RETIREMENT SYSTEMS SOLVENCY TASK FORCE

FINAL REPORT

REPORT TO THE FIFTIETH LEGISLATURE FIRST SESSION

New Mexico Legislative Council Service
Santa Fe, New Mexico
December 2010

Retirement Systems Solvency Task Force Summary

The Retirement Systems Solvency Task Force was created in 2009 by House Judiciary Committee Substitute for House Education Committee Substitute for House Bill 573. The task force was made up of legislators, pension plan and Retiree Health Care Authority (RHCA) staff and representatives of employer and employee groups. The law called for the task force to study the actuarial soundness and solvency of the retirement plans of the Public Employees Retirement Association (PERA), the Educational Retirement Board (ERB) and the health care plan of the RHCA over a period of two years and to make recommendations to improve the solvency of each system.

During the 2009 interim, the task force met four times, examining each of the retirement systems and the various plans and options offered within each system. The task force reviewed and compared employer, employee and retiree contributions across each system; reviewed the eligibility requirements for the various types of public employees; reviewed each system's benefits for retirees; received actuarial overviews of the ERB and PERA from the ERB and PERA actuary; and examined the actuarial assumptions of the retirement systems. The task force also reviewed retirement systems in other states and compared those to the New Mexico systems.

During the 2010 interim, the task force met six times, continuing its evaluation of the retirement systems. In order to obtain an independent actuarial review of the PERA and ERB, the task force contracted for additional studies, analyses and comparisons with the actuarial firm Buck Consultants. The task force asked the directors of the PERA, ERB and RHCA to submit proposed legislation to address solvency concerns.

The PERA presented an "ideal plan", which would provide more sustainable and lower cost retirement benefits for state and municipal employees hired on or after July 1, 2011. The RHCA reported that it did not need a legislative change to address solvency concerns, because the RHCA board has control of most of the moving parts that might need adjustment to improve the RHCA's solvency. The ERB made a number of recommendations, including increasing the minimum years of service required to be eligible for retirement and increasing contributions.

At its final meeting, the task force considered four bills, referring three of them to the Investments Oversight Committee (IOC), with a recommendation that the IOC endorse those bills, and referring the PERA ideal plan bill to the IOC without recommendation. The bills recommended for IOC endorsement included: 1) a bill to transfer judicial and magistrate docket fees to the general fund and to fund judicial and magistrate retirement through the general fund, thereby linking retirement funding to salaries rather than docket fees; 2) a bill to delay the existing statutory increases to ERB funding so that the employer contribution would increase from 10.9% to 13.9% over six years rather than the two years scheduled under current law; and 3) a bill to allow PERA retirees to return to work and earn up to $15,000 before the employee's retirement benefits would be suspended.

2009 APPROVED
WORK PLAN AND MEETING SCHEDULE
for the
RETIREMENT SYSTEMS SOLVENCY TASK FORCE

Members

Rep. Mimi Stewart, Co-Chair	Michelle Lewis
Tito Chavez, Co-Chair	Alexis Lotero
Oscar Arevalo	Bruce Malott
Rep. Richard J. Berry	Moshe Arye Milevsky
Charles Bowyer	Sen. Steven P. Neville
Sen. Pete Campos	Andrew Padilla
Bill Fulginiti	Wayne Propst
Sen. Phil A. Griego	Terry Slattery
Jan Goodwin	Sen. John Arthur Smith
Rep. John A. Heaton	Christine Trujillo
David Heshley	Jeff Varela
Emily Kane	Rep. Luciano "Lucky" Varela

Work Plan

The retirement systems solvency task force was created by Laws 2009, Chapter 288, Section 19 (House Judiciary Committee Substitute for House Education Committee Substitute for House Bill 573, as amended). Specifically, the law calls for the task force to:

"... study the actuarial soundness and solvency of the retirement plans of the public employees retirement association and the educational retirement association and the health care plan of the retiree health care authority and prepare a solvency plan for each entity. The solvency plans shall include analyses and recommendations that address:

(1) employer and employee contributions;
(2) retirement eligibility;
(3) the number of retirement plans;
(4) retirement benefits;
(5) investment policy and asset allocation;
(6) disability retirement and benefits;
(7) actuarial assumptions;
(8) health insurance plan benefits and eligibility;
(9) the costs of health insurance plans; and
(10) member services."

The law calls for solvency plans no later than October 2010; however, the task force proposes to have all or most of the analyses and recommendations ready by December 2009, in time for the 2010 regular session. To prepare solvency plans, the task force proposes to:

- examine each of the retirement systems and the various plans or options offered within each system and use existing studies, analyses and comparisons of the three systems to determine what additional information is needed;
- review and compare employer, employee and, if applicable, retiree contributions across each system as well as with retirement systems in other states that have defined benefit, defined contribution or other plans;
- review the eligibility requirements for the various types of public employees and each system's benefits for retirees;
- examine and compare actuarial assumptions of the two retirement systems and of the retiree health care system against other or similar health care plans; and
- review administrative and member services across all three systems.

As part of reviewing actuarial and other information of the three systems, the task force may need to contract for additional studies, analyses and comparisons. In August, the task force may request the New Mexico legislative council to direct the legislative council service, with assistance from the legislative finance committee, the public employees retirement association, the educational retirement board and the retiree health care authority, to contract for the needed resources and actuarial expertise for additional information within available resources as provided by all the participants on the task force.

In terms of the item in the solvency plans related to investment policy and asset allocation, the task force will coordinate its work on that issue with the interim legislative investments oversight committee. The task force proposes to have its analyses and recommendations presented at its November 2009 meeting for consideration and approval. Potential legislation will be drafted for the December 2009 meeting to be voted upon by the task force and for introduction during the 2010 regular session.

2009 Meeting Schedule

Date	Location
August 10-11	Santa Fe
September 8-9	Santa Fe
October 12-13	Santa Fe
November 11-12	Santa Fe
December 9-10	Santa Fe

2009 RETIREMENT SYSTEMS SOLVENCY
TASK FORCE MEETINGS

TENTATIVE AGENDA
of the
First Meeting
of the
Retirement Systems Solvency Task Force
June 10, 2009 ★ 1:00 p.m.
Room 322, State Capitol

<u>Wednesday, June 10</u>

1:00 p.m.	**Call to Order** **Roll Call**
1:05 p.m.	**Task Force Procedures and Protocols** —Paula Tackett, Director, Legislative Council Service
1:15 p.m.	**Organization of Task Force** —Introduction of Members and Staff —Election of Chairperson, Vice Chairperson
1:45 p.m.	**Primer on Retirement and Retiree Health Care Systems** —Public Employees Retirement Association — Mary Frederick, Deputy Executive Director; Susan Pittard, General Counsel —Educational Retirement Board — Christopher G. Schatzman, General Counsel —Retiree Health Care Authority — Bill Walsh, Deputy Director; Mark Tyndall, Deputy Director
3:15 p.m.	**Proposed Work Plan and Budget** **Other Business** **Adjournment**

TENTATIVE AGENDA
for the
SECOND MEETING
of the
RETIREMENT SYSTEMS SOLVENCY TASK FORCE

August 10-11, 2009
Room 307, State Capitol
Santa Fe

<u>Monday, August 10</u>

10:00 a.m.	**Call to Order** **Roll Call** **Approval of Minutes**
10:10 a.m.	**Review of Professional Materials Sent to Task Force** —Staff
10:30 a.m.	**Retiree Health Care Authority (RHCA) — Information from RHCA's Annual Board Meeting — Initiatives and Status** —Wayne Propst, Executive Director, RHCA
12:00 noon	**Lunch**
1:30 p.m.	**Actuarial Information Overview** —J. Chris Conradi, Senior Consultant, Gabriel, Roeder, Smith & Company
3:00 p.m.	**Defined Benefit and Defined Contribution Plans** —Staff
4:30 p.m.	**Recess**

<u>Tuesday, August 11</u>

9:00 a.m.	**Roundtable Discussion — Task Force Expectations and Direction** —Task Force
12:00 noon	**Wrap-up of Roundtable Discussion — Follow-up for Staff** —Staff
12:30 p.m.	**Other Business** **Adjournment**

TENTATIVE AGENDA
for the
THIRD MEETING
of the
RETIREMENT SYSTEMS SOLVENCY TASK FORCE

September 8, 2009
Room 307, State Capitol
Santa Fe

<u>Tuesday, September 8</u>

10:00 a.m.	**Call to Order** **Roll Call** **Approval of Minutes**
10:10 a.m.	**Overview of Other States' Initiatives on Retirement Systems** —Ron Snell, Director, State Services Division, National Conference of State Legislatures
11:30 a.m.	**Lunch**
1:00 p.m.	**Discussion on Strategic Asset Allocation** —Marcia Beard, R.V. Kuhn & Associates
2:30 p.m.	**Staff Reports** —Retirement Systems Solvency Task Force Staff
4:00 p.m.	**Other Business** **Adjournment**

TENTATIVE AGENDA
for the
FOURTH MEETING
of the
RETIREMENT SYSTEMS SOLVENCY TASK FORCE

November 12, 2009
Room 307, State Capitol
Santa Fe

Thursday, November 12

10:00 a.m.	**Call to Order** **Roll Call** **Approval of Minutes**
10:10 a.m.	**Public Employees Retirement Association (PERA) — Status of Actuarial Studies and Initiatives** —Terry Slattery, Executive Director, PERA
11:30 a.m.	**Lunch**
1:00 p.m.	**Educational Retirement Board (ERB) — Status of Actuarial Studies and Initiatives** —Jan Goodwin, Executive Director, ERB
2:15 p.m.	**Retiree Health Care Authority (RHCA) — Status of Actuarial Studies and Initiatives** —Wayne Propst, Executive Director, RHCA
3:30 p.m.	**Next Steps — Recommendations** —Task Force
4:00 p.m.	**Other Business** **Adjournment**

Minutes
of the
First Meeting
of the
Retirement Systems Solvency Task Force
June 10, 2009

The first meeting of the retirement systems solvency task force was called to order at 1:10 p.m. on June 10, 2009 in Room 322, State Capitol, by Raúl Burciaga, lead staff, in the absence of an elected chairperson.

Present
Rep. Mimi Stewart, Co-Chair
Tito Chavez, Co-Chair
Oscar Arevalo
Rep. Richard J. Berry
Charles Bowyer
Sen. Pete Campos
Bill Fulginiti
Rep. John A. Heaton
Emily Kane
Michelle Lewis
Alexis Lotero
Christine Trujillo
Jeff Varela
Rep. Luciano "Lucky" Varela

Absent
Jan Goodwin
Sen. Phil A. Griego
David Heshley
Bruce Malott
Dr. Moshe Arye Milevsky
Sen. Steven P. Neville
Andrew Padilla
Wayne Propst
Terry Slattery
Sen. John Arthur Smith

Staff
Raúl Burciaga and Jonelle Maison, Legislative Council Service (LCS)
Michelle Aubel and David Archuleta, Legislative Finance Committee (LFC)
Bill Walsh and Mark Tyndall, Retiree Health Care Authority (RHCA)
Chris Schatzman, Educational Retirement Board (ERB)
Mary Frederick and Susan Pittard, Public Employees Retirement Association (PERA)

Guests
The guest list is in the meeting file.

Copies of all presentations are in the meeting file.

Paula Tackett, director of the LCS, explained the New Mexico legislative council's policies regarding the establishment of a quorum and the rules of voting. Member designees may be counted to establish a quorum, but designees may not vote. Once established, a quorum is presumed to be present for all actions of the body, unless the presence of a quorum is challenged. Ms. Tackett pointed out that while the law creating the task force provided that members "shall receive per diem and mileage", the bill did not carry an appropriation.

Nonlegislative members may need to look to their organizations for reimbursement for per diem and mileage.

Officers

On motion of Mr. Fulginiti, seconded by Senator Campos, Representative Stewart and Mr. Chavez were elected as co-chairs of the task force.

