

**2021 HOUSE GOVERNMENT AND VETERANS AFFAIRS**

**HB 1041**

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1041  
1/7/2021

Relating to public employees retirement system penalties for late payments or failures to follow required processes

**Chairman Kasper** opened the hearing at 10:15 a.m.

Representatives	Attendance
Representative Jim Kasper	P
Representative Ben Koppelman	P
Representative Pamela Anderson	P
Representative Jeff A. Hoverson	P
Representative Karen Karls	P
Representative Scott Louser	P
Representative Jeffery J. Magrum	P
Representative Mitch Ostlie	P
Representative Karen M. Rohr	P
Representative Austen Schauer	P
Representative Mary Schneider	P
Representative Vicky Steiner	P
Representative Greg Stemen	P
Representative Steve Vetter	P

### Discussion Topics:

- Errors by political subdivisions
- Penalty structure
- Contractual requirements

**Scott Miller, Executive Director, NDPERS #12, #314**

**Derrick Hohbein, Chief Operating/Financial Officer, NDPERS, #183**

**Rep. Rohr** motioned do pass

**Rep. Schauer** second

Representatives	Vote
Representative Jim Kasper	Y
Representative Ben Koppelman	N
Representative Pamela Anderson	Y
Representative Jeff A. Hoverson	N
Representative Karen Karls	Y
Representative Scott Louser	Y
Representative Jeffery J. Magrum	N

Representative Mitch Ostlie	Y
Representative Karen M. Rohr	Y
Representative Austen Schauer	Y
Representative Mary Schneider	Y
Representative Vicky Steiner	N
Representative Greg Stemen	Y
Representative Steve Vetter	N

The motion passed 9-5-0.

**Rep. Schauer** will carry the carrier.

**Additional written testimony:**

**Rebecca D. Fricke, Chief Benefits Officer, NDPERS #176**

**Chairman Kasper** closed the meeting 10:58 a.m.

*Carmen Hart, Committee Clerk by Anna Fiest*

Reconsidered by the GVA committee on 1/8/21 and final action on 1/15/21.

## **TESTIMONY OF SCOTT MILLER**

### **House Bill 1041 – Penalty for Statutory Violations**

Good Morning, my name is Scott Miller. I am the Executive Director of the North Dakota Public Employees Retirement System, or NDPERS. I appear before you today in support of House Bill 1041.

House Bill 1041 expands the list of statutory violations for which NDPERS can assess a penalty against a governmental unit. Currently, NDPERS is required to assess a penalty against political subdivisions that do not submit required contributions within the statutory timeframe. Having the ability to assess these penalties has been helpful in gaining compliance with statutory responsibilities.

House Bill 1041 would help NDPERS address two ongoing problems with payments from governmental units. The first problem this bill seeks to address is errors by political subdivisions regarding what payments to their employees are subject to retirement contributions. NDPERS provides our participating employers with regular and detailed education on what constitutes wages and salaries for purposes of determining the appropriate retirement plan contribution. Despite this education, we have some entities that do not seem particularly attentive to those statutory requirements, which results in contribution errors that we need to fix. Depending on what those errors are, there are times when our accountants spend days going back sometimes decades to correct contribution errors. We hope the penalty provisions in this bill will help those entities elect to become more attentive to their statutory and contractual requirements.

The second problem this bill is trying to address is the failure of some governmental units to pay insurance premiums by the date we have established so that we can appropriately forward those monies on to the carrier. When a governmental unit fails to timely pay those premiums, we are still required to pay our carriers for that coverage. The only funds available to pay for that coverage are from our insurance reserve fund. Every dollar of reserve fund money we have to use to pay for this coverage results in less interest income in our reserve fund. Further, the statutory purpose for that reserve fund is not to help our governmental entities float their insurance premium payments. Establishing a penalty structure will not only encourage governmental units to timely pay their premiums, but will also reimburse our reserve fund for the loss of interest income if those units continue to decline to timely submit those required premiums.

This concludes my testimony. I ask for your favorable consideration of this bill. I would be happy to answer any questions you may have.

