NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

EMPLOYEE BENEFITS PROGRAMS COMMITTEE

Tuesday, October 26, 2010
Harvest Room, State Capitol
Bismarck, North Dakota

Representative Bette B. Grande, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Bette B. Grande, David Drovdal, Francis J. Wald, Lisa Wolf; Senators Ray Holmberg, Ralph L. Kilzer, Karen K. Krebsbach, Carolyn Nelson

Member absent: Representative Ralph Metcalf

Other persons present: Representative Gary Kreidt, member of the Legislative Management, was also in attendance.

See Appendix A for additional persons present.

Chairman Grande recognized committee counsel. Committee counsel said there was a typographical error in the minutes of the Tuesday, September 21, 2010, meeting. On page 1, column 2, paragraph 3, he said, the number 66,000 should be changed to 6,600.

It was moved by Senator Holmberg, seconded by Representative Wolf, and carried on a voice vote that the minutes of the September 21, 2010, meeting be approved as corrected.

TEACHERS' FUND FOR RETIREMENT

Chairman Grande recognized Ms. Fay Kopp, Deputy Executive Director, Retirement and Investment Office. Ms. Kopp announced that the State Investment Board has hired Mr. John Geissinger as the new chief investment officer and executive director of the Retirement and Investment Office. Ms. Kopp said Mr. Geissinger has over 25 years of investment experience and will commence his duties with the Retirement and Investment Office on December 6, 2010.

Chairman Grande recognized Mr. Chris Conradi, Enrolled Actuary and Senior Consultant, Gabriel Roeder Smith and Company, Irving, Texas, who presented the July 1, 2010, actuarial valuation of the Teachers' Fund for Retirement (TFFR). A copy of the actuarial valuation is on file in the Legislative Council office and a copy of the PowerPoint used by Mr. Conradi in his presentation is attached as Appendix B. Mr. Conradi said there were no changes to the benefit provisions since the prior year's valuation. He noted the employer contribution rate increased to 8.75 percent from 8.25 percent and that a special payment to retirees of $4.4 million was made in December 2009. He said the actuarial assumptions were updated to incorporate the results of the experience study adopted by the TFFR Board of Trustees on January 21, 2010. He said these included an improvement in mortality; an increase in life expectancy; a decrease in retirement rates; a slight increase in the compensation assumption; and an investment return assumption of 8 percent, which is a continuation of the current investment return assumption. He said there are 9,907 active members and 6,662 retired members. The payroll, he said, is $465 million. The average annual salary, he said, is $46,937, and the average annual benefit is $18,769. He said the number of active members increased by 200, from 9,707 to 9,907--a 2.1 percent increase. However, he said, over the last 10 years, active membership has decreased an average of .1 percent per year. He said the payroll for active members increased 5.7 percent, from $440 million to $465 million. He said payroll has increased an average of 3.7 percent per year over the last 10 years. The average pay for active members increased 3.6 percent, he said, from $45,327 to $46,937. However, he said, the increase in average salary may be misleading because higher-paid teachers who retire are replaced by new teachers, growth in the number of teachers pulls the average down, and there was a 6.5 percent average increase for continuing members.

Mr. Conradi said the fair market value of assets increased from $1,310 million as of June 30, 2009, to $1,438 million as of June 30, 2010. He said the return on market for fiscal year 2010 was 13.9 percent, net of investment and administrative expenses. He noted the return on market in fiscal year 2009 was a -27 percent and -7 percent in fiscal year 2008. Average returns for the last 10 years have been 2.2 percent, he said, and 6.9 percent for the last 20 years. He said the actuarial value of assets is $1,842 million versus $1,900 million last year. He said this decrease is due to recognition of another 20 percent of the fiscal year 2009 loss. He said the actuarial rate of return was a -.5 percent for fiscal year 2010, compared to 13.9 percent on the market value of assets basis. He said the actuarial value is 128 percent of fair market value which compares to 145 percent last year. He said there are $404 million in deferred losses, which have not yet been recognized.

In response to a question from Senator Nelson, Mr. Conradi said the gap between contributions versus benefits and refunds is normal for a mature pension plan. If contributions always equaled or outran benefits and refunds, he said, there would be no reason to have a pension or trust fund as it would be a pay-as-you-go retirement plan. Under the current plan's methodology, he said, investment returns as well as contributions are used to pay retirement benefits to future retirees.

Concerning actuarial results, Mr. Conradi said, the unfunded actuarial accrued liability increased from $545.6 million to $795.2 million. He said the funded ratio decreased from 77.7 percent to 69.8 percent. The funded ratio, he said, is the actuarial assets divided by the actuarial accrued liability. He said the decrease was due mainly to recognition of an additional 20 percent of fiscal year 2009 asset loss. He noted the funded ratio using market value is 54.5 percent, up from 53.5 percent last year. He said the unfunded actuarial accrued liability is 171 percent of covered payroll, compared to 124 percent last year. He said there is a negative margin or shortfall in the system which declined from -2.53 percent to -4.04 percent or 8.75% (the statutory contribution rate) - 12.79% (Governmental Accounting Standards Board annual required contribution) = -4.04%. He said the funding period based on the 8.75 percent employer contribution rate is infinite, and the 5.93 percent amortization payment is insufficient.

In response to a question from Representative Kreidt, Ms. Kopp said approximately 50 percent of school districts pay all or a portion of the employee contribution. She said this rate has been relatively stable.

Concerning future projections, Mr. Conradi said, TFFR will run out of money within 30 years, the 8.75 percent employer contribution rate never sunsets, the margin never becomes positive, the unfunded actuarial accrued liability continues to grow into the future, and the funded ratios under all scenarios trend to 0 percent.