Primer on Retirement and Retiree Health Care Systems — Systems Representatives

PERA — Ms. Frederick, deputy executive director; and Ms. Pittard, general counsel (written testimony)

The PERA system has 60,077 active members in 31 different retirement plans through 331 participating employers and 435 volunteer fire departments. It also has 25,506 retirees and beneficiaries. Employee contributions range from 4.78 percent to 16.65 percent; employer contributions range from seven percent to 25.72 percent. Of the 31 plans administered, eight are closed to new members. The remaining 23 plans and the number of years a member needs to retire at any age are:

25-year retirement plans:
state general member coverage plan 3
state hazardous duty member coverage plan 2
municipal general member coverage plan 1
municipal general member coverage plan 2
municipal general member coverage plan 3
municipal general member coverage plan 4
municipal police member coverage plan 1
municipal police member coverage plan 2
municipal fire member coverage plan 1
municipal fire member coverage plan 2

25-year retirement plans with a 20 percent service credit enhancement (provides retirement with 20 years and 10 months of service credit):
state police and adult correctional officer coverage plan 1
municipal detention officer member coverage plan 1

20-year retirement plans:
municipal police member coverage plan 3
municipal police member coverage plan 4
municipal police member coverage plan 5
municipal fire member coverage plan 3
municipal fire member coverage plan 4
municipal fire member coverage plan 5

Other active plans with various retirement requirements:

magistrate retirement plan 1
judicial retirement plan 1
state legislator member coverage plan 1
state legislator member coverage plan 2
volunteer firefighter retirement plan

Service credit purchases

After vesting with five years of earned service credit, PERA members are eligible to purchase the following service credits:

non-intervening military service — up to five years
additional service credit (air time) — up to one year
civilian prisoner of war — up to five years
cooperative work study programs — up to five years
employed by a utility company, library, museum, transit company or nonprofit organization taken over by a PERA-affiliated public employer — up to five years.

Members may reinstate forfeited service credit (service credit that was refunded previously) at any time after being reemployed by a PERA affiliate. Ms. Frederick noted that air time is the most expensive service credit purchase option because the price is determined by the actuarial cost. For all service credit purchases, the employee is required to pay all costs, including employee and employer costs.

Disability retirement

In addition to regular retirement, PERA provides duty and nonduty disability retirement to its members. Members are eligible for duty disability, with 100 percent disability, from the first day of employment and are eligible for nonduty disability after vesting with five years of service credit.

Cost-of-living adjustment (COLA)

Retirees are eligible to receive a three percent COLA after being retired for two full calendar years, effective July 1 of the following year. Because the COLA is calculated on the calendar year, December 31 is a popular retirement date for PERA.

Return-to-work (RTW) provisions

Retirees may return to work for a PERA-affiliated employer after waiting out 90 consecutive calendar days from the date of retirement to reemployment. Reemployed retirees may receive a salary and a pension but not earn additional service credit. The employer must pay both the employer and employee shares of contributions on the salary earned by the reemployed retiree. There are approximately 2,100 reemployed state and municipal retirees.

As of May 31, 2009, the PERA had assets of $9.046 billion, down from a high of $13.3 billion on June 30, 2007 and up from a low of $7.2 billion on March 3, 2009. In the last 90 days, the fund's assets have increased 11 percent, the largest increase for a single quarter in the past 15 years. The actuarial assumed rate of investment is eight percent, which is the national norm;

however, currently the rate is about 7.2 percent. PERA's board policy is to finance the costs associated with current liabilities for existing PERA members — its unfunded accrued actuarial liability, or UAAL — over a period not to exceed 30 years. The June 30, 2008 valuation was 93 percent funded, with an aggregate funding period of 13 years. The recent significant negative market experience has put a strain on the future funded status and amortization period of the plan.

The PERA board has, or will, undertake several initiatives to improve the fund's performance and to ensure adequate coverage for current and future retirees.

Asset allocation

At its June 2009 board retreat, the board, with its investment consultants, will revisit its strategic asset allocation. While the board considered removing assets from the market several times during the recent market volatility, the investment policy rebalancing triggers are based on long-term investing targets rather than market timing. In the last 18 months, PERA has terminated 10 fund managers for poor performance.

Cash flow projection and benefit adequacy studies

The board will conduct an actuarial study on potential changes to the PERA's benefit plan structure based on cash flow projections. The in-depth study will be performed on all levels of benefits provided to its various membership groups as recommended by the PERA's actuaries. The study will entail research into length of service requirements, comparable state plan comparisons and social security versus non-social security coverage groups as well as associated costs. The board supports this comprehensive actuarial analysis in lieu of making wholesale changes to PERA's benefit structure.

Actuarial assumption changes

Results of PERA's recent four-year experience study determined that actuarial assumptions regarding terminations, pay increases and retirement rates warrant adjustments. The board is considering lowering the investment return assumption to 7.75 percent. However, any reduction in the actuarial assumed rate of investment return of eight percent will require a statutory contribution increase.

Representative Heaton noted that testimony before the investments oversight committee indicated that the state's pension plans have lost 30 to 40 percent of their value, and while there has been some recovery, it is not sufficient. That committee was also told that recession was not programmed into the models and assumptions used by the pension plans. On questions from Mr. Varela regarding the four-year smooth-out, Ms. Frederick said that based on the experience of the last year, the board wants to recognize losses more quickly. Representative Heaton asked about the cost to contributions to reduce the investment return from eight to 7.75 percent. Ms. Pittard said it would be approximately five percent.

Mr. Fulginiti pointed out that the RTW option may cost an affiliated public employer, but it does not endanger the fund. The employer must pay both the employer and employee share, and the employee share is nonrefundable to the employee.

Representative Heaton requested information on the number of RTW employees and their affiliated public employers.

Representative Stewart said that during the legislative session, people were discussing "spiking" — whereby an employee is promoted or otherwise given a significant pay raise to increase the final average salary calculation — as a problem with both retirement systems, though more so with PERA. She asked the effect of the loss of the antispiking provisions in House Bill 573. Ms. Pittard said that, statistically, spiking is not a concern for the association. PERA has a strict definition of salary, which does not include overtime, bonuses or unused sick or annual leave, and the retirement calculation is based on a 36-consecutive-month period. Mr. Arevalo noted that at its retreat, the board will hear the whole spectrum of considerations and evaluate all recommendations from the consultants.

Representative Berry initiated a discussion of the board's investment strategy. He pointed out that in the last year, there was no place to hide when the triggers for rebalancing were hit. He suggested that at the retreat, the board look at cash allocations, asset allocations, contributions and the constitutional limits on changing benefits.

Representative Stewart asked for information on the number of active and retired members in each plan.

<u>The ERB — Mr. Schatzman, general counsel</u> (written testimony)

The ERB has 63,000 plus active members, 31,000 plus retirees and 29,900 plus inactive members. "Inactive members" are those who have made no contributions within the last four months. There are 183 local administrative units (LAUs) in the ERB, including public schools, higher education, specialized schools and certain administrative agencies. The "regular" or defined benefit plan of the educational retirement system is a guaranteed monthly benefit based on final average compensation. The plan covers all members except those eligible members who elect to participate in the alternative retirement plan (ARP). The ARP is a monthly benefit based on contributions and investments earnings for an individual member's account. Certain college and university faculty and professional employees are eligible to participate on an optional basis. The ARP was created in 1991 for university faculty and professional employees; in 1999, the option was broadened to include community college faculty and professional employees.

Membership in the regular plan includes teachers, support staff and administrators — in short, all educational employees except those who participate in the ARP. Participation is mandatory for anyone who works more than .25 time. Retirement eligibility is 25 years, or the rule of 75 (age + service = 75) or age 65 with five years of service credit. Members retiring under the rule of 75 who are less than 60 years of age receive a reduced benefit. The monthly annuity is calculated as:

2.35 percent X years of service credit X the final average compensation (FAC). The FAC = five-consecutive-year period that results in the highest average salary.

Service credit is accrued each calendar quarter of contributing membership. It is granted for all four quarters, though many members work nine months per year. Unlike the PERA's 26 years, eight months, there is no maximum limit for the calculation of benefits. The calculation is 2.35 percent of *each* year of service credit. For example, 25 years of service provides 58.75 percent of the FAC; 30 years equals 70.50 percent and 40 years is 94 percent of the FAC. The annual retirement benefit increase is one-half of the cost of living index, with a maximum of four percent increase and a minimum of two percent increase. Because the COLA is paid on July 1, June 30 is the typical retirement date for the ERB.

The regular plan benefit is paid for life. A member may choose among three options. Option A is a full monthly retirement benefit with no survivor benefit. If the member dies before receiving benefits equal to the member's contribution, the balance is paid to a designated beneficiary. Option B is a reduced monthly benefit to provide a survivor benefit equal to the member's benefit. If the designated survivor predeceases the member, the member's benefit is increased ("pops-up") to the full monthly benefit. Option C is a reduced monthly benefit to provide a survivor with one-half of the member's benefit; also with a pop-up for the member if the survivor predeceases the member. To provide for a survivor, the monthly benefit reduction is based on the member's age at retirement. Pop-ups are subsidized by the educational retirement fund.

The ARP, a defined contribution plan, has 1,650 members, mostly at the University of New Mexico (UNM) and New Mexico State University (NMSU). Benefits are based on contributions and investment earnings. It is offered at New Mexico's colleges and universities only and was intended for faculty and professional employees who anticipated spending only a portion of their professional career in New Mexico. ARP members with seven years in the plan may switch to the regular plan as new members. While they do not get service credit for the past years, there is a reach-back for retirement. The ERB will be seeking proposals for other ARP plan options in the coming fiscal year.

There are approximately 1,340 RTW employees, most of whom are in traditional public schools; Albuquerque public schools make up about 65 percent of the RTW teachers. The balance of RTW participants are in charter schools, colleges and universities, state agencies and special schools. The RTW covers all ERB retirees, not just educators; however, it does not include retirees who work .25 time or less, earning $15,000 or less. The average RTW salary is approximately $43,800. Retirees must sit out 12 full months without being employed or contracted with by a LAU or affiliated entity and the RTW application must be approved by the ERB. Retirees may volunteer in unpaid positions without jeopardizing their wait period. Beginning July 1, 2009, LAUs must pay both employer and employee contributions to the ERB; this provision is similar to the PERA. The RTW program sunset was extended to January 1, 2022 in HB 573.

Selected ERB statistics as of June 30, 2008 include:

- average member salary and age: $37,347 and 45.9 years of age
- average service: 9.3 years
- FY 2008 retirees and average age at retirement:
  - 25 years of service: 715 retirees +/- 57 years old
  - rule of 75: 801 retirees +/- 62.5 years old
  - 65 plus five years of service credit: 243 retirees +/- 65.6 years old
  - total of 1,759 retirements
- FY 2009 retirements and applications to date: 1,879
- average monthly retirement benefit: $1,556
- ERB retiree payroll for FY 2008 was $582,653,000
- ERB total contributions for FY 2008 was $485,936,000, net of refunds
- FY 2008 difference ($96,717,000) paid from retirement fund
- 5,404 member contribution refunds in FY 2008 totaled $30,443,000

FY 2009 contribution rates are: employer – 11.65 percent; member – 7.9 percent = total 19.55 percent. House Bill 854 (Chapter 127) changes contribution rates for employees and employers for two years as follows:

Employee Salary ≤ $20,000
FY 2010: Employer – 12.40 percent, Member – 7.90 percent, Total – 20.30 percent
FY 2011: Employer – 13.15 percent, Member – 7.90 percent, Total – 21.05 percent
FY 2012: Employer – 13.90 percent, Member – 7.90 percent, Total – 21.80 percent

Employee Salary > $20,000
FY 2010: Employer – 10.90 percent, Member – 9.40 percent, Total – 20.30 percent
FY 2011: Employer – 11.65 percent, Member – 9.40 percent, Total – 21.05 percent
FY 2012: Employer – 13.90 percent, Member – 7.90 percent, Total – 21.80 percent

The estimated additional revenue from contribution increases (subject to revision based on changes in estimated employee salaries) are:
FY 2010: $20.4 million
FY 2011: $21.3 million
FY 2012: $22.2 million

The educational retirement fund has a balance of $6,638,605,459 as of April 30, 2009. The estimated May 30, 2009 fund balance is +/- $7,000,000,000, with an estimated monthly return of +/- five percent. The fund lost 28 percent of its value during the last year.

