workers' compensation colleagues and I made the defined contribution election with the knowledge we were not classified employees. While this eliminated certain employment protections, it also allowed for greater pay scales, merit increases, and bonuses unchained to other State employees within the classified service. While a State referendum returned Workforce Safety & Insurance to classified service, the defined contribution electors were left with all of the personal retirement risk and little upside relative to other State employees' retirements.

I thank you for the opportunities I have had as a public servant and the interest, work, and care your committee has devoted to North Dakota State employees. I would respectfully request the committee support this bill and the equity and fairness it would bring about for those negatively impacted by unforeseen results of the defined contribution plan from inception to the present. Despite personal supplemental retirement savings, the gap between defined contribution and defined benefit has simply been too large a gap to overcome. The significance in personal lives is hard to overstate, as individuals and friends that have provided a career in public service are not able to retire in dignity, or at all, under the defined contribution plan.

HB 1154's cost is neutral to the public employee retirement fund if the governor's budget is adopted by the legislature, the defined benefit plan does not cost the State any more funds than the defined contribution plan, and the defined benefit plan is projected to provide as much as double the benefit at the same input cost. Please give serious deliberation to passing this bill and thank you for your consideration.



1154 #5  
2-5-15

Good Afternoon, Mr. Chairman and Members of the Committee, my name is Jolene Rohde, I am the Impairment Auditor at Workforce Safety and Insurance (WSI). I am here today to testify in support of HB1154 and ask for your support. I would hope that I will be able to enlighten you as to how this bill affects me and why I have taken annual leave to be here today.

I began my employment with WSI, then known as the Workers' Compensation Bureau in 1997. In 1999, Legislative action removed our Agency from the control of the Governor of North Dakota and placed us under the control of an Agency Board. At that time, the Administration of WSI held meetings with agency personnel in which they informed us of the legislative change and informed us that, if we planned to be with the organization for longer than 10 years or had greater than 10 years prior to retirement, it would be in our best interest to remove ourselves from the Defined Benefit Retirement Fund and enroll in the Defined Contribution Fund since **NOT IF but rather WHEN** the Agency privatized we would lose our retirement funds. We were informed that this change in fund choice would in no way change our retirement benefits or what we were entitled to, but was merely another method of investing our funds and would allow us to have our retirement funds available **WHEN** the Agency became a private Insurance Fund. These facts can be verified by numerous of my co-workers who were also employed with WSI in 1999. Some of whom are here today and others who were unable to attend due to work constraints.

Since that time, of course WSI has not privatized and the Agency, by a vote of the people, was placed back under the control of the Governor of ND in 2009. Thus, WSI employees were again placed under the constraints of HRMS, placed back into the classified employee status and our retirement funds are controlled by the State as to where they can be invested, in what funds they are invested and what company manages the funds, etc. However, there have been no provisions nor are we allowed to an opportunity to return to the Defined Benefit Retirement Plan. Yes, we erred in believing the Administration of WSI that our benefits would be no different in the Defined Contribution Plan than that of the Defined Benefit Plan, but would merely be invested differently. However, were we really wrong to believe that the Administration of our employer would not have our best interest at heart? This lack of information and understanding was so prevalent that I have had co-workers, 1 of whom you have heard from today, that have actually contacted NDPERS for information on when they would meet the rule of 85 and requested information on buying years of service, only to be told, "What are you doing, this doesn't apply to you".

I am not talking about WSI employees who wanted to "take their money and run" in 1999, unlike Agency administration. I am talking about hard-working, dedicated state employees who have stuck with the Agency and the State of ND, who have continued to service the State of North Dakota and its injured workers. I don't believe it is entirely our fault that we believed and trusted the Administration of WSI and it is not in any way our fault that the Agency has been removed from the control of the Agency Board and placed under the control of the Governor. Yet, we do not have the rights and benefits of the State Defined Benefit Retirement System.