Employee Benefits Programs Committee Bill No. 54

Chairman Grande recognized Mr. Conradi. Mr. Conradi reviewed Employee Benefits Programs Committee Bill No. 54 [10054.0100] and the actuarial analysis (Appendix C) for the bill. He said the bill makes a number of changes in TFFR designed to deal with the underfunded situation of the fund. He said the bill makes changes to both the contribution rates and benefits. He said the bill would increase the current employer contribution rate from 8.75 percent of salary to 10.75 percent of salary on July 1, 2012, and to 12.75 percent on July 1, 2014. He said the bill also would increase the member contribution rate from 7.75 percent of salary to 9.75 percent of salary on July 1, 2012, and 11.75 percent on July 1, 2014. He said the member and employer rates would revert to 7.75 percent once the plan reaches a 90 percent funded ratio or once the actuarial value of assets divided by the actuarial accrued liability is at least 90. He said the bill also makes changes to eligibility requirements for normal unreduced retirement, early retirement, and disability benefits.

Mr. Conradi said the effect of the requirement for member contributions from reemployed retirees is .12 percent of payroll, the increase in the member contribution rate is 4 percent of payroll, the increase in the employer contribution rate is 4 percent of payroll, the change in retirement eligibility and early retirement reduction is .49 percent of payroll, and the change in disability provisions is .05 percent of payroll. Therefore, he said, the additional contributions and the savings from benefit reductions when fully phased in are the equivalent to a total of 8.66 percent of payroll.

It was moved by Senator Holmberg, seconded by Representative Wald, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 54 a favorable recommendation. Representatives Grande, Drovdal, Wald, and Wolf and Senators Holmberg, Kilzer, Krebsbach, and Nelson voted "aye." No negative votes were cast.

Employee Benefits Programs Committee Bill No. 55

Chairman Grande recognized Mr. Conradi. Mr. Conradi reviewed Employee Benefits Programs Committee Bill No. 55 [10055.0100] and the actuarial analysis (Appendix D) for the bill. He said the bill is identical to Employee Benefits Programs Committee Bill No. 54 except it contains a $75 million general fund appropriation to TFFR for the purpose of reducing the unfunded actuarial accrued liability of TFFR. He said the state general fund appropriation of $75 million on June 30, 2012, equates to .92 percent of payroll, and, thus, the total effect of the bill is 9.58 percent of payroll. He said the bill would return TFFR to a funded status of approximately 89 percent by 2040.

In response to a question from Representative Wolf, Mr. Conradi said the funding period is the projected period of time based upon actuarial calculations that it would take to eliminate the unfunded actuarial accrued liability. He said the actuarial review of Employee Benefits Programs Committee Bill No. 55 shows a five-year funding year period in year 2040, and, thus, it is anticipated that the unfunded actuarial accrued liability would disappear by 2045. Under governmental accounting standards, he said, the maximum allowable funding period is 30 years.

Senator Nelson said if the committee does not forward the bill with a favorable recommendation, it may discourage the Governor from including an appropriation to TFFR in the executive budget.

In response to Senator Nelson's comments, Senator Holmberg noted that the committee's recommendation would not have an impact on the formulation of the executive budget.

Representative Wolf said the bill should be forwarded to the Legislative Assembly for consideration with a favorable recommendation. She said this would enable the entire Legislative Assembly to revisit the issue.

In response to Representative Wolf's comments, Senator Kilzer said the TFFR Board of Trustees may still introduce the bill even if the Employee Benefits Programs Committee gives it an unfavorable recommendation.

It was moved by Senator Holmberg, seconded by Representative Drovdal, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 55 an unfavorable recommendation. Representatives Grande, Drovdal, and Wald and Senators Holmberg, Kilzer, and Krebsbach voted "aye." Representative Wolf and Senator Nelson voted "nay."

Employee Benefits Programs Committee Bill No. 56

Chairman Grande recognized Mr. Conradi. Mr. Conradi reviewed Employee Benefits Programs Committee Bill No. 56 [10056.0100] and the technical comments (Appendix E) for the bill. He said the bill contains the administrative changes for TFFR. He said the bill changes the definition of beneficiary and salary and revises references to minimum required distributions, maximum benefit limits, death benefits, and rollovers by beneficiaries.

Chairman Grande recognized Ms. Kopp. Ms. Kopp said the actuarial consultant, in its technical comments, noted that in addition to allowing a member to name a person, organization, or estate as the member's beneficiary, consideration be given to explicitly allowing a trust to be named as the member's beneficiary. She said this is the current practice, and the law should be revised to incorporate current practice. In addition, she said, the plan's legal counsel and outside tax counsel have determined that the definition of salary was too broad and should be revised. She submitted an amendment (Appendix F) to address these concerns. She said the proposed amendment removes the authority to determine whether certain payments are included in salary and provides that salary includes pay for performance of duties unless the amounts are conditioned on or made in anticipation of an individual member's retirement or termination.

It was moved by Senator Nelson, seconded by Representative Wolf, and carried on a voice vote that the amendment submitted by the TFFR Board of Trustees be approved.

It was moved by Senator Nelson, seconded by Representative Wolf, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 56 a favorable recommendation. Representatives Grande, Drovdal, Wald, and Wolf and Senators Holmberg, Kilzer, Krebsbach, and Nelson voted "aye." No negative votes were cast.

Employee Benefits Programs Committee Bill No. 39

Chairman Grande recognized Mr. Conradi. Mr. Conradi said Employee Benefits Programs Committee Bill No. 39 [10039.0100] would create a third membership tier for TFFR with modified retirement eligibility rules. He reviewed the actuarial comments (Appendix G) for the bill. He said members hired on or after July 1, 2012, would belong to the third tier. He said Tier 3 members would be eligible to retire with unreduced retirement benefits only if they are vested and at least age 65. The provision allowing unreduced retirement upon meeting the Rule of 85 or Rule of 90, he said, would not apply to Tier 3 members. In addition, he said, reduced early retirement benefits would be available to vested members after age 62. Under the bill, he said, the total normal cost rate would decrease from 10.75 percent to 9.34 percent, the actuarial required contribution would decrease from 12.79 percent to 12.26 percent, and the funded status would decrease 1.4 percent to 68.4 percent.

Representative Drovdal said he had prepared an amendment [10039.0101] to delay implementation of the bill until July 1, 2012.