Mr. Bowyer noted that the number of retirees and inactive members were about the same and asked what effect that has on the fund. Mr. Schatzman said that a significant number of the inactive members are not vested. He added that as a trust, unclaimed contributions may revert to the state as escheats.

On questions from Representatives Varela and Heaton, Mr. Schatzman said he had heard rumors of a challenge to the PERA's increased employee contributions as a result of House Bill 573, but that he did not know if there would actually be a challenge. The ERB is a mature plan and as such pays out more than it collects in contributions. In response to Mr. Varela, Mr. Schatzman said that the ERB wants to survey its LAUs to determine whether the RTW is working.

Discussion then turned to the problems for ERB members because of language in House Bill 2 that specifies what constitutes a salary greater than $20,000. Representative Stewart pointed out that annualizing salaries of school employees, e.g., educational assistants, meant that they would have to contribute at the higher level. Ms. Aubel noted that the error occurred because the language was based on the calculation of full time for state employees, which is 2,080 hours. The LFC sent out a letter to ask that full time be defined for contribution purposes as it is defined in an LAU's budget.

<u>RHCA — Mr. Varela and Mr. Walsh</u>

The RHCA was created in 1990 and serves over 40,000 public employee retirees. The pre-medicare program serves 15,000 members and the medicare program serves 25,000 members. Following is a comparison of the two programs:

Pre-Medicare Program	Medicare Program
average age = 53	average age = 73
average cost = $5,950 annually	average cost = $2,640 annually
covered by three PPO plans: gold = $100 deductible; $1,000 OOP max silver = $400 deductible; $2,000 OOP max bronze = $800 deductible; $4,000 OOP max (OOP = out of pocket)	covered by traditional medicare supplement and medicare advantage plans: supp. (20,000 members) = higher premium, lower OOP advantage (5,000 members) = lower premium, higher OOP
comprehensive ℞ coverage = between $7.00 (generic) and $80.00 (nonformulary brand)	comprehensive ℞ coverage = between $7.00 (generic) and $80.00 (nonformulary)

Retirees must have at least five years of service credit with a participating entity to participate in the plan and receive the minimum subsidy. Retirees receive full subsidy after 20 years of service.

Market value of the fund was $136,028,472.70 in October 2008 and was $136,752,722.24 as of April 2009; however, in the months between those dates, the fund had substantial losses, reaching a low of $122,897,300.45 in February 2009. The RHCA invests through the state investment council, although it does hire advisors and actuaries. Its asset allocation is 60/40. House Bill 351 of the last session increased the employer/employee contribution rates. The increase, from the current 1.95 percent, is rolled out over a three-year period beginning in 2011. By July 1, 2013, the employer/employee contribution rate will be three percent. Two other solvency measures were included in House Bill 573. One measure requires persons purchasing service credit from the PERA or the ERB to also purchase service credit from the RHCA. The other measure requires RTW employees and their employers to contribute to the RHCA.

Issues identified for the July annual meeting include premium increases, plan design changes, selection of plans and carriers for medicare members and a review of other finance elements.

On questions from Representative Varela, Mr. Walsh said that the retiree health care fund is considered by the governmental accounting standards board (GASB) to be solvent until 2027, though the board uses a more conservative measure of 2018.

Mr. Bowyer asked if an employee may take the employee's contributions if the employee leaves a participating entity's employ. Mr. Walsh answered in the negative.

Representative Heaton indicated that by some accounts the RHCA was underfunded by $2.9 billion. Mr. Walsh agreed that the amount was the unfunded actuarially accrued liability as of June 30, 2008 but that it does not reflect insolvency, which is a different concept.

Representative Heaton also initiated a discussion of utilization patterns and systemic inefficiencies. For example, Representative Heaton discussed the push over the last decade to have more medicare beneficiaries use a health maintenance organization model through medicare advantage plans that have, according to some studies, shown higher administrative costs, lower provider payments and inefficiencies for medicare beneficiaries.

Mr. Varela said that one of the things the board will consider during its retreat is whether the authority should continue as a self-insured model.

Proposed Work Plan and Budget — Raúl Burciaga, staff

Mr. Burciaga presented a proposed work plan for the task force's consideration. After discussion, Mr. Bowyer moved and Mr. Varela seconded that consideration of defined contribution plans be stricken from the work plan. Members agreed that if the goal is to fix solvency problems, the task force will need actuarial information as soon as possible for quick, early analyses. With so many moving parts, it is difficult to know how to adjust to meet solvency and how to identify the gaps. Mr. Schatzman pointed out that states that have moved to defined contributions are moving back, and he proposed a third option of defined contribution with minimum guarantee. Ms. Aubel noted that the problem with getting early actuarial information is that actuaries want to use audited numbers; she suggested as an alternative to use estimates. Ms. Pittard informed the task force that the PERA is conducting its own actuarial study and said that anyone will have to wait until June 30 for second-quarter data, which would then have to go to the actuaries. Representative Heaton suggested that a course of action might be to make hypothetical assumptions and then devise recommendations that include all the working parts. Mr. Fulginiti remarked that there should be national models that could be used to measure the New Mexico plans. After further discussion, the task force agreed to have Mr. Burciaga wordsmith the item. The task force agreed to the November 11-12 date. On motion of Ms. Trujillo, seconded by Ms. Lewis, the work plan was adopted for editing and submission to the legislative council.

The next meeting of the task force will be August 10-11 in Room 307, State Capitol. The meeting will begin at 10:00 a.m. on August 10 and 9:00 a.m. on August 11.

There being no further business, the task force adjourned at 4:10 p.m.

Minutes
of the
Second Meeting
of the
Retirement Systems Solvency Task Force
Room 307, State Capitol
August 10-11, 2009

The second meeting of the retirement systems solvency task force was called to order on August 10, 2009 at 10:10 a.m. by Representative Mimi Stewart, co-chairwoman, in Room 307, State Capitol.

Present were:
Rep. Mimi Stewart, co-chairwoman
Mr. Tito Chavez, co-chairman
Mr. Diego Arencon
Rep. Richard J. Berry
Mr. Charles Bowyer
Ms. Jan Goodwin
Rep. John A. Heaton
Mr. David Heshley
Ms. Emily Kane
Ms. Michelle Lewis
Ms. Alexis Lotero
Mr. Bruce Malott (8/10)
Mr. Andrew Padilla
Mr. Wayne Propst
Mr. Ronald Sanchez (8/10)
Mr. Terry Slattery (8/10)
Mr. Jeff Varela
Rep. Luciano "Lucky" Varela

Absent were:
Mr. Oscar Arevalo
Sen. Pete Campos
Mr. William F. Fulginiti
Sen. Phil A. Griego
Sen. Steven P. Neville
Sen. John Arthur Smith
Ms. Christine Trujillo

Legislative Guests: Rep. Miguel P. Garcia (8/10); Sen. Carlos R. Cisneros (8/10-11); Sen. Dianna J. Duran (8/10); and Sen. Timothy Z. Jennings (8/10)

Staff:
Raul Burciaga, Jonelle Maison, Tom Pollard, Josh Sanchez — Legislative Council Service (LCS)
Michelle Aubel — Legislative Finance Committee (LFC)

Guests: The guest list is in the meeting file.

Copies of all presentations and handouts are in the meeting file.

Minutes of the first meeting were approved as submitted.

Monday, August 10

Retiree Health Care Authority (RHCA) Report of Annual Meeting — Mr. Wayne Propst, Executive Director

Mr. Propst reported there was good news in that RHCA is in a better financial position than it was three years ago. In 2007, House Bill 728 required the appointment of a task force to study retiree health care fund solvency, and RHCA has been implementing its recommendations since then. The following recommendations have been implemented:

(1) focus on pre-funding and unfunded liability, not just solvency;

(2) increase employer/employee contributions (beginning in FY 2011);

(3) remove the sunset of the $3 million suspense fund contribution;

(4) adjust retiree, spouse and dependent subsidies to 50% average;

(5) institution of regular governmental accounting standards board (GASB) and solvency evaluations;

(6) regularly adjust premiums to track medical inflation; and

(7) review and rationalize plan design.

Two recommendations, to adjust age and service eligibility requirements and initiate disease management and health promotion programs, are still to be implemented. The wellness program has been instituted for medicare recipients, and other retirees should have a program within the next year.

The June 30, 2008 GASB valuation found that RHCA's unfunded liability decreased to $2.9 billion from $4.1 billion and the annual required contribution to fully fund the benefit decreased to $273 million from $373 million. The June 30, 2009 solvency report found that solvency has been extended from FY 2014 to FY 2028, with deficit spending projected to begin in FY 2018. The effect of FY 2010 plan changes include:

(1) three non-medicare plans (gold, silver and bronze) collapsed into two (premier and plus);

(2) overall premium increases across plans at 8.3%;

(3) 88% of pre-65 retirees may choose a lower premium plan;

(4) 90% of 65+ retirees may choose a lower premium plan;

(5) non-medicare retirees have a deductible choice of $300 or $800, with out-of-pocket maximums at $3,000; and

(6) an additional medicare option for low-income seniors was added.

Mr. Propst noted that RHCA cannot go another 10 years without employer/employee contribution increases. The future priorities for RHCA include:

(1) focusing on pre-funding and moving beyond year-to-year budgeting;

(2) identifying additional revenue streams and ensuring adequacy of current revenue sources;

(3) growing the investment fund;

(4) focusing on strengthening disease management and health promotion provisions for all participants; and

(5) focusing on innovations in the private sector, such as lower premiums for healthier lifestyle choices.

Pointing out that the state was essentially in limbo until the health care reform debate was resolved at the federal level, Representative Heaton asked if the board had considered penalizing participants who have made bad lifestyle choices. Mr. Propst said there had been some discussion, but no action as yet. He noted that he is interested in learning more about the Safeway program, which has differential premiums for lifestyle, because people who are outside the health ranges are driving the cost and perhaps should pay more. The RHCA actuary has pegged the cost of smoking at $10 million. Mr. Malott, a former RHCA board member, said the authority needs to understand the magnitude of premium increases for under-65 participants.

Senator Jennings initiated a discussion of the problems participants outside the Albuquerque metropolitan area and Santa Fe have in finding adequate care because of the scarcity of specialists who take medicare and medicaid patients.

Mr. Varela pointed out that when the under-65 plans are collapsed from three to two, some participants will see a 40% increase in premiums. Representative Stewart requested that RHCA provide illustrations of the new plans and a comparison with the gold/silver/bronze plans. Mr. Propst said the gold plan is similar to the new premier plan and premiums will go down 20%; silver participants who move to premium plus may see premiums increase as much as 40%. The premier plan is essentially the current bronze plan. Representative Stewart reiterated her request for illustrations and comparisons.

Mr. Chavez asked if the over-65 wellness program includes incentives for participation. Mr. Propst answered in the negative. RHCA pays the full cost of the program, but there are no incentives otherwise. Representative Stewart asked for details of the program.

On further questions from Representative Stewart, Mr. Propst said the reported 8.3% overall premium increase was based on the assumption that some participants will stay in the more expensive plan. In 2008, a 70% premium increase did not compel participants to change plans. Senator Jennings again noted that participants who live in some parts of the state cannot switch and end up buying something they cannot use. He asked RHCA to consider a premium differential based on geographic availability of services.

After a discussion of House Bill 573 and the increased contributions required by that bill, Representative Stewart asked the members for suggestions as to other areas the task force should consider. Mr. Bowyer said the task force should compare RHCA with other states and consider pay-as-you-go or pre-funding. Mr. Varela said the task force should consider full insurance or self-insurance and requested staff to provide information on the topic. Mr. Chavez said he wants to know where any information came from and hoped staff would provide as much objective information as possible. Mr. Arencon asked for information on plans such as Safeway that provide incentives for healthy behavior. Mr. Sanchez said his organization does this for healthy lifestyles with a plan that gives points for participants to buy down their premiums. He also thought the program could be tiered with respect to geography. Representative Heaton noted the federal Employee Retirement Income Security Act of 1974 (ERISA) prevents the states from doing anything substantial, and, if a national plan is not provided, ERISA should be repealed.