**NDLA, Intern 09 - Maashio, Alexandria**

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**From:** Koppelman, Ben  
**Sent:** Friday, January 8, 2021 9:39 AM  
**To:** NDLA, Intern 09 - Maashio, Alexandria  
**Subject:** Fwd: 1041 Information

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**From:** Miller, Scott A. <scottmiller@nd.gov>  
**Sent:** Friday, January 8, 2021 9:37:56 AM  
**To:** Koppelman, Ben <bkoppelman@nd.gov>  
**Cc:** Fricke, Rebecca D. <rfricke@nd.gov>; Hohbein, Derrick L. <dhohbein@nd.gov>  
**Subject:** FW: 1041 Information

Good Morning, Representative Koppelman –

Please see the attached email below. In short, I testified incorrectly – I stated we were required to assess penalties, and we are not in fact required to do so. My staff advised me we have and do take circumstances into account when determining if we should assess penalties. The amendments to HB 1041 would not change that, but would merely expand the statutory violations for which we could assess penalties.

Please let me know if you have any questions.

Have a great day,

Scott

Scott A. Miller  
 Executive Director  
 North Dakota Public Employees Retirement System



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**From:** Miller, Scott A.  
**Sent:** Thursday, January 7, 2021 5:11 PM  
**To:** Schauer, Austen <aschauer@nd.gov>  
**Cc:** Kasper, Jim M. <jkasper@nd.gov>; Fricke, Rebecca D. <rfricke@nd.gov>; Hohbein, Derrick L. <dhohbein@nd.gov>  
**Subject:** 1041 Information

Good Afternoon, Rep. Schauer –

First off, a mea culpa – I was incorrect in my testimony that we were required to assess penalties to the political subdivisions. We generally do assess at least interest if there is an amount owing just to try to make the trust fund whole. But we are free to, and have, worked with political subdivisions in some cases. And if the mistake is ours, we never assess a penalty.

Section 1 of the bill addresses our Main PERS Defined Benefit/Hybrid plan. Section 2 addresses our Health Plan. Section 3 addresses our Defined Contribution plan. Unless the Defined Contribution plan is opened to non-state employees, I do not think we would ever use the permission in section 3, because we rarely have issues with state payroll. But we did add it there just in case.

As far as numbers go, we average about 10 instances a year in which we must spend significant amounts of time correcting and reconciling incorrect information from political subdivisions regarding salary contributions, which would fall under section 1 of the bill.

Regarding the health insurance premium payments, we average over ten problematic political subdivisions a month, and on average we float over \$250,000 a month. In May of last year, we floated almost \$470,000 for just 4 political subdivisions. Clearly, we have an issue here for which we need some extra authority.

We are working with the Insurance Department regarding the applicability of section 26.1-24-07, although at this point it does not appear to apply to us. It does, however, apply to our retiree and COBRA participants who are individually paying insurance premiums to us, and we follow these requirements in those cases.

Please let me know if you would like any additional information.

Have a great evening,

Scott

Scott A. Miller  
Executive Director  
North Dakota Public Employees Retirement System



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**TESTIMONY OF Derrick Hohbein**  
**House Bill 1041 – Penalty for Statutory Violations**

Good morning, my name is Derrick Hohbein. I am the Chief Operating/Financial Officer of the North Dakota Public Employees Retirement System, or NDPERS. I appear before you today in support of on House Bill 1041. I am available should there be any questions related to the impact of the bill on any of the NDPERS benefits.

**TESTIMONY OF REBECCA FRICKE**  
**HOUSE BILL 1041 – Penalties for Late Payments**

Good morning, my name is Rebecca Fricke. I am the Chief Benefits Officer of the North Dakota Public Employees Retirement System, or NDPERS. I appear before you today in support of House Bill 1041. I am available should there be any questions related to the impact of the bill on any of the NDPERS benefits.



# 2021 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1041  
1/8/2021

Relating to public employees retirement system penalties for late payments or failures to follow required processes

**Chairman Kasper** opened meeting 9:00 a.m.

Representatives	Attendance
Representative Jim Kasper	P
Representative Ben Koppelman	P
Representative Pamela Anderson	P
Representative Jeff A. Hoverson	P
Representative Karen Karls	P
Representative Scott Louser	P
Representative Jeffery J. Magrum	P
Representative Mitch Ostlie	P
Representative Karen M. Rohr	P
Representative Austen Schauer	P
Representative Mary Schneider	P
Representative Vicky Steiner	P
Representative Greg Stemen	P
Representative Steve Vetter	P

### Discussion Topics:

- Committee work

**Rep. Rohr** motion to reconsider

**Rep. Stemen** second

Representatives	Vote
Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Pamela Anderson	Y
Representative Jeff A. Hoverson	Y
Representative Karen Karls	Y
Representative Scott Louser	Y
Representative Jeffery J. Magrum	Y
Representative Mitch Ostlie	Y
Representative Karen M. Rohr	Y
Representative Austen Schauer	Y
Representative Mary Schneider	Y
Representative Vicky Steiner	Y

Representative Greg Stemen	Y
Representative Steve Vetter	Y

Motion carried 14-0-0

**Chairman Kasper** closed the meeting 9:51 a.m.

*Carmen Hart, Committee Clerk by Anna Fiest*

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1041  
1/15/2021

Relating to PERS penalties for late payments or failures to follow required processes
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**Chairman Kasper** opened the meeting 9:34 a.m.