It was moved by Representative Drovdal, seconded by Representative Wald, and carried on a voice vote that the amendment to Employee Benefits Programs Committee Bill No. 39 proposed by Representative Drovdal be approved.

It was moved by Representative Drovdal, seconded by Representative Wald, and defeated on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 39 a favorable recommendation. Representatives Grande, Drovdal, and Wald and Senator Kilzer voted "aye." Representative Wolf and Senators Holmberg, Krebsbach, and Nelson voted "nay."

It was moved by Senator Krebsbach, seconded by Senator Nelson, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 39 no recommendation. Representatives Grande, Drovdal, and Wald and Senators Holmberg, Kilzer, and Krebsbach voted "aye." Representative Wolf and Senator Nelson voted "nay."

Employee Benefits Programs Committee Bill No. 40

Chairman Grande recognized Mr. Conradi. Mr. Conradi reviewed Employee Benefits Programs Committee Bill No. 40 [10040.0100] and the actuarial report (Appendix H) for the bill. He said the bill would create a third membership tier for TFFR. He said members hired on or after July 1, 2011, would belong to this third tier. Tier 3 members would receive benefits similar to those provided to Tier 2 members, he said, but the multiplier used in their benefit formula would be 1.88 percent rather than 2 percent.

Therefore, he said, a Tier 3 member who retires from TFFR would receive a benefit that is 6 percent less than a Tier 2 member.

Mr. Conradi said under the bill, the total normal cost rate would decrease from 10.57 percent to 10.06 percent, the actuarial required contribution would decrease from 12.79 percent to 12.57 percent, and the funded status would decrease by .6 percent to 69.2 percent.

Mr. Conradi said Gabriel Roeder Smith and Company had also been asked to project (Appendix I) the impact on cost that would result if both Employee Benefits Programs Committee Bill Nos. 39 and 40 are enacted. If both bills are enacted, he said, the total normal cost rate would decrease from 10.75 percent to 8.92 percent; the actuarial required contribution would decrease from 12.79 percent to 12.08 percent, saving .71 percent; and the funded status would decrease by 1.9 percent to 67.9 percent. However, he said, even with the changes proposed in the legislation, the statutory contribution rate of 8.75 percent is still projected to be insufficient to ever fully fund the retirement system.

Representative Drovdal said he also had requested an amendment [10040.0101] to Employee Benefits Programs Committee Bill No. 40. He said the amendment extends implementation of that bill to July 1, 2012. He said he is withdrawing Employee Benefits Programs Committee Bill No. 40 from further consideration.

Employee Benefits Programs Committee Bill No. 217

Chairman Grande recognized Mr. Conradi. Mr. Conradi reviewed Employee Benefits Programs Committee Bill No. 217 [10217.0100] and the actuarial comments (Appendix J) for the bill. He said the bill limits final average salary under TFFR of any member who retired as an administrator before completing eight years of service as an administrator. He said the final average salary of such a member would be based on the member's salaries earned while a teacher before becoming an administrator. He said the bill would reduce the annual required contribution by .02 percent, and the impact on the funded ratio and funding period would be immaterial.

It was moved by Representative Wald, seconded by Representative Drovdal, and defeated on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 217 a favorable recommendation. Representatives Grande, Drovdal, and Wald and Senator Kilzer voted "aye." Representative Wolf and Senators Holmberg, Krebsbach, and Nelson voted "nay."

It was moved by Representative Wald, seconded by Senator Holmberg, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 217 no recommendation. Representatives Grande, Drovdal, and Wald and Senators Holmberg, Kilzer, and Krebsbach voted "aye." Representative Wolf and Senator Nelson voted "nay."

Employee Benefits Programs Committee Bill No. 2

Chairman Grande recognized Mr. Conradi. Mr. Conradi reviewed Employee Benefits Programs Committee Bill No. 2 [10002.0200] and the actuarial comments (Appendix K) for the bill. He said the bill would fundamentally change TFFR. He said the bill would close the current defined benefit plan to new members effective July 31, 2011, replacing the defined benefit plan for these members with a defined contribution plan.

Without additional funding or other changes, Mr. Conradi said, the current defined benefit plan is projected to eventually run out of funds. However, he said, the defined benefit plan is projected to run out of money sooner under Employee Benefits Programs Committee Bill No. 2 than under current law. Under current law, he said, the defined benefit plan will run out of money in 2040 while with the defined contribution plan, the defined benefit plan will run out of money in fiscal year 2030. He said Employee Benefits Programs Committee Bill No. 2 leaves the defined benefit plan with a projected shortfall of $888 million with no funding source, more than doubling the $423 million shortfall under the current plan. He said elimination of liabilities for future members in the defined benefit plan is less than the reduction in contributions related to those future members, leaving the defined benefit plan worse off. At the point the defined benefit plan runs out of funds, he said, the plan's liabilities would still have to be met, and the member-plus-employer contributions needed to pay the benefits in that year would spike to over 47 percent of total pay under Employee Benefits Programs Committee Bill No. 2. He said this would occur in fiscal year 2031. In contrast, he said, under current law, after the defined benefit plan runs out of funds, total contributions would jump to just over 30 percent of pay. He said it would require a larger increase in defined benefit contribution rates to adequately prefund the defined benefit plan under Employee Benefits Programs Committee Bill No. 2--37 percent--than it would under the current open-group structure--26 percent. One financial benefit that the defined contribution plan gives the state or employers, he said, is that it removes the risk of employer contribution rate increases due to poor market performance or higher than expected salary increases or longer than anticipated life experiences, but the bill does so only at a cost. He noted defined benefit plans tend to favor career employees more than defined contribution plans, so a switch like this would be better for some employees and worse for others. In addition, he said, the defined benefit plan provides meaningful death and disability benefits, while the only death or disability benefit available under the defined contribution plan is a refund of the account balance. He said a switch to defined contribution moves investment risk and longevity risk from the defined benefit plan and, by extension, the employers to individual members. However, he said, the risk is not eliminated. He said TFFR would need to provide additional education to its members, both on choosing appropriate investments while working and on managing the distribution of assets to last for their lifetime.