The **Defined Contribution Retirement Program Election form** that I signed on December 7<sup>th</sup> of 1999 states, and I quote:....I understand my election is irrevocable and permanent. I will be



unable to rejoin the defined benefit retirement program even if I later become employed in a position which would be ineligible for the defined contribution program except if I become an employee of the judicial branch, the board of higher education or a state institution under the jurisdiction of the board of higher education.

There are a couple of issues regarding this statement that I would like to bring to your attention. Firstly, in regards to it being permanent and irrevocable. There was a bill sponsored and passes previously that allowed state employees to opt back into the Defined Benefit Plan who had previously opted out. HB 1360 was sponsored by Representative Martinson and Senator Lodoen in 1987. Secondly, nowhere in this election form does it say that I am ineligible to rejoin or would be precluded from a return to the defined benefit program in the event that my position was changed to classified status through a method beyond my control and through no fault of my own.

I respectfully request that you give a DO PASS recommendation to HB1154 or at the very least provide for provisions to allow WSI employees to be allowed the opportunity to return to the Defined Benefit Retirement Plan given the change of status of our Organization and the misinformation we were provided. ND United leadership can also tell you that they were not allowed to contact agency employees to discuss this legislation in 1999 and I know for a fact that agency staff were told that NDPEA and PERS were not be to contacted for assistance or direction.

My ill-advised decision in 1999 along with the change in my job classification status has caused me a great deal of anxiety as the facts of what I lost have come to light. I can tell you that I truly love my job, because I feel that I make a difference for the injured workers' I serve and that I am an asset to the employers, providers, my co-workers, WSI and the State. However, that being said, I would like to have the peace of mind to know that when the time comes that I no longer can be or feel that I am an asset, that I can make that decision knowing that I can retire.

You would be righting a wrong for hard-working, dedicated state employees who were blatantly mislead, who through no fault of theirs had their employment status changed, but have remained in their positions with WSI through the turmoil that fell upon the agency and the vote of the people that returned them to classified status employment. All through events beyond their control. I and likely none of my co-workers in this situation, would see this opportunity as a "get out of jail free card". We realize that this option could come at a price despite that an interim actuarial study supported that allowing employees of our Agency the opportunity to return to the Defined Benefit Retirement Plan would and/or could strengthen the fund, rather than hurt the fund, but more important than that, I believe it is the right thing for you to do. I would ask that you please give HB1154 a **DO PASS** recommendation and provide your support for this bill.

# 6 2-5-15  
1154

Testimony in support of HB 1154

Mr. Chairman and Members of the Committee, my name is Al Schmidt and I am giving testimony in support of HB 1154. I have been employed with the State of North Dakota for 18 years, all with Workforce Safety and Insurance.

In 1999, I, as an employee of Workers Compensation Bureau, was advised by the Administration, of a choice between two plans: The Defined Benefit Plan (which is the PERS State Benefit Plan) and the Defined Contribution Plan. As presented to me, in The Defined Benefit Plan, the State Investment Board chooses how to invest my money, and in the Defined Contribution Plan, the company Fidelity, will invest my money. When I inquired about the choice differences, I was advised this is "just" another way to invest my retirement funds, and all ND State retirement benefits will always apply to me, no matter what plan I chose, the only choice I needed to make was who will invest my retirement funds for me.

During this time, it was vocalized numerous times by the Administration at that time that the Agency will be privatized, and not choosing this plan, I may not have a retirement plan at all. I was also advised I was a non-classified State employee since Workers Compensation was not under the control of the Governor. The picture, as presented by the Administration, was the Defined Contribution Plan with Fidelity was the better plan. Again, I inquired about the two plans and was never told I was giving up the Rule of 85, Disability Benefits, and the opportunity to buy early retirement, thus I was not concerned about the "not irrevocable clause". As presented, this was a great plan. Both plans had the same options and benefits. Only in 2009, when WSI was placed back under the Governor, and WSI was not privatized, did I begin to realize what had happened. I was consumed with disbelief to learn what I had lost in choosing the Defined Contribution Plan. Now, I do not have a viable retirement plan, after 18 years with the State of North Dakota, and a company I enjoy working at.