Representatives	Attendance
Representative Jim Kasper	P
Representative Ben Koppelman	P
Representative Pamela Anderson	P
Representative Jeff A. Hoverson	P
Representative Karen Karls	P
Representative Scott Louser	P
Representative Jeffery J. Magrum	P
Representative Mitch Ostlie	P
Representative Karen M. Rohr	P
Representative Austen Schauer	P
Representative Mary Schneider	P
Representative Vicky Steiner	P
Representative Greg Stemen	P
Representative Steve Vetter	P

### Discussion Topics:

- Committee work

**Rep. Louser** motion do not pass

**Rep. B. Koppelman** second

Representatives	Vote
Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Pamela Anderson	N
Representative Jeff A. Hoverson	Y
Representative Karen Karls	Y
Representative Scott Louser	Y
Representative Jeffery J. Magrum	Y
Representative Mitch Ostlie	Y
Representative Karen M. Rohr	Y
Representative Austen Schauer	N
Representative Mary Schneider	N
Representative Vicky Steiner	Y

Representative Greg Stemen	Y
Representative Steve Vetter	Y

Motion carried 10-3-1

**Rep. B Koppelman** will carry the bill

**Chairman Kasper** ended meeting 9:38 a.m.

*Carmen Hart, Committee Clerk by Anna Fiest*

**REPORT OF STANDING COMMITTEE**

**HB 1041: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)**  
recommends **DO NOT PASS** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING).  
HB 1041 was placed on the Eleventh order on the calendar.

**2021 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**HB 1041**

# **2021 SENATE STANDING COMMITTEE MINUTES**

**Government and Veterans Affairs Committee**  
Room JW216, State Capitol

HB 1041  
3/11/2021

<b>Relating to PERS penalties for late payments or failures to follow required processes; to provide a penalty.</b>
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**Chair Vedaa** opened the hearing at 9:00 AM with Sen Vedaa, Meyer, Elkin, K Roers, Weber, Wobbema, and Marcellais present.

**Discussion Topics:**

- Submission of payments
- Compliance to Century Code
- PERS payments to insurance carriers

**Scott Miller – ND PERS Ex. Director** – introduced bill #7965

**Derrick Hohbein – Finance Officer of ND PERS** #7585

**Terry Traynor – ND Association of Counties** – Neutral testimony

**Additional written testimony:**

**Mary Jo Anderson – ND PERS - support #7999**

**Rebecca Fricke – ND PERS - support #7624**

Adjourned at 9:27 AM

*Pam Dever, Committee Clerk*

## TESTIMONY OF SCOTT MILLER

### House Bill 1041 – Penalty for Statutory Violations

Good Morning, my name is Scott Miller. I am the Executive Director of the North Dakota Public Employees Retirement System, or NDPERS. I appear before you today in support of House Bill 1041.

House Bill 1041 expands the list of statutory violations for which NDPERS can assess a penalty against a governmental unit. Currently, NDPERS is required to assess a penalty against political subdivisions that do not submit required contributions within the statutory timeframe. Having the ability to assess these penalties has been helpful in gaining compliance with statutory responsibilities.

This bill expands the ability to assess those penalties – \$50 and 1% of the amount due – to two additional problems. The first problem this bill seeks to address is errors by political subdivisions regarding what payments to their employees are subject to retirement contributions. NDPERS provides our participating employers with regular and detailed education on what constitutes wages and salaries for purposes of determining the appropriate retirement plan contribution. We have been providing that education for many years. Despite this education, we have some entities that do not seem particularly attentive to those statutory requirements, which results in contribution errors that we need to fix. Depending on what those errors are, there are times when our accountants spend days going back sometimes decades to correct contribution errors – and that is for a single person. We hope the penalty provisions in this bill will help those entities elect to become more attentive to their statutory and contractual requirements. Note that most of these types of errors are over-reporting of income, and so only the \$50 penalty would usually apply, rather than the 1%.