It was moved by Representative Wald, seconded by Representative Drovdal, and defeated on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 2 a favorable recommendation. Representatives Grande, Drovdal, and Wald and Senator Krebsbach voted "aye." Representative Wolf and Senators Holmberg, Kilzer, and Nelson voted "nay."

Senator Holmberg said he understood the philosophical arguments for the bill but noted that it would be very expensive to implement a defined contribution plan at this time. He said it would increase liabilities under the defined benefit plan substantially.

It was moved by Representative Drovdal, seconded by Representative Wald, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 2 no recommendation. Representatives Grande, Drovdal, and Wald and Senators Holmberg, Kilzer, and Krebsbach voted "aye." Representative Wolf and Senator Nelson voted "nay."

PUBLIC EMPLOYEES RETIREMENT SYSTEM

Chairman Grande recognized Mr. Brad Ramirez, FSA, MAAA, FCA, EA, Consulting Actuary, The Segal Company, Greenwood Village, Colorado. Mr. Ramirez reviewed the July 1, 2010, actuarial valuation of the Public Employees Retirement System (PERS). A copy of the actuarial valuation is on file in the Legislative Council office and a copy of the PowerPoint used by Mr. Ramirez in his review is attached as Appendix L. He said the significant drop in assets experienced in 2008-09 is still being smoothed into the actuarial value of assets. He said the market value return on assets was 13.25 percent for the PERS fund which was greater than the 8 percent actuarial assumed rate of return. He said changes to contribution rates and funded ratios were dampened by asset smoothing methods, but the asset losses of 2008-09 still had a significant effect. He noted changes to assumptions approved by the PERS Board as recommended in the experience study analysis resulted in an increase in costs. He said the statutory or approved percent of pay rate for the main system is 4.12 percent while the recommended contribution increased from 7.74 percent on July 1, 2009, to 10.76 percent on July 1, 2010. For the judges' retirement system, he said, the statutory rate is 14.52 percent, and the recommended contribution increased from 10.48 percent on July 1, 2009, to 14.1 percent on July 1, 2010. He said the statutory approved rate for the National Guard retirement system is 6.5 percent, and the recommended contribution increased from 3.71 percent to 7 percent on July 1, 2010. For the law enforcement with prior main service system, he said, the approved rate is 8.31 percent while the recommended contribution increased from 9.11 percent to 10.8 percent. Similarly, he said, for the law enforcement without prior main service system, the approved rate is 6.43 percent, and the recommended contribution increased from 6.83 percent to 7.53 percent. For the Highway Patrolmen's retirement system, he said, the statutory contribution rate is 16.7 percent, and the recommended contribution increased from 18.73 percent on July 1, 2009, to 22.54 percent on July 1, 2010. For the retiree health benefits fund, he said, the statutory contribution rate is 1.14 percent, and the recommended contribution decreased from 1 percent on July 1, 2009, to .89 percent on July 1, 2010.

Concerning the funded ratio of the funds, Mr. Ramirez said, the funded ratio of the PERS main system decreased from 85.1 percent on July 1, 2009, to 73.4 percent on July 1, 2010. He said the funded ratio of the Highway Patrolmen's retirement system decreased from 87.2 percent on July 1, 2009, to 79.8 percent on July 1, 2010. He noted the funded ratio of the retiree health benefits fund increased from 43.9 percent on July 1, 2009, to 47.4 percent on July 1, 2010.

Mr. Ramirez said the market value of the combined assets for PERS and the Highway Patrolmen's retirement system increased from $1.361 billion last year to $1.519 billion this year. However, he said, the combined actuarial value of assets of PERS and the Highway Patrolmen's retirement system increased from $1.667 billion last year to $1.671 billion this year. He said the total actuarial value of assets is 110 percent of market value of assets. However, he reminded the committee there are significant unrecognized losses that will be recognized in subsequent valuations that will result in increases in recommended contributions unless offset by future gains.

Concerning PERS main system financial information, Mr. Ramirez said, the market value of assets increased from $1.32 billion on July 1, 2009, to $1.474 billion on July 1, 2010. Also, he said, the actuarial value of assets increased from $1.617 billion on July 1, 2009, to $1.621 billion on July 1, 2010. He said the ratio of the actuarial value to market value is 110 percent. However, he said, there are $147 million in deferred losses. For the main system, he said, the contribution margin decreased from -3.62 percent on July 1, 2009, to -6.64 percent on July 1, 2010.

Concerning the judges' retirement system, Mr. Ramirez said, the contribution margin decreased from 4.04 percent on July 1, 2009, to .42 percent on July 1, 2010. For the National Guard retirement system, he said, the contribution margin decreased from 2.79 percent on July 1, 2009, to -.5 percent on July 1, 2010. For the law enforcement with prior main service system, he said, the contribution margin decreased from -.8 percent on July 1, 2009, to -2.49 percent on July 1, 2010. For the law enforcement without prior main service system, he said, the contribution margin decreased from -.4 percent on July 1, 2009, to -1.1 percent on July 1, 2010. He said the funded ratio for the main system is 73 percent, 101 percent for the judges' retirement system, 92 percent for the National Guard retirement system, 66 percent for the law enforcement with prior main service system, and 73 percent for the law enforcement without prior main service system.

Concerning the Highway Patrolmen's retirement system, Mr. Ramirez said, the market value of assets increased from $41 million to $44.8 million on July 1, 2010. However, he said, the actuarial value of assets decreased from $50.2 million on July 1, 2009, to $49.3 million on July 1, 2010. He said the ratio of actuarial value to market value is 110 percent, reflecting a $4.5 million deferred loss. He said the contribution margin of the Highway Patrolmen's retirement system decreased from -2.03 percent on July 1, 2009, to -5.84 percent on July 1, 2010. He said the funded ratio of the Highway Patrolmen's retirement system is 80 percent.