Now, I am a classified state employee again, subject to the constraints of HRMS and subject to State classifications and salary caps, but I do not receive the benefit of a viable retirement plan. I have been overwhelmed with concern, worry and can't begin to express the personal impact this decision has on me. Yet, I continue to work for the State of North Dakota. I ask myself, "How will I retire"? Maybe someday when I'm very old. Please, I ask for your help to change my outcome. The State of ND will be fine, the Fund will be fine, and passing HB 1154 will give me and my family a viable retirement plan.

Mr. Chairman and Committee Members, I'm asking you for this opportunity to give me and my family a viable retirement plan with the State of North Dakota. I respectfully ask for your help in allowing me to choose the State of North Dakota's Defined Benefit Plan, and ask you to support and pass HB 1154.

Thank you for your support and consideration.

  
Al Schmidt

RE: HB 1154

# 7  
1154  
2-5-15

To whom it may concern:

I would like to kindly ask for your support of passing the bill. I made a mistake and did not realize the ramifications it would make on my retirement. I did not know what questions to ask or who to ask when I provided the option to opt out. I was young and neither of parents graduated high school. They did not know how to advise me.

If the Governor's budget is passed and it does not cost the state anything or if there is an administration fee to transfer over that I can afford I would embrace the opportunity to opt back in.

I ask for your help in making this a possibility for me to correct. Thank you for your consideration.

Sincerely,

Wendy Malard

State Employee

#8 1154  
2-5-15

**Brockel, Susan M.**

---

**From:** susan <ksbrockel@bis.midco.net>  
**Sent:** Wednesday, February 04, 2015 10:38 PM  
**To:** Brockel, Susan M.  
**Subject:** fund - HB 1154

To whom it may concern:

First let me introduce myself. My name is Susan Brockel I have been a state employee since 1998. When I was hired I didn't have benefits but 4 months later I was given benefits and was told I had to sign up with the 401A defined contribution plan because the state was going to change over to that retirement plan, so I did. Lets fast forward 15 years and my retirement fund is sitting around 55 thousand and most of that is what I contributed. And to make matters worse 3 years ago I applied for a new position that was a step up in the company but I had to go down in pay so I wasn't making more than the new people in that department even tho I had been with the company for 12 years and the new employees had been with the company less than 2. I don't know why that is but I went home and told my husband I got a new job but I have to get a 2nd job to make up for the money that I was now going to be losing. So because I was given the wrong information in 1998 I will be paying the price. Now if you do the math you will see that I will never have enough to help me retire. So when I do reach that age I can apply for assistance because I won't have enough to live on and I can say I was an employee with the state for years. I wish I could be there to tell you my story in person but I wasn't able to procure the time off. G F N D

Thank you for your time

Susan Brockel

Susan Brockel 2/5/15

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This email has been checked for viruses by Avast antivirus software.  
<http://www.avast.com>

#9 1154  
2-5-15

Thank you for taking the time to read my testimony regarding the defined contribution (DC program) and HB 1154. Im sorry I could not afford the annual leave to attend in person.

To this day I struggle to understand how this situation regarding the DC plan happened. The prior administration at WSI led us as employees to believe things that were not true, and therefore I and many of my coworkers opted into the DC plan, causing us to lose benefits we would have had if we had not bought into the administrations tactics to convince us to switch. It is extremely disheartening to know that we were working for an administration that did not consider our best interest, but rather felt it appropriate to manipulate the facts in order to convince us to do what they wanted. I did not opt to make this move in the hopes of getting rich in the market, but to the contrary I was led to believe if I did not change to the DC plan, when WSI privatized I would have lost all of my retirement that I had already built up. Please note that this was sold to us on the basis of **WHEN** our agency was privatized we would lose or benefits, not **IF** we were privatized. As you may recall we opted out in 1999 but in 2009 the legislature voted us back under the HRMS system but we were not allowed back into the DB program.