Actuarial Information Overview — J. Chris Conradi, Senior Consultant, Gabriel, Roeder, Smith & Company (GRS)

Mr. Conradi has been the lead actuary for the educational retirement board (ERB) since 1991. His company is also the actuary for the public employees retirement association (PERA), but uses another team of actuaries.

Mr. Conradi began by providing an overview of the kinds of retirement plans used in the various states and the risk characteristics of defined benefit (DB), defined contribution (DC) and hybrid plans.

Defined contribution: a DC plan defines employer and sometimes member contributions that are put into an account with actual fund earnings credited to the account. Employees often direct the investment of their accounts. The balance in the account is usually distributed as a lump sum at termination. Examples of DC plans are private sector 401(k) plans, profit-sharing plans and employee stock option plans; Section 457 plans; 403(b) plans for teachers and health care workers; IRAs; and health savings accounts.

DC public sector coverage:

mandatory for new hires: Michigan (state employees since 4/1/1997); and Alaska (all new public employees, 7/1/2006).

optional programs: Florida, South Carolina, Ohio (three choices), Colorado, Montana and some local governments. New hire election rates when optional: Florida, 21%; South Carolina, 13% (excluding higher education); Montana, 10%; and Colorado, 12%.

West Virginia went to a DC plan 12 years ago, but has since returned to a DB plan. Nebraska is a cash balance plan.

Defined benefit: a DB plan, like PERA and ERB, makes a promise to pay benefits in the future. The benefits are usually a function of the member's pay, service, etc., not an account balance. The amount and form of payment depend on future contingencies such as salary increases; length of service; and whether the employee dies, retires, becomes disabled or leaves for another reason. DB plans are uncertain future financial events. Retirement benefits are defined by a formula that usually involves years of service and final average salary. For example, 2.35% X 30 years X $50,000 = a benefit of $35,250 a year, which is usually paid as a monthly lifetime benefit. There are also DB medical plans, which promise to pay medical benefits in the future or pay a benefit used to pay for medical insurance. Contributions by employers and sometimes employees are based on needs of the fund. Most states and local governments have DB plans; others include RHCA, federal civil service employees hired before 1984, teamsters' central states pension fund and Mr. Conradi's own company plan.

The key differences between a DB and DC plan are that the value of benefits received by a member in a DB plan is not a function of contributions made on the member's behalf and the employer's obligation is not fulfilled until the last benefit recipient dies.

Hybrid plan: a hybrid plan combines features of both DB and DC plans. There are only a few hybrid plans in the public sector. Ohio has an optional combination plan, one DB and one DC, and Nebraska has a cash balance plan.

Risk Characteristics	
Defined Benefit Plans	**Defined Contribution Plan**
investment risk (poor performance)	investment risk (poor performance)
mortality risk (long lives)	mortality risk (long lives)
inflation risk (pay increases, COLA)	inflation risk (no COLA)
employer nominally bears the risks	employee bears the risks
benefits are predictable (defined)	benefits are not predictable

If the employer bears the risk, does that mean taxpayers will foot the bill for higher costs? Perhaps, but that is not the only answer. Increased costs could be covered by lower future salary increases for active members, reductions in other benefits for active members, reductions in work force and reductions in taxpayer services. The ways to explicitly share the risk between employer and employee include having member contributions tied to funded status (Arizona); cost-of-living allowances (COLAs) dependent on "excess" returns (e.g., a return greater than the mandated actuarial return could be set aside for COLA); the Dutch system, with benefits and COLAs dependent on funding status; and the use of hybrids, especially combinations. The states are about evenly split on fixed COLAs (New Mexico) and consumer price index (CPI)-based COLAs.

Approximately 86% of the public sector, including both state and local governments, provides retirement benefits, 79% through a DB plan and 18% through a DC plan. DC use is usually secondary, except for colleges and universities and the few states with mandatory or optional DC plans.

Mr. Conradi presented a primer on the role of the actuary in retirement plans and actuarial mathematics. The actuary reviews data, past experience and plan provisions and based on these selects appropriate assumptions and estimates liability of the plan at a given point and determines employer contribution requirements. If contributions are set by statute, the actuary determines the annual required contribution (ARC) to compare to the statutory contributions. The actuary monitors several actuarial measurements and ratios, watches trends, determines the actuarial effect of proposals and provides factors for option and service purchase calculations.

The basic retirement funding equation is $C + I = B + E$, where C is contribution income; I is investment return; B is benefits paid; and E is expenses. Another way to express the equation is "money in = money out". The trick is to balance the equation. B depends on plan provisions and experience; C depends on the short term on actuarial assumptions and actuarial cost method; in the long term, C depends on I, B and E.

On the question of why to pre-fund, Mr. Conradi noted that a few plans pay benefits when they are known and due, but such a method is not recommended. In most situations the payment requirement will start small, when there are few retirees, but then grow exponentially to a point that the employer may not be able to pay the amounts due without pre-funding. Pre-funding allows a significant part of the plan's cost to be met by investment earnings, which reduces the amount the employer must contribute. Funding in a trust provides security to the members, and some kind of fund is necessary when there are member contributions. Bond rating agencies expect money to be set aside for future liabilities.

Actuarial calculations almost always begin with the calculation of a present value, which is the amount needed to make a series of payments in the future. The calculation assumes there will be investment income earnings until the payment is made. For example, Mr. Conradi said, you could promise to pay someone $1,000 tomorrow, which would mean you would need that amount tomorrow. But if you promise to pay the $1,000 in two years, you could invest $907 now at 5% to generate $1,000 in two years. The more you can earn while you have the money, the less you need to start with because higher expected returns mean lower present value. Actuarial present values also reflect the probability the payments will be made. The actuary must project the future benefits a member might receive at each age, factoring in future salary increases and service, retirement benefits at different ages, refunds and death benefit at each age. The actuary must estimate the probability that each active member will retire, die or become disabled in each future year; then the actuary must determine how the benefit will be paid and, in most cases, the probability that the member is alive at any point in the time after retirement. The actuary then must discount all of these contingent benefits back to today, reflecting the time value of money. This is the actuarial present value of future benefits and, in practice, requires complex computer modeling software.

Actuarial assumptions are needed to determine the probability and timing of various life events in the future, such as death in service, disability, retirement and other termination. Assumptions are needed to determine the kind of benefit and what payment period will be needed for each retirement, based on post-retirement mortality. Assumptions are also needed to determine the amount of the benefit at future dates, which includes making salary increase assumptions. An assumption is needed for future investment returns to discount the expected payments back to the present. The actuary studies a plan's experience to assist in setting assumptions. For some assumptions, recent past experience is an important guide to the future, e.g., post-retirement mortality. For other assumptions, recent experience must be weighed against other factors, e.g., salary patterns in governmental plans often reflect tax receipts, which in turn follow the general economy. The plan's own experience is sometimes the best guide, but an actuary also looks at national statistics, e.g., inflation and investment return. Plan provisions affect the assumption-setting process. If assumptions are too optimistic, the long-term ability to meet the liabilities may be compromised, e.g., if the assumed return is 9.5% but the actual return is only 8%, the true value of liabilities is greater than assumed. More money than planned will be required, and the system may have problems paying benefits in the future. If the assumption is that members will retire at 63, but they actually retire at 60, the benefit will be less, but it will be payable for more years and the system has lost three years of contributions it had been counting on, which probably will require an increase in the contribution rate. If assumptions are too pessimistic, taxpayer funds are tied up unnecessarily in trust funds, creating tension between employees and other needs such as roads, prisons, parks and education. The consequences if the actuary is wrong are generally worse if the actuary has been too optimistic.

The actuary helps find a "rational" funding pattern, which is the function of an actuarial cost method that determines the year-to-year incidence of employer/state contributions. There are different methods, just as there are different accounting methods for handling depreciation or for determining the value of inventory. Mr. Conradi noted that Utah does not have a statutory contribution rate; contributions are actuarially determined. Different actuarial cost methods spread incidence of costs in different ways, such as based on a benefit formula or based on costs (dollars or percentage of pay). Key considerations are: (1) whether the method produces relatively level costs; and (2) whether the method allocates contributions to successive generations of taxpayers equitably. The entry-age actuarial cost method is the most common for public plans because it meets the key considerations. Most methods produce two pieces used in determining the employer contribution rate, normal cost and amortization charge for unfunded actuarial accrued liability (UAAL). Normal cost is the basic cost for the current year, which may be determined by actual benefits earned or may be a theoretical level contribution amount, and depends on the actual cost method. In contributory plans, member contributions usually are treated as covering part of the normal cost, with the employer covering the rest.

The components of contributions are:

- actuarial accrued liability (AAL), which is the theoretical liability associated with prior years under the method. It may reflect actual benefits earned or may be a theoretical amount;
- actuarial value of assets (AVA) could be the plan's market value, but is usually a smoothed value tied to market. Smoothing is needed because results are too volatile otherwise; and
- UAAL is the difference between the AAL and the AVA. It may be positive or negative (overfunded); the balancing item and the liability are not accounted for by future member contributions, future employer normal costs or by the AVA.

The second component of annual cost is the amortization of the UAAL. Usually, this is an annual payment designed to increase with payroll, although it could be a level amount like a traditional home mortgage. When the system is overfunded, this is a credit. The amortization period is set by the plan trustees or statute, unless the contribution is fixed. Using the home mortgage analogy:

Retirement System	**Home Mortgage**
unfunded liability	outstanding loan balance
normal cost	taxes and insurance payment
amortization charge to fund the unfunded liability	principal and interest portion of loan payment
change in contribution rate due to assumption changes	refinancing existing mortgage
experience loss creates an increase in unfunded liability and therefore in contribution rate	take out a second mortgage to pay for new roof
benefit change increases normal cost, unfunded liability and contribution rate	an addition to the home increases taxes and insurance, second mortgage increases principal and interest payments

UAAL is **not** an accounting liability; it is always off the employer's balance sheet. It is not a liability if the plan is terminated or frozen. The term "liability" is misleading; different cost methods produce different UAALs. UAAL **is** a step in computing contribution rate. It is a "liability" associated with prior years. It assumes the plan continues, and it reflects expected future pay increases and, in some methods, expected future service. Sources of unfunded liability include when actual experience differs from assumptions, when granting benefit credit for service before the system was created and granting retroactive credit for benefit enhancements.

Mr. Conradi pointed out that nothing is wrong or bad about having an unfunded liability if systematic progress is being made in amortizing it over a reasonable time period. Nothing is wrong with a benefit enhancement that increases unfunded liability if it is funded properly.

The reasons to have actuarial valuations are to: (1) provide an annual snapshot of the system; (2) determine the required employer contribution rate if not set by statute; (3) monitor experience; (4) monitor various funding measures; and (5) calculate gains and losses for the year from investment, liability, benefit changes and assumption changes. Key measurements include:

- employer contribution rate, unless set by statute;

- funding period, if contributions are set by statute, which is the number of years theoretically required to reduce UAAL to zero;

- normal cost and UAAL;

- funded ratio (AVA/AAL), which if over 100% is overfunded;

- UAAL as percentage of payroll;

- gains and losses, which is the difference between assumptions and actual experience; and

- external cash flow as a percentage of assets, which are member and employer contributions, less benefits, refunds and administrative expenses.

When monitoring trends, Mr. Conradi said the actuary looks for consistent patterns of actuarial experience gains and losses and consistent patterns of deterioration in funding levels. In the former, the system may need to have an actuary do an experience study and may be a sign of the need to change assumptions; in the latter, the trustees need to begin educating legislators and members of potential dangers. Deterioration in funded levels, increases in funding period or contribution rates, etc., are a natural consequence of benefit improvements and are not a sign of a problem by themselves if due to such. Mr. Conradi pointed out that even with a smoothed AVA, year-to-year results can be volatile, so it is important to focus on trends, remaining aware of changes in the plan during the period in question.

