Testimony in Support of SB 2239
Senate State and Local Government

Good morning Chairman Roers and members of the committee. My name is Sharon Schiermeister. I am a retired state employee and I am testifying in support of Senate Bill 2239.

I am in favor of this bill as it provides a cost-effective approach to put the PERS Defined Benefit (DB) Plan on a path to becoming 100% funded. Achieving sound financial status provides assurance to retirees that the benefits we have been promised are secure.

There are other proposals to address the funding shortfall in the DB plan in HB 1039, HB 1040 and HB 1486. Each of these bills proposes to close the DB plan to new employees, creates a new defined contribution (DC) plan for new employees and has three provisions to fund the DB plan.

Included with my testimony are several changes to the retirement plan that I had the opportunity to see during my career at the North Dakota Public Employees Retirement System. I feel this historical perspective may be helpful to you as you consider this important decision before you today.

I feel the history tells us the following:

1. **Past Legislatures have not considered it a priority to adequately fund the PERS DB retirement plan resulting in employees contributing more than 50% of the cost.**
    - Only 3 years of the 4-year proposed shared recovery plan have been approved, despite requests being submitted repeatedly over the past 10 years.
    - Employees have taken on a greater share of the recovery through contribution increases and benefit reductions

    SB 2239 addresses this by requiring employers to contribute the actuarially determined contribution which will ensure that the plan is adequately funded on an on-going basis.

2. **State Employees do not have a strong desire to be in a Defined Contribution plan.**
    - Less than 40% of eligible employees made the initial move into the DC plan
    - Less than 3% of all new state employees elected to join the DC plan when given the option
    - 75% of the DC plan participants moved back into the DB plan when given the opportunity, and agreed to pay 2% more in employee contributions

    SB 2239 addresses this by keeping the DB plan open and providing new employees with the choice of being in either the DB or the DC plan.

In summary, I feel that maintaining the DB plan and having the DC plan available as an option for new employees is the right solution and I would encourage a yes vote on SB 2239.

The Public Employees Retirement System began on July 1, 1966. During the 1965 Legislative Session, the Legislature passed a bill establishing the initial retirement system and setting it up as a money purchase or defined contribution plan. This system was set up to provide a member with a lump sum payment upon retirement, which consisted of contributions plus earnings, subject to fluctuations in the investment markets.

The PERS defined benefit retirement plan was created in 1977 when the money purchase plan that had started in 1966 was closed by the legislature after determining the State should move to a defined benefit plan. A defined benefit plan provides an employee with a life time pension, which is calculated using the employee's years of service and salary. If an employee leaves employment prior to retirement, they are able to withdraw the employee share of contributions, plus interest.

The PERS defined contribution (DC) retirement plan was created by the 1999 Legislative Assembly as an option for non-classified state employees. It was felt that a DC plan offered more portability for employees who may not stay with State government for their career. Portability allows an employee to take their retirement account with them to a new employer. In a DC plan, the employee has the ability to vest in the employer contribution over a short period of years. Vesting allows the employee to take both the employee and employer contributions, plus earnings, when they leave employment. The DC plan began January 1, 2000. There were 620 employees originally eligible to join the plan. Of that total, 239 elected to transfer from the DB plan into the new DC plan, or 39%. In 2001, eligible employees were given another opportunity to transfer from the DB plan into the DC plan. This resulted in only 4 more employees moving to the DC plan out of a total of 422 employees who would have been eligible to transfer.

Legislation was also passed in 1999 to create the Portability Enhancement Provision, or PEP, for the defined benefit plan. As mentioned above, if an employee leaves the DB plan before retiring, they were only entitled to the employee contributions, not the employer contributions. To improve the portability of the DB plan, PEP allows the employee to vest in a portion of the employer contribution if they also participate in a supplemental savings plan. Employees who use PEP are then able to take a portion of the employer contribution, along with their employee contributions, plus interest, when they leave employment.

In 2013, legislation was passed to give all state employees hired from October 1, 2013 through July 31, 2017, the option to choose between joining the DB plan or the DC plan. During this period, there were 5,090 new hires, of which 146, or 2.87%, elected to join the DC plan. This provision of the law was allowed to sunset, as no legislation was submitted to keep the DC option open for all state employees.

In 2015, legislation was passed to give members of the DC plan a one-time opportunity to transfer back into the DB plan, with the requirement to pay an additional 2% employee contribution into the DB plan. This opportunity window was from November 2015 – February 2016. At that time, there were 226 members in the DC plan, of which 170, or 75%, elected to transfer back into the DB plan.

Recovery Plan

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

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

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

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

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

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

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

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