For those of us who have been long-term employees, who saw our future careers to be that of state service, we were told if we wanted to work for the state in the future for 10 years or more, it was in our best interest to change over to the DC plan. Had I been a less trusting employee, I might have realized that they had their own ulterior motives in selling us on the DC plan. However, having dedicated so much time and effort to my career with WSI, I believed at the time that the company would not lead us astray or push us to make a decision that would have detrimental effects on our livelihood in the future. Please don't mislead future hires to make the same terrible mistake we were led to make. It will not be in their best interest.

I have dedicated my work life to WSI for 21 plus years as a claims adjustor. We have been through good times as well as some very trying times. At times we have endured a great deal of negative media attention and very stressful work conditions which led many people to leave the company. However, some of us who have endured high rates of turnover and stuck it out, either because we felt there was great merit in the work we do or because we felt we would be rewarded for all our years of dedication in the end are now suffering the consequences of the decision to change to the defined contribution plan.

During the last legislative session I discovered that with the change to the DC plan we also lost the rule of 85 and now I feel I may never have the opportunity to retire. As someone who has dedicated so much time, energy, and commitment to this company and this state, I am extremely frustrated by this matter. I am a single parent of two children who I have raised alone. I have worked full time at WSI since



1993. I have also worked a second full-time job for the past 10 years in order to help my children get through college. I do not regret working the second job but would like to think at some point I would be able to retire. However now it is unrealistic to believe that I will ever be able to retire despite my extensive commitment to and history of state service.

At WSI our jobs are getting harder all the time with the nature of the global workforce working in North Dakota, yet every day I come to work with the goal of trying to ease the burden for injured workers and making the difficult situations they are facing while being injured less daunting. These injured workers are concerned about their livelihood and futures. In a way, those of us who were convinced to switch to the DC plan now have similar fears and uncertainties despite having dedicated many years of service to the state of North Dakota. We too are facing an uncertain future of not knowing if we will ever be able to retire.

Accordingly, I ask that you please consider house bill 1154 to allow those of us who have dedicated our work lives to state service the security we deserve by allowing us to return to the defined benefit plan so that we might be able to retire at some point in the future.

Thank you for your time and attention to this matter.

Tami Olson

#10 1154  
2-5-15

Testimony for HB1154

2/4/2015

To Mr. Chairman and Members of the Committee,

My name is Sheree Schafer and this testimony is written on my behalf in support for HB1154 and respectfully asking for your support also. I am also taking annual leave to be able to sit in the committee hearing.

In 1994, I started working for the state agency known as Workers Compensation Bureau back then, as a temp. I was only 22 at the time and could have not known that I would still be here (now Workforce Safety and Ins) many years later. It wasn't just a job for me, it became my lively hood. I was blessed with an FTE position within just a few months of employment. Even after the huge influx of duties due to the oil boom, I am still today, 20 years later, a very dedicated, hardworking state employee who is grateful to have a job knowing one day I would be granted the benefits of being a dedicated worker for the state of ND for so long.