Concerning the retiree health insurance credit fund, Mr. Ramirez said, the market value of assets increased from $36.1 million on July 1, 2009, to $45.8 million on July 1, 2010. The actuarial value of assets increased from $44.8 million on July 1, 2009, to $48.7 million on July 1, 2010. He said the ratio of the actuarial value to market value is 106.4 percent, reflecting a $2.9 million deferred loss. He said the contribution margin of the retiree health insurance credit fund increased from .14 percent on July 1, 2009, to .25 percent on July 1, 2010. He said the retiree health insurance credit fund is 47 percent funded.

Mr. Ramirez said the market value of assets in the Job Service retirement plan increased from $72.2 million to $77.7 million. However, he said, the actuarial value of assets decreased from $77.5 million to $73.5 million. He said the ratio of actuarial value to market value is 95 percent and that reflects a $4.2 million deferred gain. He said the Job Service retirement system is 103 percent funded.

In conclusion, Mr. Ramirez said, recommendations from the experience study resulted in increases in costs for most groups. He said significant asset losses will be recognized over the next five years, potentially leading to increased contribution requirements. He noted that there are several potential risks to the system which include a continued aging of the population, unforeseen demographic "shocks," and changes in the asset return environment. He said the retirement board should consider projections and studies to help quantify these risks and make changes to the system, if appropriate. Finally, he said, the asset valuation and amortization methods should be reviewed to make sure they are in line with the board's funding objectives.

Chairman Grande recognized Ms. Kim Nicholl, FSA, MAAA, FCA, EA, National Public Sector Retirement Practice Leader, The Segal Company, Greenwood Village, Colorado. Ms. Nicholl presented various projections for the PERS main system which are attached as Appendix M.

Employee Benefits Programs Committee Bill No. 80

Chairman Grande recognized Ms. Nicholl. Ms. Nicholl and Mr. Ramirez reviewed the technical comments and actuarial report for Employee Benefits Programs Committee Bill No. 80 [10080.0300]. A copy of the PowerPoint used by Ms. Nicholl and Mr. Ramirez in reviewing Employee Benefits Programs Committee Bill No. 80 is attached as Appendix N, and a copy of the actuarial report for Employee Benefits Programs Committee Bill No. 80 is attached as Appendix O. Ms. Nicholl said Employee Benefits Programs Committee Bill No. 80 would close participation in the PERS hybrid plan, which is a defined benefit plan, to new state employees first hired after July 31, 2011. She said new main system state employees would participate in a defined contribution plan. Concerning the actuarial cost and technical analysis, she said, if the statutory contribution rate were to be adjusted to achieve full funding, the increase would be higher under the proposed legislation than it would be under the current plan. Based on the most recent available data, she said, the rate to achieve full funding would increase from 17.41 percent to 23.91 percent for the main system. If the statutory contribution rate is not adjusted, she said, the projected date that the main system's assets that are allocated to state employees will be exhausted is projected to be earlier under the proposed legislation--2031--than the current plan--2037. She said when the plan's assets are exhausted, the plan's liabilities would still have to be met. Under the bill, she said, the employer contributions needed to pay ongoing benefits are projected to rise to over 26 percent of payroll in the year the funds are depleted. Under the current plan for the main system, she said, the employer contributions needed to pay ongoing benefits are projected to rise to 23 percent of payroll in the year the funds are depleted.

Ms. Nicholl said the proposed defined contribution plan does not provide the same level of spouse or disability benefits as the current plan. Also, she said, the proposed defined contribution plan does not contain the portability enhancement provision that provides an incentive for supplemental retirement savings under the hybrid plan. If the proposed legislation were adopted, she said, then there will be further challenges to the current method of providing ad hoc adjustments to retiree benefits since contributions to the hybrid plan will be reduced. She noted Employee Benefits Programs Committee Bill

No. 80 shifts the investment risk from the employer to individual members and that investment education will be needed to help the member with this added responsibility. She noted the proposed defined contribution plan is not sufficient to provide the same level of retirement security that the current hybrid plan members receive. She said an increase to the defined contribution plan contribution to provide comparable retirement security would result in a large increase in the cost of the proposed legislation.

It was moved by Representative Wald, seconded by Senator Krebsbach, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 80 no recommendation. Representatives Grande, Drovdal, and Wald and Senators Holmberg, Kilzer, and Krebsbach voted "aye." Representative Wolf and Senator Nelson voted "nay."

Employee Benefits Programs Committee Bill No. 51

Chairman Grande recognized Mr. Ramirez. Mr. Ramirez reviewed Employee Benefits Programs Committee Bill No. 51 [10051.0200] and the technical comments and actuarial review for the bill (Appendix P). He said the proposed legislation would increase the member contribution rate mandated by statute in the Highway Patrolmen's retirement system, the main system and the judges' retirement system portion of the hybrid plan, and the defined contribution plan by 2 percent of the member's monthly salary beginning January 2012, plus an additional 2 percent increase in member contribution rates in each calendar year thereafter through January 2015. He said member contributions for peace officers and correctional officers in the hybrid plan employed by political subdivisions would increase 1 percent instead of 2 percent over the same time period. Concerning the actuarial cost analysis, he said, the bill would not have an actuarial impact on the liabilities of either the hybrid plan or the Highway Patrolmen's retirement system. As of July 1, 2010, he said, the main system had a funding deficit of 6.64 percent of covered payroll based upon a 20-year open amortization method. He said this means the statutory contributions are less than the actuarial required contributions by that amount. He said this deficit is projected to increase over the next few years as investment losses experienced in 2008 are recognized in the calculation of the actuarial value of assets. He said projections of future funded status have indicated that unless this gap is addressed, the main system will become insolvent in approximately 2040. He said increasing member contributions by 8 percent over the period from January 2012 to January 2015 is projected to close this funding deficit. Furthermore, he said, projections indicate that the main system would no longer be expected to become insolvent in the next 30 years under the assumed 8 percent investment return scenarios.