Explaining the process for costing a benefit enhancement, Mr. Conradi said the actuary analyzes whether the proposed enhancement would change any existing assumptions, e.g., moving from 30 and out retirement to unreduced 25 and out would be expected to change the pattern of retirements. The actuary develops new assumptions to reflect the incidence of expected changes; calculates a new normal cost and UAAL; and determines the increased contribution rates needed to support the enhancement.

Mr. Conradi made the following observations about cost studies:

- when new benefits are being considered, policymakers need to be aware of potential assumption changes that may be needed to reflect fully the total effect of a proposal on the cost of the system;

- many changes may have a dramatic impact on not only the amount of the benefit, but also on the probability of when it will be paid; and

- to ignore potential assumption modifications can materially understate the actuarial impact of the change and may even hide an actuarially unsound proposition until it is too late to bring about a reasonable corrective action.

There are legal issues to be considered when contemplating changing from a DB to a DC plan. Changing benefits for current members might violate the constitution of New Mexico (Article 2, Section 19 and Article 20, Section 22). In addition, there are political ramifications to be considered. The probable approach to changing to a DC plan would be to make it a requirement only for future new members. The legislature could create an optional DC plan, but there have been low election rates in other governmental plans in which this has been tried, and the internal revenue service has held that members must leave contributions in the DB plan. This would mean no transfer to a DC plan of the member's or the employer's money, and the member would receive a DB benefit when eligible; therefore, DB liability for current members does not disappear. UAAL must still be paid off, and since it does not include liability for future members, there would be no reduction when the DC plan is created. There are also actuarial issues. Part of the employer's contribution is used to amortize the UAAL, but without inflow of new members, less revenue will be received, and contributions from current members may be insufficient. Insufficiency was the case in 2005 when ERB asked Mr. Conradi to look at the question. To make up the resulting shortfall, the employer (state) must contribute more than the current scheduled statutory rates; this would be done by raising contribution rates, paying a contribution on the pay of future new members covered under the DC plan or by finding other contribution sources. GASB allows amortization as a level percentage of payroll so that smaller amortization payments are required initially and they rise over time as payroll increases. Both PERA and ERB do this. However, if the DB plan is closed, GASB requires computing amortization like traditional home mortgage, with level payments. This may knock the plan out of compliance with GASB or make the plan look worse. Without the inflow of new members, the active membership will shrink, and, eventually, covered payroll and contributions will shrink even though payouts will continue to increase. Mr. Conradi noted that when Alaska moved to a mandatory DC plan for new hires, its costs jumped significantly. Negative external cash flow will become a significant issue. External cash flow equals contributions minus benefits; as it becomes more and more negative, the plan must draw on investment return to pay benefits and eventually must sell investments to meet benefits. Negative external cash flow forces the plan trust to hold more cash or more fixed income and less equities, which lowers expected return.

Representative Stewart requested information on GRS's return to work actuarial assumptions for PERA and ERB. Mr. Varela asked if the recession would require actuarial changes. Mr. Conradi replied that inflation is negative, but GRS is still comfortable with 3%. As for investment return, if the plans could make 8% before, they can do that in the future, so there will not be dramatic changes in the assumptions.

On questions from Representative Berry, Mr. Conradi indicated that a DB-to-DC shift was not really related to issues around a generational shift as it affects retirement plans.

Representative Heaton discussed whether the plans need to reduce their income assumptions since their portfolios were reduced by bigger-than-expected losses. Mr. Conradi said that to squeeze the risk out, the plans would have to go to fixed income. On another question, Mr. Conradi said the question of who could be moved to a DC plan is one for the attorney general's office, not an actuary. Representative Heaton acknowledged the difficulty and complexity of switching from DB to DC and noted there were "lots of moving parts" in the plans that all play a role. He said the task force must struggle with what pieces to change to ensure fund adequacy and it would be helpful if it had an actuary to develop a matrix of possible changes, along with projections of the results of those changes. Mr. Conradi advised that it is not realistic to have significant actuarial work accomplished by the next session. Representative Heaton asked how to ramp up a change to DC to avoid the problems Mr. Conradi had discussed in his presentation. Mr. Conradi said DC could be offered as an option or the state could use a hybrid program, including retirement at age 65 and using the ERB COLA instead of PERA's. Another option would be not to eliminate DB entirely, but to reduce it for new hires and combine it with DC.

Senator Duran asked why people would choose DC if they were offered an option between DB and DC. Mr. Conradi said DC is attractive to employees who do not think they will retire from government, e.g., university faculty, political appointees and term employees.

Mr. Malott pointed out that it is important for the task force to be able to define success for itself and that it must know its goal. He noted that even fixed income investments were doomed in the recent financial crash and that there had been no place for investors to hide. Representative Stewart reminded the members that the task force's task is spelled out in HB 573.

On questions from Senator Jennings, Mr. Conradi said that under a DC plan, if an employee leaves before the five-year vesting period, the plan returns the employee's contribution; if the employee is vested, the employee would receive all of the employee's account. He said it would be hard to determine whether retirement plans affect public employment turnover rates. As for return to work, Mr. Conradi noted the issue often makes news when people violate the purpose of the provision by retiring and immediately returning to their jobs; in California, it is known as "chief's disease". Massachusetts, this year, passed reforms pegged to abuses of return-to-work provisions.

Asked if there is a greater migration to DC plans on the health care side of benefits, Mr. Conradi said some plans are moving to a type of DC in which the employer contributes to a fund so retirees can buy coverage.

Ms. Kane observed that at least on the issue of spiking, New Mexico does not have the same problems as other states because it does not have the loopholes other states have. Representative Stewart asked how spiking, return-to-work and other issues relate to solvency. Mr. Conradi pointed out that "solvency" is not an actuarial term. Referring to page 70 of the handout, which shows examples of the funding ratios of two hypothetical plans, he said the more a plan is funded, the less contributions are needed, but if contributions are sufficient, the plan needs less funding. He considers the question of solvency to be one of whether the state is able to make sufficient contributions to make the funding ratio over time. Mr. Slattery said that PERA's 80% funding ratio is due to the four-year smoothing, which helps manage contribution increases.

Representative Garcia asked for an example of a successful hybrid plan. Mr. Conradi replied that he could not provide one. One reason for that answer, he said, is that there are not that many hybrids. Ohio's plan has a reduced DB and optional DC. While DC looks good on paper, it draws less than 5% of participants.

Senator Jennings suggested the task force look at 30-year retirement and the coordination of benefits with return to work. Mr. Conradi said Nevada has a "30 and out" plan for police and firefighters.

Legal Issues of Changing from Defined Benefit to Defined Contribution Plans — Doris Faust, LCS Staff Attorney

Ms. Faust said there are constitutional ramifications to be considered in a discussion of changing from a DB to DC plan. Limiting the choice of new employees to a DC plan and offering it as an optional plan for any employee would not invoke constitutional concern. However, there are two constitutional obstacles to changing the DB plan for current employees. Article 2, Section 19 of the constitution of New Mexico provides in part that "[n]o. . .law impairing the obligation of contracts shall be enacted by the legislature". If the issue were brought before the court, it would look to determine: (1) is there a contract; (2) if so, what are the terms and what is the change; and (3) what is the impairment. On a case on point, in its May 2009 decision in *Beggs v. City of Portales*, the New Mexico supreme court reversed a summary judgment ruling of the district court and court of appeals, saying the circumstances of the case present genuine issues of material fact as to whether the city's offers and retirees' acceptances constituted binding contracts. The case involves retirees who relied on the city's personnel policy manual that provided that retirees could pay the same health care premiums as employees. In addition, Article 20, Section 22 of the constitution, which establishes protections for PERA and ERB and property rights for vested members, might come into play in a legal challenge.

Representative Varela suggested that rather than looking at issues with constitutional problems, such as changing from DB to DC, the task force look at statutory changes it can recommend to the legislature. Representative Stewart said any recommendations the task force considers will likely need to be vetted by the actuary and the task force is operating without a research budget.

Representative Heaton inquired as to when contract is made, whether hire date or vesting date, and noted that teachers sign annual contracts. Ms. Faust explained that an implied contract could be created at any point in a relationship. Mr. Padilla said the best position would be to look at only changing benefits for new hires. Ms. Faust said in that instance, there would be no contrary contract right established. In answer to another question by Mr. Padilla, Ms. Faust said prior to vesting, an employee might make contract arguments against changes to the employee's plan.

The task force recessed at 4:10 p.m.

Tuesday, August 11

The second day was called to order by Representative Stewart, co-chairwoman, at 9:10 a.m.

Roundtable Discussion — Task Force Expectations and Direction

The co-chairwoman introduced the item, saying she wanted to hear the members' ideas for the task force and hoped they could talk to one another about issues of concern.

Mr. Arencon began the discussion by stating his interest in the task force pursuing prevention and wellness programs as incentives to control costs in RHCA. He asked for information of such programs in other states.

Ms. Lotero would like any actuarial study commissioned by the task force to include projections due to increases in minimum retirement age.

Mr. Chavez asked staff to look at what most states are doing relative to ideas postulated by the members. He also asked the task force to pursue other issues such as an irrevocable trust for health and minimum retirement age. He expressed support for the concepts in HB 573. He agreed that the task force needs funding for its own actuarial study, including cost effects of proposed changes.

Mr. Bowyer said it is vital that the task force know where it is going and when it arrives there. He did not have the sense that this had been determined. Noting that Mr. Conradi had said solvency is not an actuarial term, he wondered if PERA and ERB are solvent and if people confused annual return with performance over time. He agreed that RHCA is not solvent as a prepaid plan. He also cautioned the task force not to confuse solvency issues and a perception that some provisions may be unfair. For example, return to work does not affect solvency, particularly with the HB 573 fix. As for minimum retirement age, there can be actuarial adjustments for underage retirement. He opined there are ways other than draconian to consider changes, that he preferred incentives over punishment. For example, the law could provide incentives for staying longer rather than penalizing those who did not stay longer. The state should be able to develop strategies to convince employees to stay until they are closer to the age for social security and medicare benefits.

Representative Heaton noted that any discussion of health care may be premature, given the debate in congress about health care reform. There are discussions of eliminating medicare advantage and filling the prescription drug donut hole. He said he was shocked that Mr. Conradi said unfunded liabilities do not matter. He stressed that he believes the public employer has a financial and moral obligation to ensure that it can pay for what it has agreed to do. He concurred with Representative Stewart and other members that the task force needs its own actuarial advisor; it needs to know how changes to system provisions, such as minimum age, vesting term, age and service, contributions and others, will affect the trust funds and which would be significant players. He said the task force needs to understand more about the contractual rights and obligations of public employers and employees, and he would like to know what is included in teacher contracts. What would be the effect of changing the vesting provision from five to eight years, for example? What effects do spiking and return to work have on the funds? He expressed concern about the larger ups and downs of the economy and investment returns and said fund managers need to be on the conservative side.

Mr. Chavez commented on Representative Heaton's point of underfunding and noted that while RHCA is underfunded by $2.9 billion, it was underfunded at one point by $4.1 billion, which means that recent measures have helped to shore up the fund.

Mr. Heshley pointed out that collective bargaining agreements could forestall changes affecting current PERA members. He wanted to be sure the task force considers the impact of DC for new hires on the DB plan. He also said PERA is looking at return to work and whether it affects the trust fund and that spiking is no longer a problem because of collective bargaining.

Representative Berry observed that after listening to the discussions on unfunded liabilities, it seemed there was no consensus about the size of the problem and wondered if UAAL does create a bonding problem. He thought the task force should determine if it could come to agreement about plan changes for new hires. He asked for a compilation of information on the per capita income, salary and benefits of teachers, police, firefighters, state employees and others and asked that it be compared to surrounding states.