About 3 years ago, I got a wake up call when I found out that THOSE benefits that I was looking forward too in my retirement were not a reality. A co-worker of mine was checking into buying years of service to meet the rule of 85, when she was shockingly told by PERS that she was not eligible due to being in the Defined Contribution Plan. Along with this info, other info of the benefits that were taken from those of us, who moved to the DC plan from the DB plan, also flowed thru the agency like a tidal wave of NEW information about our retirement. Many coworkers were unaware of any of this in the months that followed as people started asking outside sources for info. I was heartbroken, to realize my administration and my leaders back in 1999, that I believed to have my best interest in, mislead so many of us and did not present a clear picture to the differences in the 2 plans. Very important information was not given to us to make a sound decision on which plan to choose. I recall now, thinking back so many years, how a decision was pushed on us to make this life changing choice very quickly because legislation had just passed this bill in 1999. At that time the administration of WSI informed agency personnel of this legislative change and indicated if we had greater then 10 yrs prior to retirement, it would be in our best interest to remove ourselves from the Defined Benefit Retirement plan and enroll in the Defined Contribution Fund since not if, BUT RATHER, when the agency privatized we would lose our retirement. And we were left to believe how marvelous this move to DB was going to be. I didn't make the move to DC from DB for greed sake, I did it because I was young, naive and very uninformed by those I trusted. Workforce Safety was in such uncertainty back in those days and a push for privatization was hugely portrayed to us by our leaders. I was scared by what I was being told that there was a huge risk of loosing our retirement. Yet now, we find our agency back under the direction of the Governor as a vote by the people in 2009. There are definitely other agencies who had employees move plans due to this bill passing in 1999, but if you take a look at the volume of how many WSI employees moved to the DC plan, because of the huge number that should raise alarm as to something doesn't add up for our agency.

I am single and have no one else to rely on or assist me in my future. No words can express the amount of tears and anxiety that I have over this error that I made because I didn't ask the right questions of the right individuals who could have given me the right information. We were given direction at that time not to contact NDPEA or PERS for assistance.

Mr Chairman and members of the committee, I am asking your support and that you will vote for a one time chance for us to become members of the public employees retirement system again and get out of the Defined Contribution Fund. Please help me right a wrong so I can choose to retire someday.

Thank you,

Sheree Schafer

Sheree Schafer 2/5/2015

# 11 1154  
2-5-15

February 4, 2015

RE: Testimony for HB 1154

To the Chairman and Members of the Committee:

I am writing the testimony in hopes that you will vote to allow participating members the opportunity to terminate membership in the defined contribution retirement plan and elect to become a participating member in the public employee's retirement system.

I began working for WSI in 1997 and have been a dedicated and loyal WSI employee for the past 18 years. In 1999, Legislative action removed WSI from the control of the Governor of North Dakota and placed us under the control of an Agency Board. WSI staff was told at that time if we planned to be with WSI for any length of time it would be in our best interest to remove ourselves from the Defined Benefit Retirement Fund and enroll in the Defined Contribution Fund.

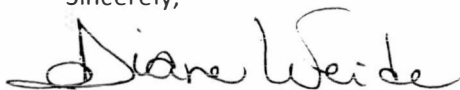
It later came to my attention the leaders of WSI were not forthcoming with all the facts regarding the Defined Contribution Plan. This lack of information and understanding of what was truly happening is now affecting my future.

In 2008 WSI employees were placed in to the state personnel system and the Governor. I feel with this major change it placed us in a different position. I ask that you please take the time and review all the facts of what transpired in 1999 before making your decision on HB 1154.

I have invested and am proud to say I have worked at WSI for the past 18 years. My plan is to continue to serve the injured worker, employer and the State of North Dakota.

Please vote to allow us the opportunity to become a participating member in the public employee's retirement system. Thank you for your time in considering the matter.

Sincerely,



Diane Weide



#12 1154  
2-5-15

Testimony for HB 1154

2/2/15

To Mr. Chairman and Members of the Committee:

My name is Brenda Schlomer, I am here speaking on behalf of myself, as an individual and this is my testimony in support of HB 1154. I have used my earned annual leave in order to be here today.

My reason for being here today has everything to do with being a state employee for the past 29+ years. I began working for WSI at the age of 22, which was in 1985. Little did I know at that time that WSI would become my career. 29 years later I am still a dedicated, loyal state employee helping injured workers through the workers compensation process, and a state employee who was looking forward to retirement and the Rule of 85.

Several years ago I contacted PERS about buying years of service credit to see if it would be an affordable option for sooner retirement. I sent them the required paperwork and within the same day I received a disturbing phone call from PERS asking me what I thought I was doing? What did I want? I was informed at that time that I was NOT ELIGIBLE to buy years of service credit, and I was NOT ELIGIBLE for the Rule of 85 because I was in the Defined Contribution Plan.