Concerning the Highway Patrolmen's retirement system, Mr. Ramirez said, as of July 1, 2010, that plan had a funding deficit of 5.84 percent of covered payroll based upon a 20-year open amortization method. He said projections of future funded status have indicated that unless this gap is addressed, the Highway Patrolmen's retirement plan will not become insolvent in the next 30 years, but the funding ratio will drop from 80 percent to 48 percent. Increasing the member contributions by 8 percent over the period from January 2012 to January 2015, he said, is projected to close this funding deficit. He said projections indicate that the Highway Patrolmen's retirement system plan would have an increase in its funded ratio from 80 percent to 94 percent over the next 30 years under the assumed 8 percent investment return scenarios.

It was moved by Representative Drovdal, seconded by Representative Wald, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 51 an unfavorable recommendation. Representatives Grande, Drovdal, Wald, and Wolf and Senators Holmberg, Kilzer, Krebsbach, and Nelson voted "aye." No negative votes were cast.

Employee Benefits Programs Committee Bill No. 52

Chairman Grande recognized Mr. Ramirez. Mr. Ramirez reviewed Employee Benefits Programs Committee Bill No. 52 [10052.0100] and the technical comments and actuarial analysis of the bill (Appendix Q). He said the proposed legislation would increase the employer contribution rate mandated by statute for the Highway Patrolmen's retirement system, main system and judges' retirement system portion of the hybrid plan, and defined contribution plan by 2 percent of the member's monthly salary beginning January 2012, plus an additional 2 percent increase in employer contribution rates in each calendar year thereafter through January 2015. In addition, he said, the proposed legislation would increase the member contribution rate mandated by statute for temporary employees of the hybrid plan and defined contribution plan by 2 percent of the member's monthly salary beginning January 2012, plus an additional 2 percent increase in member contribution rates each calendar year thereafter through January 2015.

Concerning the actuarial cost analysis of the bill, Mr. Ramirez said, the bill would not have an actuarial impact on the liabilities on either the hybrid plan or the Highway Patrolmen's retirement system. Concerning the main system, he said, as of July 1, 2010, it had a funding deficit of 6.64 percent of covered payroll based upon a 20-year open amortization method. He said this deficit is projected to increase over the next few years as investment losses experienced in 2008 are recognized in the calculation of the actuarial value of assets. He said projections of future funded status have indicated that unless this gap is addressed, the main system will become insolvent in approximately 2040. He said increasing member contributions by 8 percent over the period from January 2012 to January 2015 is projected to close this funding deficit. Finally, he said, projections indicate that the main system would no longer be expected to become insolvent in the next 30 years under the assumed 8 percent investment return scenarios.

Concerning the Highway Patrolmen's retirement system, Mr. Ramirez said, as of July 1, 2010, that plan had a funding deficit of 5.84 percent of covered payroll based upon a 20-year open amortization method. He said this deficit is projected to increase over the next few years as investment losses experienced in 2008 are recognized in the calculation of the actuarial value of assets. He said projections of future funded status have indicated that unless this gap is addressed, the Highway Patrolmen's retirement system plan will not become insolvent in the next 30 years, but the funding ratio will drop from 80 percent to 48 percent. Increasing member contributions by 8 percent, he said, over the period from January 2012 to January 2015 is projected to close this funding deficit. Furthermore, he said, projections indicate that the Highway Patrolmen's retirement system plan would have an increase in its funded ratio from 80 percent to 94 percent over the next 30 years under the assumed 8 percent investment return scenarios.

It was moved by Representative Drovdal, seconded by Representative Wald, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 52 an unfavorable recommendation. Representatives Grande, Drovdal, and Wald and Senators Holmberg, Kilzer, Krebsbach, and Nelson voted "aye." Representative Wolf voted "nay."

Employee Benefits Programs Committee Bill No. 53

Chairman Grande recognized Mr. Ramirez. Mr. Ramirez reviewed Employee Benefits Programs Committee Bill No. 53 [10053.0200] and the technical comments and actuarial review for the bill (Appendix R). He said the proposed legislation would increase both employer contribution rates and member contribution rates for the Highway Patrolmen's retirement system, main system and judges' retirement system portion of the hybrid plan, and defined contribution plan by 1 percent of the member's monthly salary beginning January 2012, plus an additional 1 percent increase in both employer and member contribution rates each calendar year thereafter through January 2015. He said the bill also increases member contribution rates for peace and correctional officers in the hybrid plan employed by political subdivisions, for which the member contribution rate would increase by .5 percent annually, instead of 1 percent, over the same time period and for temporary employees in the hybrid plan and defined contribution plan, for which the member contribution rate would increase by 2 percent annually, instead of 1 percent, over the same period.

Mr. Ramirez said the bill would not have an actuarial impact on the liabilities of the hybrid plan or the Highway Patrolmen's retirement system. As of July 1, 2010, he said, the main system had a funding deficit of 6.64 percent of covered payroll based upon a 20-year open amortization method. He said this deficit is projected to increase over the next few years as investment losses experienced in 2008 are recognized in the calculation of the actuarial value of assets. He said projections of future funded status have indicated that unless this gap is addressed, the main system will become insolvent in approximately 2040. Increasing member contributions by 8 percent over the period from January 2012 to January 2015, he said, is projected to close this funding deficit. Also, he said, projections indicate that the main plan would no longer be expected to become insolvent in the next 30 years under the assumed 8 percent investment return scenarios.

Concerning the Highway Patrolmen's retirement system, he said, as of July 1, 2010, that plan had a funding deficit of 5.84 percent of covered payroll based upon a 20-year open amortization method. He said this deficit is projected to increase over the next few years as investment losses experienced in 2008 are recognized in the calculation of the actuarial value of assets. Projections of future funded status have indicated that unless this gap is addressed, the Highway Patrolmen's retirement system plan will not become insolvent in the next 30 years, but the funding ratio will drop from 80 percent to 48 percent. He said increasing member contributions by 8 percent over the period from January 2012 to January 2015 is projected to close this funding deficit. Furthermore, he said, projections indicate that the Highway Patrolmen's retirement system plan would have an increase in the funded ratio from 80 percent to 94 percent over the next 30 years under the assumed 8 percent investment return scenarios.