The second problem this bill is trying to address is the failure of some governmental units to pay insurance premiums by the date we have established so that we can appropriately forward those monies on to the carrier. When a governmental unit fails to timely pay those premiums, we are still required to pay our carriers for that coverage. The only funds available to pay for that coverage are from our insurance reserve fund. This has become a significant issue – in just the month of May of last year, we floated almost \$470,000 out of our reserve fund for just 4 political subdivisions. Every dollar of reserve fund money we have to use to pay for this coverage results in less interest income in our reserve fund. Clearly, we have an issue here for which we need some extra authority.

Further, the statutory purpose for that reserve fund is not to help our governmental entities float their insurance premium payments. Establishing a penalty structure will not only encourage governmental units to timely pay their premiums, but will also reimburse our reserve fund for the loss of interest income if those units continue to decline to timely submit those required premiums.



Please note this is not an attempt to play "Gotcha!" with our political subdivisions. Even with the penalty authority we have now, we first try to work with the political subdivision to provide guidance, education and assistance to help them come into compliance before we assess a penalty. Unfortunately, some entities continue to decline to follow statutory requirements. This bill is to try to encourage them come into statutory compliance.

This concludes my testimony. I ask for your favorable consideration of this bill. I would be happy to answer any questions you may have.

## TESTIMONY OF DERRICK HOHBEIN

### House Bill 1041 – Penalty for Statutory Violations

Good Morning, my name is Derrick Hohbein. I am the Chief Operating/Financial Officer of the North Dakota Public Employees Retirement System, or NDPERS. I appear before you today in support of House Bill 1041.

House Bill 1041 expands the list of statutory violations for which NDPERS can assess a penalty against a governmental unit. Currently, NDPERS is required to assess a penalty against political subdivisions that do not submit required contributions within the statutory timeframe. Having the ability to assess these penalties has been helpful in gaining compliance with statutory responsibilities.

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Further, the statutory purpose for that reserve fund is not to help our governmental entities float their insurance premium payments. Establishing a penalty structure will not only encourage governmental units to timely pay their premiums, but will also reimburse our reserve fund for the loss of interest income if those units continue to decline to timely submit those required premiums.

Please note this is not an attempt to play “Gotcha!” with our political subdivisions. Even with the penalty authority we have now, we first try to work with the political subdivision to provide guidance, education and assistance to help them come into compliance before we assess a penalty. Unfortunately, some entities continue to decline to follow statutory requirements. This bill is to try to encourage them come into statutory compliance.

This concludes my testimony. I ask for your favorable consideration of this bill. I would be happy to answer any questions you may have.

**TESTIMONY OF MARYJO ANDERSON**  
**House Bill 1041 – Penalty for Statutory Violations**

Good morning, my name is MaryJo Anderson. I am the Retirement Programs Manager of the North Dakota Public Employees Retirement System, or NDPERS. I appear before you today in favor of House Bill 1041. I am available should there be any questions related to the impact of the bill on any of the NDPERS benefits.

**TESTIMONY OF REBECCA FRICKE**  
**HOUSE BILL 1041 – Penalties for Late Payments**

Good morning, my name is Rebecca Fricke. I am the Chief Benefits Officer of the North Dakota Public Employees Retirement System, or NDPERS. I appear before you today in support of House Bill 1041. I am available should there be any questions related to the impact of the bill on any of the NDPERS benefits.

# 2021 SENATE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Room JW216, State Capitol

HB 1041  
3/12/2021

**Relating to PERS penalties for late payments or failures to follow required process; provide penalty.**

**Chair Vedaa** called to order at 11:34 AM with Sen Vedaa, Meyer, Elkin, K Roers, Weber, Wobbema, and Marcellais present.

**Discussion Topics:**

- Committee Work

**Sen Elkin** moved a **Do Pass**

**Sen Meyer** seconded

**Roll Call Vote: 7 -- YES 0 -- NO -0-ab Motion Passed**

Senators	Vote
Senator Shawn Vedaa	Y
Senator Scott Meyer	Y
Senator Jay R. Elkin	Y
Senator Richard Marcellais	Y
Senator Kristin Roers	Y
Senator Mark F. Webber	Y
Senator Michael A. Wobbema	Y

**Sen Elkin will carry the bill.**

Adjourned at 11:37 AM

*Pam Dever, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**HB 1041: Government and Veterans Affairs Committee (Sen. Vedaa, Chairman)**  
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB  
1041 was placed on the Fourteenth order on the calendar.