Over the course of that day followed by the weeks, and months to follow, it has become crystal clear that the leaders and the administration department of WSI in 1999 did not present clear or true information to employees, nor did they have the well-being or best interest of their employees in mind, nor did they provide necessary and crucial information for me regarding the Defined Contribution Plan. This was a life changing decision. I was simply trying to protect what I had for retirement, I was not trying to get rich. The decision I made cost me the dream of retirement. People that I trusted told us what to do. The Defined Contribution Plan is not a viable retirement option. When I meet with my financial planner, I am constantly told that I "might" have enough funds to retire on for about 7 years total, then better plan on finding another job and working a long time. This is not a retirement plan.

I cannot describe my disappointment, my sleepless nights, my tears, my frustrations over this terrible situation that I find myself in.

Mr. Chairman and members of the committee, I hope that you will pass HB 1154 and allow participating members a one-time opportunity to terminate membership in the defined contribution retirement plan and elect to become a participating member in the public employees retirement system. I deserve this opportunity, my family deserves this, and the State of North Dakota can afford it.

I feel with this opportunity granted, the state of North Dakota will be just fine. The fund will be just fine and for myself and my family, I can actually have a viable retirement plan to work towards.

  
Brenda Schlomer

#13 1154  
2-5-15

2015 House Bill 1154

Testimony by Denise Kienzle, Claims Adjuster/WSI

February 4, 2015

Mr. Chairman, Members of the Committee:

My name is Denise Kienzle and I am giving testimony in regards to HB 1154, the Defined Contribution Plan.

I have been a loyal and dedicated state employee for over 24 years. In 1999 the leaders and Human Resources (HR) department of Workforce Safety & Insurance (WSI), the then administration, presented to us what is now called the Defined Contribution Plan.

When presented to us they did not present any clear or truthful information, they did not inform any of us how this would play out, they did not inform any of us that we would not be considered under the Rule of 85. That when we would retire, we would have to figure out what to do with what little bit we have. We were never told that when the money is gone it is gone, unlike other state employee in the Defined Benefits Plan, who once retired, continue to receive benefits until the day they are no longer on this earth.

We were lied to and pressured into making a very rushed and ill informed decision. Information was withheld and we were lied to!

The way things stand; I will never be able to retire, I will have to continue to work as I will never have the opportunity to enjoy my Golden years.

I believe the only fair and just thing for the state of North Dakota it to allow HB 1154 to pass so that those employees that were unfairly treated, lied to, and pressured into making a ill-informed decision to be allowed to come back into the Defined Benefits Plan, without any penalties, so that we too can someday enjoy the opportunity to retire like other state employees. The state of North Dakota will be fine and the state retirement fund will be fine and with the passing of HB 1154 now my family and myself can actually have something to retire on.

Denise Kienzle

# 14 1154  
2-5-15

**HB 1154 Testimony by  
Patty Gleich, Claims Technician**

**February 4, 2015**

Mr. Chairman, Members of the Committee:

My name is Patty Gleich and I am submitting my testimony in HB 1154.

I am proud of my 29 years of service to the state but I am not proud of the events that took place in 1999 when the Defined Contribution Plan was introduced to W.S.I. employees and how it was presented. It was presented as a "rosy future" for us because we were told "there was a lot of money being made in the stock market." We were never given the whole big picture. As I recall we were only in meetings about Defined Contribution but never about Defined Benefit. I never remember North Dakota P.E.R.S coming in for a meeting to inform us of the repercussions if we switched.

I made a very bad choice. I feel very naive as I tell you today I honestly did not know until very recently that I gave up the "Rule of 85" or the fact that if I accepted employment at another state agency I wouldn't be given the opportunity to opt back in to the Defined Benefit plan. W.S.I. employees were never given all the information to make a smart choice. So in the process some good hard-working and honest people have given up their hope and dreams of actually being able to retire.