It was moved by Representative Wolf, seconded by Senator Nelson, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 53 a favorable recommendation. Representatives Grande, Drovdal, Wald, and Wolf and Senators Holmberg, Kilzer, Krebsbach, and Nelson voted "aye." No negative votes were cast.

Employee Benefits Programs Committee Bill No. 59

Chairman Grande recognized Mr. Ramirez. Mr. Ramirez reviewed Employee Benefits Programs Committee Bill No. 59 [10059.0200] and the technical comments and actuarial review for the bill draft (Appendix S). He said the bill makes various administrative changes in the hybrid plan, defined contribution plan, Highway Patrolmen's retirement system, and retiree health benefits fund. He said the bill clarifies that employees of the North Dakota

University System who are members of PERS, including members of the defined contribution plan, are entitled to participate in the alternate retirement programs and may make a special annuity purchase in such alternate retirement program. He said the bill eliminates the 60-month certain option as a form of payment for surviving spouses in the Highway Patrolmen's retirement system. Under current law, he said, surviving spouses in that plan get to elect either this benefit of refund of member contributions or monthly payments of 50 percent of the normal retirement benefit for the surviving spouse's lifetime. He said the bill calculates benefits for members of the Highway Patrolmen's retirement system who have membership in more than one retirement system using the highest salary received for 36 months regardless of whether such months are consecutive, within the last 120 months of employment. He noted this change was previously approved for calculation of Highway Patrolmen's retirement system retirement benefits. He said the bill changes the pool of candidates for a board member that is elected by retirees to exclude those individuals who are eligible for a deferred vested benefit but not yet retired. He said the bill changes the normal retirement date for peace officers and correctional officers in the hybrid plan to age 55 and three years of employment in such officer position, regardless of whether employment in such officer position immediately preceded retirement. Currently, he said, the normal retirement date is age 55 and currently working in the retirement plan for the last three years. He said the bill clarifies that any surviving beneficiary who dies before receiving a distribution of the member's account balance at death is treated as predeceasing the member for purposes of payment of a member's account balance at death. He said the bill permits conversion of sick leave to retirement credit under the hybrid plan at any time rather than within 60 days of termination of employment only. He said the bill clarifies that a surviving spouse of a retiree may continue to participate in the uniform group insurance program by paying the required premium. He said the bill updates federal compliance provisions of the hybrid plan and the Highway Patrolmen's retirement system and updates the employer contribution pickup process.

Mr. Ramirez said the bill would not have a significant actuarial cost impact on the hybrid plan or the Highway Patrolmen's retirement system.

It was moved by Senator Nelson, seconded by Representative Wolf, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 59 a favorable recommendation. Representatives Grande, Drovdal, and Wolf and Senators Holmberg, Kilzer, Krebsbach, and Nelson voted "aye." Representative Wald voted "nay."

Employee Benefits Programs Committee Bill No. 1

Chairman Grande recognized Mr. Ramirez. Mr. Ramirez reviewed Employee Benefits Programs Committee Bill No. 1 [10001.0200] and the technical comments and actuarial review for the bill draft (Appendix T). He said the proposed legislation would provide a monthly retiree health credit to former members of the Legislative Assembly or their surviving spouses who served at least four years in the Legislative Assembly equal to 50 percent of the monthly credit payable to other eligible members of the retiree health insurance credit fund. He said the monthly retiree health credit to members of the Legislative Assembly would be calculated at $2.50 multiplied by the members' years of service in the Legislative Assembly, not to exceed 25 years. He said the bill requires the Legislative Assembly to contribute monthly to the retiree health insurance credit fund an amount determined by the retirement board sufficient to actuarially fund participation by eligible members of the Legislative Assembly.

Mr. Ramirez said the bill would not have a significant actuarial cost impact on the retiree health insurance fund.

It was moved by Representative Wald, seconded by Senator Holmberg, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 1 an unfavorable recommendation. Representatives Grande, Drovdal, Wald, and Wolf and Senators Holmberg, Kilzer, Krebsbach, and Nelson voted "aye." No negative votes were cast.

UNIFORM GROUP INSURANCE PROGRAM

Employee Benefits Programs Committee Bill No. 60

Chairman Grande recognized Mr. Sparb Collins, Executive Director, Public Employees Retirement System. Mr. Collins reviewed Employee Benefits Programs Committee Bill No. 60 [10060.0200] and the review prepared by Deloitte Consulting LLP (Appendix U). He said the bill would allow another lower cost coverage option for retired employees not eligible for Medicare, allow the retirement board to receive separate bids for prescription drug coverage, allow the retirement board to consider self-insurance of the health insurance benefits as well as part or all of the prescription drug coverage, and would establish a target range of contingency reserve funds and a timeline to meet the reserve requirement. He said Deloitte Consulting LLP determined the bill expands the options made available to the retirement board and should not have any financial impact on the uniform group insurance program. He said the bill allows for exploration of plan and funding alternatives that could save costs in the future.

It was moved by Representative Wald, seconded by Senator Krebsbach, and carried on a

roll call vote that the committee give Employee Benefits Programs Committee Bill No. 60 no recommendation. Representatives Grande, Drovdal, and Wald and Senators Holmberg, Kilzer, and Krebsbach voted "aye." Representative Wolf and Senator Nelson voted "nay."

Employee Benefits Programs Committee Bill No. 36

Chairman Grande recognized Mr. Collins. Mr. Collins reviewed Employee Benefits Programs Committee Bill No. 36 [10036.0200] and the review prepared by Deloitte Consulting LLP (Appendix V). He said the bill modifies the uniform group insurance program to extend the benefits of the program to allow permanent employees between the ages of 50 and 65 of private sector employers to participate in the uniform group insurance program. He said the bill extends the benefits of the uniform group insurance program to allow temporary employees between the ages of 50 and 65 of private sector employers to participate in the uniform group insurance program. He said the bill extends the benefit of the uniform group insurance program to allow certain private citizens between the ages of 50 and 65 to participate in the uniform group insurance program. He said the bill allows licensed agents to sell the uniform group insurance and receive commissions for sales and authorizes the retirement board to add up to three full-time equivalent positions and appropriates up to $300,000 to implement the proposed changes to the uniform group insurance program. Finally, he said, the bill requires the board to apply for and receive exempt status under the Employee Retirement Income Security Act to allow expansion of the uniform group insurance program. Further, he said, the board must determine that utilization of medical underwriting requirements and risk-adjusted premiums does not violate the Health Insurance Portability and Accountability Act and enter a contract with an insurer to provide coverage. He said the bill contains a number of safeguards to minimize the expected financial impact of the bill.