Mr. Varela said the earlier presentation did not answer the question of how serious the market has been on funds and the annual assessment that is still to be done. He expressed reservations about DC plans and said ERB has agreed there needs to be eligibility changes, e.g., loopholes need to be closed and consideration should be given to years of service, COLAs and return-to-work changes.

Mr. Bowyer reiterated that the task force needs not only to know where "there" is to get there, it needs to know what "there" is as well. He said Mr. Conradi had presented another view by saying that money lost will be made up over time and that it is not necessarily the issue to worry about. He said he hoped the task force would not rush to present recommendations since it has until October 2010 to complete its work.

Ms. Kane noted that members who retire early receive less benefits and said she would like to see incentives for those members who choose to stay in the system longer.

Mr. Padilla expressed the belief that return to work does affect solvency. Referencing Senator Jennings' concern about the difficulty of recruiting specialists, he suggested the employer will have to prove need when hiring a retiree. He noted there is no silver bullet, no one change, that will fix all three systems. He said DC does not sound like a solution to the problem of fund solvency.

Mr. Propst pointed out that the three plans are different. RHCA does have solvency problems, and it will be in deficit spending by 2018. He said the under-65 retirees are the real problem and he does not expect RHCA to be there when he retires in 25 years. He stressed that revenue and contributions must increase and the board has significant power to manage the program. He said RHCA can issue a request for proposals (RFP) for medicare services but not for non-medicare services; the authority must use consolidated purchasing as required by the Health Care Purchasing Act, which is not always the most efficient or effective. [Note: This is also referred to as IBAC, the interagency benefits advisory committee, composed of the RHCA; the Public School Insurance Authority; the Risk Management Division and the Group Benefits Committee of the General Services Department; and the health care program of the Albuquerque Public Schools.] Upon a question from Representative Heaton, Mr. Propst explained that the agencies do not buy together, but they are required to issue an RFP together. One agency cannot issue an RFP unless all agencies do; he would like the authority to have more flexibility.

Ms. Goodwin said RHCA does need to be pre-funded and it should strive for that going forward. She noted there needs to be intergenerational fairness, and one way to drive down pre-medicare costs is to have a healthier work force. Seventy percent of health care costs derive from lifestyle choices, she said. She requested the task force to look at the Safeway program and what other states are doing.

Representative Varela asked for a breakdown of premium increases from RHCA. He indicated that IBAC has not been proactive enough and the task force should look at its legislation.

Ms. Lewis suggested the task force look at the actual number of retirees under 50 and under 60 and whether they are state, municipal, firefighter or police members. She also suggested a threshold be established for contribution increases. Mr. Padilla said there are 2,000 state and 1,000 county corrections officers on 20-year retirement. He cautioned the other members that recruitment and retention of corrections officers are difficult.

Representative Stewart observed that the economy has complicated an already complex topic and the task force may need to take all the time allowed by statute to complete its task. She stressed the need for good data and actuarial projections.

There being no further business, the task force adjourned at 10:45 a.m.

MINUTES
of the
THIRD MEETING
of the
RETIREMENT SYSTEMS SOLVENCY TASK FORCE

September 8, 2009
Room 307, State Capitol
Santa Fe

The third meeting of the retirement systems solvency task force was called to order by Mr. Tito Chavez, co-chairman, on September 8, 2009 at 10:15 a.m. in Room 307, State Capitol.

Present were:
Mr. Tito Chavez, co-chairman
Rep. Mimi Stewart, co-chairwoman
Mr. Diego Arencon
Mr. Oscar Arevalo
Rep. Richard J. Berry
Mr. Charles Bowyer
Mr. Bill Fulginiti
Ms. Jan Goodwin
Rep. John A. Heaton
Mr. David Heshley
Ms. Emily Kane
Ms. Alexis Lotero
Mr. Andrew Padilla
Mr. Wayne Propst
Mr. Terry Slattery
Ms. Christine Trujillo
Mr. Jeff Varela

Absent were:
Sen. Pete Campos
Ms. Michelle Lewis
Mr. Bruce Malott
Sen. Steven P. Neville
Mr. Ronald Sanchez
Sen. John Arthur Smith
Rep. Luciano "Lucky" Varela

Staff:
Raul Burciaga, Jonelle Maison, Tom Pollard and Josh Sanchez, Legislative Council Service
Michelle Aubel, Legislative Finance Committee

Guests: The guest list is in the meeting file

Copies of all presentations and handouts are in the meeting file.

Tuesday, September 8

Overview of Other States' Initiatives on Retirement Systems — Mr. Ronald Snell, National Conference of State Legislatures

Mr. Snell briefly described defined benefit (DB) and defined contribution (DC) plans and provided a handout on the plans of those few states that have DC plans.

During the last five years, at least 18 states have enacted legislation to strengthen the funding streams and reduce the long-term costs of their public retirement systems. Alaska and Georgia replaced their DB plans with alternative plans. Alaska has a DC plan for public employees and teachers; Georgia has a hybrid plan that combines DB with a 401(k) in which all new employees are automatically enrolled. In 2009, several states offered early retirement incentives as a way to reduce the size of their work forces.

Mr. Snell noted that there are significant restraints on state governments' power to revise public pension plans in ways that adversely affect current members. Most states would be required to create new plans, for new employees, to increase age and service requirements or reduce the benefit formula; in some states, new plans would be required to increase the employee contribution. State actions for revising pension plans between 2005 and 2009 have included: (1) increases in employee contributions; (2) extending the period over which salary is calculated for the purpose of determining retirement benefits; (3) increases in age or service requirements; (4) anti-spiking provisions; (5) reduction in or greater controls over post-retirement cost-of-living adjustments (COLAs); and (6) early retirement incentives. Attachment 7 of the handout details the revisions by category.

Currently, DC plans comprise the only basic state retirement system for state employees in Michigan, public employees and teachers in Alaska and state employees in Nebraska. Nebraska uses a variant of a cash balance plan. The District of Columbia also has a DC plan as its primary pension coverage. West Virginia closed its DC plan to new members in 2005. Some states provide voluntary alternative plans. Mr. Snell described the components of the Alaska, Georgia, Kansas, Kentucky, Nevada and Rhode Island plans.

The vesting period nationwide is usually between five and 10 years; over the last 20 years, there has been a move to decrease rather than increase the vesting period. Most systematic changes have not been in vesting periods but in age and service requirements. In the 1980s and 1990s, it was common for states to reduce age and service requirements, but the trend stopped at the turn of the century. Spiking is the practice of increasing an employee's salary, usually dramatically, for the last year of service. Mr. Snell observed that spiking occurs more frequently in public school systems than state employee systems. In Louisiana and Texas, if an employer increases a soon-to-be-retiree's salary more than a specified percentage, the employer has to cover the full actuarial cost over what the employee would have received in retirement. On questions from Mr. Chavez and Mr. Fulginiti, Mr. Snell said that there are protections for new positions and for increased responsibilities in the same job.

In reply to questions by Ms. Trujillo, Mr. Snell said that states are reducing the COLA calculations by capping or lowering the percentage allowed for COLAs. Early retirement incentives provide a way for states to reduce work force expenses. Most states have early retirement with reduced benefits, but special incentives might include cash payments. In Connecticut, proposals have included adding one or two years to the service requirement or a bump in benefits. Illinois substantially reduced its work force costs through incentives.

Representative Berry requested information on the average years of service nationwide. Mr. Snell said the normal range across the country is between 25 and 30 years of service, with a range of 55 to 62 years of age. Representative Berry asked about recruitment and retention problems in states with extraordinary measures, such as Georgia. Mr. Snell replied that he had not seen any hard evidence as yet. He advised that most changes are fairly recent and it will be hard to single out why people do not take or stay in state jobs; however, research seems to indicate that health care coverage is more important than retirement benefits for younger workers. Mr. Snell said fears over recruitment and retention of teachers and public safety workers are being raised in Alaska. In Michigan, which has had a required DC plan since 1997, there has been no evidence one way or the other, though the state's high unemployment rate may be more determinative than retirement benefits.

Mr. Bowyer asked about the effect of increasing the vesting period instead of changing age or years of service. Mr. Snell said any response would be speculative, but a shorter vesting period would likely have very little effect on the cost to a retirement system. Kansas decreased its vesting period, mostly as an equity issue. Most states, but not all, allow the employee to withdraw contributions if leaving before vesting.

Representative Stewart said she wanted information on how much any of the discussed changes matter to the solvency of a system. In response to Mr. Snell's point about spiking, she reminded the task force that New Mexico funds public education differently than most states; school districts do not have the money to spike salaries. She asked Mr. Slattery to provide New Mexico data on spiking in the public employees retirement association (PERA) system. After a discussion between Representatives Stewart and Heaton over the anti-spiking provisions in House Bill 573, Mr. Snell said spiking as a problem is probably more in the eye of the beholder; some salary increases simply look inequitable. The real issue is equity, he said, and the need to prevent people from gaming the system for their own benefit. In Massachusetts, a legislator switched jobs to a university presidency and used his car and housing allowance as part of his salary for retirement benefit calculations. There was a similar case in New Jersey. Mr. Snell said that spiking is not an enormous cost to the system, but it is the perception of unfairness in the examples that make people angry.

In response to Representative Heaton, Mr. Snell said that incentives are aimed explicitly at reducing the number of employees. In Vermont and Maine, voluntary retirees receive cash payments, which are paid for from savings to the state from their retirement. Their benefits were not changed. In Connecticut, voluntary retirees receive three years' additional retirement credit. In the District of Columbia, voluntary retirees are eligible for cash payments, with a strict accounting of union and nonunion participants. Representative Heaton advised that while states are reluctant to lay off employees during the economic downturn, the next big unemployment numbers will be coming from state governments.

On questions from Mr. Padilla, Mr. Snell said that increased contributions take pressure off the system. Retirement systems work under very long time frames, over 60, 70 and 80 years, and post-retirement benefits such as COLAs can have a substantial effect. He noted that public employees and teachers tend to be the healthier part of the population.

Mr. Varela noted that retirement benefits are a major component of the state's overall compensation plan. He then asked about Attachment 6, Rhode Island's plan changes and why states are making the kinds of changes they are. Mr. Snell pointed out that Rhode Island has been one of the hardest hit states in the recession, but it also has long-term structural economic problems because it has been losing population and jobs. Its retirement changes are in response to those drastic long-term problems. When Alaska shifted from a DB to a DC plan in 2005, it was in response to strong concerns about unfunded liabilities as well as a strong ideological predilection for DC. It is too soon to talk about the effect of the shift, and it must be noted that the shift did not change the unfunded liability for DB beneficiaries; accounting rules require essentially "mortgage" payments for the DB unfunded liability. In all the DC plans, there is a shift in philosophy from employer responsibility to employee responsibility for retirement. There are more DC plans in local government than state government. In 1991, West Virginia closed its DB plan for teachers and moved to a DC plan. However, what it found was that teachers did not know how to invest their money and were too conservative; over time, that meant not enough income on which to retire. The state has now closed its DC plan and moved back to DB. Nebraska has had a DC plan since 1967, but employees do not handle their own investments. Now, the DC plan allows for consolidated investment with a guaranteed return.

Mr. Snell said the evidence of these states merits consideration. While he is not one to discourage "quickness", he said, the legislature should consider that pension plans exist over several generations. The investment framework does not stretch that far, but there is the luxury of time. Investment shocks are a lot less serious over time, and the management and investment perspective is long term. He noted retirement system changes in most states took several years. For example, it took the legislature five years in Rhode Island and two to three years in Kansas. He cautioned the task force to take the time it requires to develop changes that will be beneficial for the state and its employees. There are very few changes that will fix short-term problems; there are no immediate effects. An increase in contributions really only affects the long term; age/service changes do not have substantial effects on the short term, either. The legislature has time to consider changes because there is nothing that can suddenly make a big difference.

Mr. Bowyer commented on the development of a tiered system in Rhode Island and how New Mexico may benefit from a similar carrot-and-stick approach.

Mr. Snell responded to a question by Representative Heaton by saying that the internal revenue service does not allow DB contributions to be shifted to a DC plan.