Please put yourself in our shoes. What if you worked your whole life and were never able to retire? This is our reality. This is the reality of your decisions here today. Please take them to heart. You now have a chance to right a wrong.

This is our livelihood. We have served North Dakota proudly with our dedication and loyalty and we deserve to be able to walk away in our later years with a sense of satisfaction and security. We have served this state and I plead with you to serve us back.

Please pass this bill as written and allow the State employees the opportunity to opt back into the Defined Benefit plan.

P. 2

Thank you for your time in allowing me to tell my story.

Sincerely,

*Patty Gleich*

Patty Gleich

#15 1154  
2-5-15

Testimony in support of HB1154

Mr. Chairman and Members of the Committee:

My name is Tamara Solie and I am employed by Workforce Safety and Insurance (WSI). I enrolled in the defined contribution (DC) plan in 1999, when the option was offered to WSI employees. The DC plan was strongly sold to WSI employees, as is evident by the number of employees that made the election. At the time of my election, I was lead to believe that WSI was moving toward privatization, and if I did not make the election, my retirement funds would not be transferred to the private employer. I was trying to protect my retirement, and in no way saw this as an opportunity to get rich in the stock market. In reality, the movement to the DC plan has jeopardized my retirement.

My retirement was further compromised by an initiated measure in 2008. The people of North Dakota voted to return WSI to the control of the Governor, and WSI employees were returned to HRMS. This resulted in WSI employees being reclassified, which negatively impacted several employees' pay/retirement earning potential. Affected WSI employees are now subject to the state classification system and pay grades, but do not share the certainty and stability of a defined benefit plan. This is an obvious inequity for those of us affected by the 2008 change.

Also, TIAA-CREF charges a quarterly fee for management of my retirement account. Members of the defined benefit plan are not charged this fee, and it seems unfair that DC members must bear this expense.

The passing of HB 1154 is an opportunity to provide a stable and secure retirement for affected state employees. I am not looking for a handout. I understand that the passing of this bill will not negatively impact, and may in fact help, the state's retirement fund.

Thank you for your consideration and support.

*Tamara Solie*

Tamara Solie

#16 1154  
2-5-15

Good Afternoon, Mr. Chairman and Members of the Committee:

My name is Susan Lackman. I am currently employed with Workforce Safety & Insurance as a Claims Adjuster since January 1994. I took annual leave to be here in person this afternoon for the hearing of HB1154. I am here to ask for your support in recommending a "Do Pass" for HB1154 which would give me the option to return to the Defined Benefit plan.

Unfortunately, in December 1999, I made the decision to opt out of the Defined Benefit plan after having been provided inaccurate information. However, I never realized the full ramifications of that decision until over 15+ years later when I discovered the Rule of 85 does not apply to me; and I no longer have the option to purchase years of service should I have the opportunity and means to do so. I don't want to see anyone else make the same mistake that I did when I inadvertently removed myself from the state pension plan, thereby sacrificing my future financial stability during my retirement years.

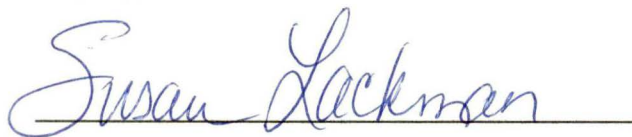
While management of my own retirement funds sounds like a good thing, it truly is not. Here are just a few reasons why I believe it is not a good plan: 1) I am not a financial planner or advisor. While I have some understanding of the stock market, mutual funds, etc., I don't have the expertise or time to manage my own retirement funds in order to maximize my return. 2) I have no choice as to the financial company where I have to put my funds because I am only allowed to use the company selected by ND PERS via an RFP. Since 1999 the financial company has been changed two times: first it was with Fidelity and currently is with TIAA-CREF. 3) Moreover, even within the financial firm selected, I am further limited to specific funds within the company.