It was moved by Representative Wald, seconded by Senator Krebsbach, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 36 an unfavorable recommendation. Representatives Grande, Drovdal, Wald, and Wolf and Senators Holmberg, Kilzer, Krebsbach, and Nelson voted "aye." No negative votes were cast.

Employee Benefits Programs Committee Bill No. 38

Chairman Grande recognized Mr. Collins. Mr. Collins reviewed Employee Benefits Programs Committee Bill No. 38 [10038.0100] and the actuarial review for the bill (Appendix W). He said the bill authorizes the Department of Human Services to purchase PERS health insurance coverage for each Medicaid-eligible individual in lieu of Medicaid coverage. However, he said, the bill does not provide similar authorization to PERS to extend such coverage to Medicaid participants or to set the parameters for such an offering. He noted that if Medicaid-eligible individuals are included in the same experience pool as the existing PERS population and are considered in the PERS premium rate calculations, there will be a financial impact to the existing PERS group health plan.

It was moved by Representative Wald, seconded by Senator Kilzer, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 38 an unfavorable recommendation. Representatives Grande, Drovdal, Wald, and Wolf and Senators Holmberg, Kilzer, Krebsbach, and Nelson voted "aye." No negative votes were cast.

Employee Benefits Programs Committee Bill No. 68

Chairman Grande recognized Mr. Collins. Mr. Collins reviewed Employee Benefits Programs Committee Bill No. 68 [10068.0100] and the review prepared by Deloitte Consulting LLP (Appendix X). He said the bill enables the establishment and operation of member-run, nonprofit health insurance issuers. He said PERS currently purchases health insurance on a fully insured basis from Blue Cross Blue Shield of North Dakota. He said the bill does not directly affect PERS but could establish an alternative member-run, nonprofit entity that would be an additional alternative for PERS and its members to consider. He said the bill should have no financial impact as members would continue to receive coverage from the PERS uniform group insurance program.

It was moved by Senator Nelson, seconded by Representative Wolf, and carried on a voice vote that the committee reconsider its action by which it accepted jurisdiction over Employee Benefits Programs Committee Bill No. 68 and waive jurisdiction over the bill.

Employee Benefits Programs Committee Bill No. 103

Chairman Grande recognized Mr. Collins. Mr. Collins reviewed Employee Benefits Programs Committee Bill No. 103 [10103.0100] and the review for the bill draft (Appendix Y). He said the bill authorizes the retirement board to implement and administer a consumer-directed health savings account option for eligible employees under the uniform group insurance program. He said offering a high-deductible plan as described in the bill would have a potential impact on the overall program's costs. He said Blue Cross Blue Shield of North Dakota evaluated a high-deductible health plan offering for the 2009-11 plan years. He said Blue Cross Blue Shield of North Dakota found that one could have a cost-neutral plan if offered as a full replacement but if offered as an optional plan, overall premiums would increase approximately 2 percent.

In response to a question from Representative Grande, Mr. Collins said Blue Cross Blue Shield of North Dakota identified that if the high-deductible health plan had been in place for the 2009-11 biennium, health insurance premiums would have increased 14 percent rather than 26 percent.

In response to a question from Senator Nelson, Mr. Collins said the anticipated premium for the 2011-13 biennium is an increase of 7.5 percent, or 3.75 percent per year. He said premiums have dropped dramatically.

It was moved by Representative Wald, seconded by Representative Drovdal, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 103 a favorable recommendation. Representatives Grande, Drovdal, and Wald and Senators Kilzer and Holmberg voted "aye." Representative Wolf and Senators Krebsbach and Nelson voted "nay."

Employee Benefits Programs Committee Bill No. 9

Senator Nelson reviewed Employee Benefits Programs Committee Bill No. 9 [10009.0200] and presented written testimony (Appendix Z). She said the bill would modify the uniform group insurance program and require the retirement board to provide coverage for the diagnosis and treatment of an autism spectrum disorder in an eligible individual.

Representative Grande noted that the Department of Human Services has released an Autism Spectrum Disorder Task Force initial state plan for 2010, a copy of which is on file in the Legislative Council office.

Chairman Grande recognized Mr. Collins. Mr. Collins reviewed the actuarial comments prepared by Deloitte Consulting LLP (Appendix AA). He said that based on a November 2004 autism prevalence report from fighting autism, Deloitte Consulting LLP estimated that approximately 85 covered members would receive treatment for autism spectrum disorders at a cost to the plan of $25,000 to $35,000. He said this equates to a per member per month cost of $3.08 to $4.31, or approximately $2,125,000 to $2,975,000 annually.

It was moved by Senator Nelson, seconded by Representative Wolf, and defeated on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 9 a favorable recommendation. Representative Wolf and Senators Krebsbach and Nelson voted "aye." Representatives Grande, Drovdal, and Wald and Senators Holmberg and Kilzer voted "nay."

It was moved by Representative Wolf, seconded by Senator Holmberg, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 9 no recommendation. Representatives Grande, Drovdal, Wald, and Wolf and Senators Holmberg, Kilzer, Krebsbach, and Nelson voted "aye." No negative votes were cast.

It was moved by Senator Holmberg, seconded by Representative Wald, and carried that the chairman and the staff of the Legislative Council be requested to prepare a report and to present the report to the Legislative Management.

No further business appearing, Chairman Grande adjourned the meeting at 2:30 p.m.

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Jeffrey N. Nelson
Committee Counsel

ATTACH:27