Referring to a *New York Times* article from the past weekend, Mr. Propst asked if states are considering purchasing life insurance to erase state liability. Mr. Snell replied in the negative. There are some retirement funding bonds still around, e.g., in Illinois, but he is not aware of states doing other bonds.

Ms. Trujillo asked how Alaska's nonparticipation in social security adds to the problems inherent in a DC plan. Mr. Snell said that the issue remains politically contentious in Alaska. If state governments have opted out of social security, they should provide DB plans; if retirees are entirely dependent on DC, the income may not be sufficient for retirement. Ms. Trujillo asked how many states are not covered by social security. Mr. Snell said that, off the top of his head, Alaska is the only DC state not covered by social security.

Mr. Bowyer pointed out that DC states must also look at the cost in 20 or 30 years from retirees with inadequate retirement savings; they should factor in the long-term costs associated with greater numbers of their retirees living in poverty.

Representative Stewart invited Mr. Snell to opine on which changes, in his estimation, of those taken by other states would provide the biggest bang for the buck, versus the smallest. Mr. Snell said he was reluctant to offer an opinion. He noted that the American population is now older and healthier than previous generations and that this trend will continue. The question of when someone can receive a lifetime benefit becomes crucial. Is such a benefit needed as early as many states now provide? Is it reasonable to ask employees to work longer? The biggest bang may be the reversal of the policy that makes it easier to retire earlier. As life expectancy grows, this becomes a critical question. A woman who is 65 years of age now can expect to live 21 years more; a man of 65 can expect to live 18 years more. The trend will continue upward.

Discussing the solvency trouble most states are having, Representative Heaton asked if there is any move to join forces to develop an econometric model that each state could use to determine the effects of potential changes. Mr. Snell said that he had heard no such discussions, as states are tackling their problems individually. He noted that even the 18 states that have made changes are acting on the margins and most changes are moving in the same direction. He offered that actuarial work is more valuable to individual states than a national econometric model.

Mr. Varela asked if California is considering changes to its retirement systems. Mr. Snell replied that he has heard that the governor has proposed some changes and there has been some talk of a petition, but there have been no significant proposals.

Discussion on Strategic Asset Allocation — Marcia Beard, RV Kuhns & Associates, Inc. (RVK)

Ms. Beard opened her presentation with the maxim, "greater return equals greater risk". The presentation reported data from the 2009 *Wilshire Report on State Retirement Systems: Funding Levels and Asset Allocation*. Wilshire estimates that the ratio of pension assets-to-liabilities, or funding ratio, for 125 state pension plans was 84% in 2008, down sharply from an estimated 96% in 2007. For the 59 state retirement systems that reported actuarial data for 2008, the funding ratio was 77% in 2008 (as of June 30), down from 88% for the same plans in 2007. Of those systems, 93% have a market value of assets less than pension liabilities and are underfunded. The average underfunded plan has a ratio of assets-to-liabilities equal to 73%. Actuarial value funding ratio decreases are much less sharp as a result of smoothing of actuarial values. A smoothing method is often employed to reduce the impact of market fluctuations when determining pension fund contributions. The actuarial funded ratio of PERA was 92% during the year ended June 30, 2008. PERA needs to decide on a strategic asset allocation that balances how conservative the board wants to be to protect assets versus how conservative it can afford to be given that if investment return falls short of the actuarial benchmark, additional contributions must fill the gap.

At the request of RVK, PERA's actuary, Gabriel Roeder Smith & Company (GRS), put together a brief actuarial analysis to estimate the impact of future returns on contribution rates. The analysis included the following:

(1) accrued liabilities are assumed to grow at a 6.35% rate;

(2) projected results are based on the June 30, 2008 PERA valuation unless noted;

(3) market value of assets projected from March 31, 2009 was $8.3 billion;

(4) liabilities, payroll and benefit payments were projected based on recent PERA experience;

(5) future contributions are assumed to remain at current statutory rates plus $8 million per year for service purchases;

(6) the analysis does not include the effect of the board's contribution policy, if any, on rates; and

(7) investment return scenarios are selected by RVK.

In the four scenarios run by RVK, the results showed that PERA needs increased contributions to maintain a 30-year amortization. For the PERA general plan, the current contribution rate is 24.01%. Using March 31, 2009 data and the year 2013, the need for increased contribution rates ranged from the most pessimistic of 37.14% to the most optimistic of 30.30%. Ms. Beard did note that the March fund value of $8.3 billion has risen to $9.9 billion at the end of August.

Ms. Beard presented portfolio assumptions based on asset class that showed return assumptions, risk assumptions, index, longest historical time frame, annualized return and annualized risk. The models showed asset classes, current allocation, policy target and conservative mix and the return risk (one-year holding period) and the return (compound) risk for three-, five-, seven- and 10-year holding periods. Ms. Beard noted that RVK may be more conservative in its assumptions than other analysts. The Frontier 1 model showed the one-year return risk policy target at 7.88%, which is below the current 8%. Representative Heaton asked if the state should be targeting something other than 8%. Ms. Beard said that this is the question: should PERA be more conservative and have less investment in equities? Mr. Varela asked if the asset classes shown on page 10 of the handout are indexed. Ms. Beard answered not completely; 31% of domestic equity was indexed.

In the Frontier 2 model, it was loosened up to add a higher alternative investment mix. Alternative investments began around the end of 2006 after the legislature had changed to the prudent investor standard for PERA and educational retirement board (ERB) investments. The policy target is the same, at 7.88%, and the conservative mix allows only 7.41% return, while the higher alternative mix gives 8.01%. The higher alternative mix includes hedge funds, but using a multistrategy, multimanager approach. The actuarial implications of the modeling using the GRS analysis of the next five years, the gap between PERA's actuarial hurdle and the expected returns from the different investment approaches, RVK estimated the likely range for total PERA contribution rates 10 years from today. With the higher alternatives mix, estimated contribution rates are 31% to 33%; policy target is 34% to 36%; conservative mix is 37% to 39%; and with the current allocation, the estimated contribution rate is 40% to 44%. The estimate was based on the state of the March 2009 fund.

Mr. Varela noted that risky, alternative investments have benefits and it is important for policymakers to understand portfolio diversification. Mr. Slattery explained that these investments are alternatives to publicly traded securities. Alternatives level out the risk and that makes them attractive.

Representative Heaton initiated a discussion of how decisions were made as to the mix of assets. Ms. Beard said they were made by managers based on history and experience. There are both active and passive managers. The lesson learned in 2008 was liquidity, leverage and correlation.

On a question from Mr. Padilla, Ms. Beard explained that the contribution rates shown were totals for both employers and employees.

Representative Heaton called the task force's attention to the +10% gap between current contributions and needed contributions and remarked that the state has to figure out how to close that gap. Ms. Beard cautioned that these were merely estimates and the analysts would have a clearer picture in November of how fast liabilities are growing. There were a lot of assumptions made, and the task force should take the information with a grain of salt. Mr. Slattery said that in a normal year, he would agree with Representative Heaton; however, this has not been a normal year. For example, with the hiring freeze, PERA does not know where its liabilities are. Ms. Beard remarked that the actuary had been very hesitant to give estimates and the numbers were not quotable.

Representative Stewart agreed that the task force should not quote the estimates, and she noted that they were based on March fund and market conditions, which have changed. She suggested the task force monitor the funds and wait for the actuarial study.

Staff Report — Mr. Raul Burciaga

In response to requests to review issues raised by the task force, Mr. Burciaga reviewed documents provided in the task force members' files and commented on some of the issues.

Retiree Health Care Authority (RHCA)

In response to whether the use of medicare advantage plans were helpful, whether they contained costs and whether they would continue under any health care reform efforts, Mr. Burciaga provided the task force with two health policy briefs from health affairs and the Robert Wood Johnson foundation, one regarding payments for medicare advantage plans and the other regarding competitive bidding, as well as a fact sheet from the Kaiser family foundation.

With respect to the impact of rewarding good behavior or lifestyle with lower premiums or controlling health care costs and the impact of prevention and wellness programs, Mr. Burciaga referenced several handouts that discuss lifestyle, prevention, wellness and disease management. Additionally, a copy of the *Wall Street Journal* article by Steven Burd, C.E.O. of Safeway, inc., was provided to the task force; this program had been mentioned during discussions about RHCA. The handout included Mr. Burd's perspective on health care but also discusses Safeway's healthy measures program. A copy of RHCA's wellness, disease management and disease detection benefits matrix was included.

Although the average RHCA premiums increased by about 8%, the actual decreases and increases were more disparate. A handout was provided that listed the premiums for RHCA. An August 21 letter from RHCA to Mr. Bowyer addressed issues regarding comparisons with other states.

Whether there are benefits to remaining self-insured (self-funded) or purchasing risk insurance (fully insured) is probably more of an actuarial question, one that would require looking at RHCA's experience as well as projecting into the future. Similarly, the use of a stop-loss could be considered to help with outlier cases.

Mr. Burciaga indicated that the federal Employee Retirement Income Security Act of 1974 should not have any adverse impact on RHCA's ability to be more innovative. An article from health affairs was provided, which discusses the need for reforming federal law, particularly with respect to federal preemption as congress tackles health care reform in general. However, the preemption applies to states telling employers what to do or not do; it would not apply to the state itself as an employer.

In response to RHCA's participation as part of a larger pool (i.e., state employees health care plan, public school insurance authority (PSIA) health care plan, Albuquerque public schools (APS) health care plan, also known as IBAC — interagency benefits advisory committee), the task force would need to look at the Health Care Purchasing Act (HCPA) to see if revisions should be made. It is a policy question for this task force and the legislature in general to consider. The HCPA was enacted in 1997 and requires the RHCA, PSIA, APS and risk management division (RMD) of the general services department (state employees health plan) to bid together. However, there are advantages and disadvantages to that process. Mr. Propst had previously mentioned that there are times when it would be helpful for RHCA to bid on its own. There is also the issue of beneficiaries and what they have in common, e.g., RHCA retirees in their late 40s and 50s that more closely resemble some of the PSIA, APS and RMD employees versus RHCA retirees of medicare age. There have been various legislative and executive efforts to consolidate administratively the four groups, but the initiatives have all been unsuccessful, especially the governor's plan in 2004 to create one administrative body. Subsequent efforts for a health care authority to do the same thing have also met with resistance. Mr. Burciaga again reiterated that this is a policy issue for the task force and legislature to consider.

In response to what percent of health care costs are attributable to lifestyle choices (i.e., is it really 70?), it appears that more research would be needed on this. Part of the problem is that savings are not realized immediately. Lifestyle changes take time, often years. Employers and insurers are sometimes reluctant to invest in wellness and prevention because the employees may leave or the insurer may change.

PERA and ERB

Impact of return-to-work (RTW)

ERB's actuaries have determined that ERB's RTW program is neutral on an actuarial basis to the fund. ERB's RTW program has a mandatory one-year layout, and its sunset was pushed out to 2022 as part of HB 573 in the 2009 session. PERA provided a copy of its August 24, 2009 letter to Representative Dennis J. Kintigh from Mr. Slattery addressing RTW issues. House Bill 616, which dealt with RTW issues, was vetoed by governor. The legislation would not have affected ERB, but the PERA board's position on the legislation was provided in a handout.

Economic assumptions used for actuarial analyses

Mr. Burciaga indicated that ERB's actuary would be presenting an updated experience study to ERB's board on September 11, so no information was available at the moment. At its June 2009 meeting, the PERA board voted to maintain its assumed investment return at 8% and the rate of wage inflation at 4.5%. These rates will be used by the actuary for PERA's June 30, 2009 valuation study.

Appropriateness of DC over DB for portability reasons

From an employee perspective, portability would be the main reason to select a DC plan instead of a DB plan. Since all contributions, including employer contributions, would vest after a minimal amount of service time, a non-career employee would find it advantageous to take these funds and roll them over into a new plan upon termination. In the DB plan, such an employee might only receive employee contributions plus interest. The employer dollars could remain in the plan to help fund the entire system. It would be assumed that there would be a significant negative impact on the funding of the DB plan if there is a substantial move to DC because the funding of the DB plan is based on an expected number of active members in the fund making contributions. If this employee base is reduced, contribution rates for those remaining in the plan would most likely have to be increased.