When the decision to opt out of the Defined Benefit program was made in 1999, WSI was administered by a Board of Directors and were outside of HRMS (called Central Personnel at the time) for a number of years. In 2008 as a result of a vote of the people of North Dakota, WSI was placed back under the purview of the Governor and HRMS but there was no opportunity to return to the Defined Benefit program.

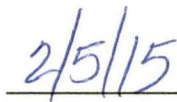
I am asking for your support of HB1154 with a "Do Pass" recommendation. This would give me, as well as others who previously opted out of the Defined Benefit plan, the option to come back into the Defined Benefit plan; and it would give me the opportunity to retire in the future with some financial stability.

Thank you for your time and consideration,

Sincerely,



Susan Lackman



Date

**Testimony in Support of House Bill 1154**  
**Jeanine Doerr**  
**February 5, 2015**

#17  
1154  
2-5-15

My name is Jeanine Doerr and I strongly support HB1154. I am a member of a small group of Workforce Safety and Insurance (WSI) employees that have been adversely affected by a unique series of legislative events controlling WSI. HB1154 provides a remedy to that group of employees.

I am currently employed as an appeals referee with Job Service North Dakota since February 2012. Before transferring from one state agency (WSI) to another (JSND), I had been employed by WSI for approximately 17 years. At the start of my employment with Job Service, I was not permitted to enroll in the state offered defined benefit (DB) retirement plan because I had enrolled in the defined contribution (DC) plan in 1999 while a WSI employee.

A little history on how enrollment in the DC plan came about... In 1999, after WSI was removed from the state classified employee structure, WSI management initiated employee meetings and presentations strongly encouraging employees to convert retirement benefits to the DC plan. I believe most employees elected to convert and did so based upon inadequate information. The primary issue conveyed was the "portability" of the plan and that it would provide the enrollee to be the captain of their own ship, so to speak. However, this was misleading information. The state retirement board selects the fund manager, as well as the limited selection of investment funds. Further, the fund manager deducts a quarterly management assessment fee directly from the retirement account. This appears to be an unfair transfer of administrative costs associated with a state benefit that should be borne by the employer, certainly during the period of time the enrollee remains an active employee. The state does not transfer administrative costs associated with the DB plan onto employees enrolled in that retirement plan.

At the time the retirement plan conversion was promoted, there was never any disclosure that electing the DC plan would require the enrollee to forego other benefits that are associated with the DB plan. One such benefit is the disability provision provided under the DB plan, the cost of which is entirely borne by the employer. The only access to disability available to a member of the DC plan is essentially a withdrawal from their individual DC account, thereby reducing funds available for retirement. The disability offered to members of the DB plan does not appear to ultimately affect their available funds at retirement. This is a huge disparity in treatment.

**Testimony in Support of House Bill 1154**

**Jeanine Doerr**

**February 5, 2015**

**Page 2**

Another benefit not available to members of the DC plan is the PEP program available to the DB members which provides for employer-sponsored incentives for additional savings with deferred compensation. There is no similar incentive for those in the DC plan. However, given the disparity in anticipated retirement receipts (DC plan members currently projected at 40-60% of what DB plan members can expect to receive), the savings in the deferred compensation program is even more critical for DC plan members and should be somehow similarly incentivized.

HB1154 provides a remedy for the small group of employees who have been adversely affected by the following unique series of legislative events. WSI was removed from the state classified employee structure in 1999, after which an alternate retirement plan was offered. However, in 2008, the people of this state voted to return WSI back under the control of the Governor. At that time, there was significant action to ensure all WSI employees were properly classified in accordance with the state classification system, which in many cases resulted in lowered salary caps. WSI employees anticipated that we would be returned, or offered the ability to return, to the defined benefit (DB) plan, as we were once again classified employees. However, that aspect of the employee status conversion was not addressed by the legislature.

Please pass HB1154 to provide a remedy to the small group of affected state employees. I would be happy to discuss this further at your convenience.

Jeanine Doerr

3305 Valley Drive

Bismarck, North Dakota 58503

(701) 214-7443