Retirement based on highest three-year average salary

Mr. Burciaga reported that ERB already has a five-year rule for determining pension benefits. PERA's actuary has determined that there is no abuse to determining final average salary by using an average of the highest 36 consecutive months of salary. Currently, an employee's final average salary is based on the highest salary the employee received for any consecutive 36-month period. Salary spiking is not a problem under PERA. In some states, employers increase pension benefits by giving employees lump-sum payouts in their final year of employment, which inflates the final average salary and thus the pension. The PERA Act already has a very restrictive definition of salary, which precludes windfalls in the form of lump-sum payouts for accrued leave and overtime prior to retirement. Unlike other retirement systems, PERA calculates final average salaries over a 36-month period, which serves to reduce the impact of any salary "spikes" during the last year of employment. Conversely, both the Judicial Retirement Act and Magistrate Retirement Act calculate the amount of pension using the salary received during the last year of office prior to retirement. The only real avenue for spiking available to PERA members is for those employees who work part time (the statute requires employees who work half time or more to be PERA members) for the majority of their careers, but decide to work full time for a three-year period in order to base their pension off this higher salary. This scenario would rarely occur. A question for the task force might be whether part-time employees should be entitled to full-time-equivalent pension benefits.

Multiple-year smoothing

ERB uses a five-year smoothing, and its actuary believes this to be the most appropriate time period. While this may be an issue for the investments oversight committee, PERA values its assets according to a method that fully recognizes expected investment return and averages unanticipated market return over a four-year period. This method meets the parameters established by governmental accounting standards board statement number 25.

Corrections officer plans

Adult correctional officers are in state police and adult correctional officer coverage plan 1. This is a 25-year plan in which their service credit is enhanced by 20%. Juvenile correctional officers are in state hazardous duty coverage plan 2, which is a 25-year plan.

Revisions that are permissible via statute that do not raise constitutional questions

Mr. Burciaga indicated that while the courts would be the ultimate arbiter on statutory or constitutional issues, it could be argued that a statutory change that is prospective and does not impair the vested rights of existing PERA members is permissible. For example, any statutory change affecting new members after a certain date is permissible. Any statutory change that diminishes the pension benefits of existing vested members may be unconstitutional. Statutory changes made are subject to judicial scrutiny regarding their constitutionality on a case-by-case basis. Arbitrary changes to diminish pension benefits made without actuarial necessity are probably legally suspect.

Minimum retirement age and multiplier

Whether or not the state should consider a minimum retirement age is a political and actuarial question, as well as a legislative policy decision. The same applies to a multiplier.

Spiking

With respect to ERB, HB 573 removed one area of possible abuse. Beginning July 1, 2010, ERB employees will no longer be able to take into account payouts of either accumulated sick or annual leave for calculation of salary. Another possible area of abuse is working part time for 20 years and for last five years working full time. This could be addressed by having higher required amounts of service for service credit to be granted. This appears to be a very rare problem. PERA does not allow lump-sum payments — such as lump sums of annual or sick leave — or other periodic payments to be included for computing final average salary.

Contribution rates or increases for both employer and employee

Whether contribution increases are required may be a question for an actuary. No contribution increases for either employee or employer are needed at this time, according to PERA's actuary.

COLA

ERB's COLA is only given to retired members upon reaching age 65. The COLA is determined on an annual basis: one-half of the lesser of the percentage change in the consumer price index (CPI) or 4%. The annual adjustment shall be no less than 2% unless the CPI is less than 2%. In this case, the COLA will be the same as the percent change in CPI. Members retiring under a disability retirement are eligible for a COLA on July 1 of the third full year following their disability retirement. For PERA, reducing the COLA would be a cost savings to the plans.

Enhanced plans

ERB has no enhanced plans. PERA has some enhanced plans. The task force may want to talk with the law enforcement groups or their union representatives and discuss the 20-year retirement plans and back-to-work provision. Questions about enhanced plans are continually raised. However, there is no way to compare PERA's 31 different retirement plans with ERB's one plan.

Ms. Trujillo moved that staff review the need for actuarial analyses of some of the measures discussed by Mr. Burciaga. The motion was seconded by Representative Stewart. During discussion of the motion, Mr. Varela asked what is the point of the need for actuarial analyses. Mr. Burciaga said the idea is to determine how much it would cost for an actuarial analysis of changes of interest to the task force, such as changing the vesting period and increasing age or service. Representative Heaton said Ms. Aubel had a laundry list of possible changes. After further discussion, the motion passed unanimously.

Mr. Varela asked staff to study and report on the effect on the PERA and ERB funds of the governor's proposal to suspend the general fund's 2010 contributions. Representative Heaton said the ERB cut was $18 million, which was not an insignificant amount. He observed the move might be penny wise and pound foolish.

The task force adjourned at 3:15 p.m.

MINUTES
of the
FOURTH MEETING
of the
RETIREMENT SYSTEMS SOLVENCY TASK FORCE

November 12, 2009
State Capitol, Room 307
Santa Fe

The fourth meeting of the Retirement Systems Solvency Task Force was called to order by Representative Mimi Stewart, co-chair, on November 12, 2009 at 10:15 a.m. in Room 307, State Capitol.

Present
Tito Chavez, co-chair
Rep. Mimi Stewart, co-chair
Oscar Arevalo
Charles Bowyer
Jan Goodwin
Emily Kane
Michelle Lewis
Alexis Lotero
Bruce Malott
Sen. Steven P. Neville
Andrew Padilla
Wayne Propst
Terry Slattery
Sen. John Arthur Smith
Jeff Varela
Rep. Luciano "Lucky" Varela

Absent
Sen. Pete Campos
Sen. Phil A. Griego
Rep. John A. Heaton
David Heshley
Ronald Sanchez
Christine Trujillo

Staff
Raúl E. Burciaga
Peter Kovnat
Tom Pollard

Guests
The guest list is in the meeting file.

Handouts
Copies of all handouts and written testimony are in the meeting file.

Approval of Minutes
Upon a motion by Ms. Goodwin and a second by Representative Varela, the minutes for the August 10-11, 2009 and September 8, 2009 meetings were unanimously approved.

Public Employees Retirement Association (PERA) — Status of Actuarial Studies and Initiatives
—Mr. Slattery, Executive Director, PERA
—Ken Alberts, Gabriel, Roeder, Smith & Company (GRS — actuarial firm for PERA)

Mr. Slattery and Mr. Alberts discussed the most recent actuarial study conducted by GRS. The PERA has five major funds. Since the downturn, PERA members' assets went down but now have recovered somewhat. The fund dipped to a low of $7.6 million in March 2009 but is currently at $10.5 million. The PERA's current valuation is fairly strong at 84.21%. Current contributions are sufficient to amortize over 111 years, which is not a great result but not a terrible one, either, according to Mr. Slattery and Mr. Alberts. A recommendation will be made for a 2% increase in contributions to the fund. In 1997, there was a similar correction made and it was split evenly, 1% each between employer and employee.

Mr. Alberts indicated that GRS is not concerned about the PERA's status, although some minor adjustments may still be needed. GRS is concerned, however, about the judicial and magistrate funds, currently at 60% and 66%, respectively. The contributions to the fund are not sufficient, the assets are not sufficient to cover liabilities and both have negative cash flows. Part of this problem stems from contributions not being a percentage of payroll but based on docket fees. The recommendation is to replace the docket fee registration with payroll contributions. Mr. Alberts indicated that this is something that needs action sooner rather than later; either better investments or increased contributions are necessary to resolve the problem. Mr. Arevalo stated that he would obtain all of the funding information for the two funds and provide it to the task force.

Discussion ensued regarding the Volunteer Firefighters Retirement Fund. Like the judicial and magistrate funds, the Volunteer Firefighters Retirement Fund is small, but it is not problematic. In fact, it is overfunded and not payroll-related. Instead, it is funded by the Fire Protection Fund.

Mr. Slattery and Mr. Alberts indicated that GRS and the PERA would be looking at options for the PERA, under Phase I, by looking at other states like Utah, Wyoming, New Hampshire, Hawaii, Idaho and others. Phase II will be to look at the structure of each plan and compare replacement income and retirement outlays. Phase III will look at the entire PERA system and create an ideal plan that will produce an adequate benefit for a reasonable cost. The ideal plan, however, will not be available until after the upcoming session.

The task force generally discussed the various employer and employee contributions under the PERA and how they had to be examined to ensure consistency, fairness and, above all, sufficiency for sustainability.

Educational Retirement Board (ERB) — Status of Actuarial Studies and Initiatives
—Ms. Goodwin, Executive Director, ERB

Ms. Goodwin indicated that the ERB stacked up favorably to other states in terms of having a sustainable education retirement benefit. She indicated that in 2005, the legislature expanded the allowable investments and the fund is much more stable than if it were a 70-30 or 60-40 stock fund. The ERB has invested in hedge funds, real estate and other areas that have helped much more than if there had been more exposure on the stock market. The ERB is planning a design meeting on December 4, 2009 with the board, the actuary (also GRS) and a pension attorney.

The task force discussed return-to-work issues relating to both the ERB and the PERA, including review of independent contractors by the PERA to ensure compliance with recent changes in the law.

Mr. Arevalo provided and discussed a handout regarding magistrate and metropolitan court filing fees. Mr. Arevalo emphasized the fact that the docket fees had not increased over time and, because they were not tied into payroll, contributed to the underfunding of the respective funds.

Retiree Health Care Authority (RHCA) — Status of Actuarial Studies and Initiatives —Mr. Propst, Executive Director, RHCA

Mr. Propst indicated that not a lot had changed since the last time the task force met. He indicated that the RHCA does two studies every year. First is a solvency study in May or June of each year. It also conducts an evaluation under Statement No. 43 of the Governmental Accounting Standards Board that should be ready for distribution in November or December. The last report indicated that the shortfall had been reduced from $4.1 billion to $2.9 billion. He noted that the decrease was good, but that the shortfall was still substantial.

Since the last meeting, the RHCA had a switch enrollment, which made changes to both Medicare and non-Medicare. On the non-Medicare side, the RHCA went from two to three plans, and those included different premium costs. The RHCA is operating with a small surplus for the second year in a row. The RHCA combined what were the gold and silver plans to what is now known as the premiere plan.

The RHCA board has asked staff to consider assumptions as to long-term solvency projections to see if they would still hold true if the assumptions changed. Staff has the ability to review various in-house scenarios. It has assumed zero payroll growth through 2011, and also considered -1% payroll and -2% payroll contributions. Obviously, any negative payroll growth has significant impacts on the RHCA budget and fund.

Thanks to the legislature, there was an increase. However, if there was -1% or a delay in the employee contributions, the solvency would be diminished by four years; a -2% would reduce solvency by seven years. If payroll were reduced more than that, the solvency through 2028 would drop precipitously.

When asked about a health saving account, Mr. Propst indicated that at some point the RHCA could price itself out of the market. Healthy people would be able to find a better deal on the private market. If the RHCA lost the healthy members and only had sick members, it would make the situation worse.

Next Steps — Recommendations —Task Force Staff

Senator Smith requested a presentation for next year on what is happening at the federal level and on bond rating, actuarial and any other information that will help the task force and the legislature know how to move in the next three years.

Representative Stewart asked members if the task force would meet in December; it will not.

There being no further business, the task force adjourned at 2:45 p.m.

2010 RETIREMENT SYSTEMS SOLVENCY TASK FORCE MEETINGS

2010 AMENDMENT
to the
2009 APPROVED WORK PLAN AND SCHEDULE
for the
RETIREMENT SYSTEMS SOLVENCY TASK FORCE

Members

Rep. Mimi Stewart, Co-Chair
Tito Chavez, Co-Chair
Diego Arencon
Oscar Arevalo
Charles Bowyer
Sen. Pete Campos
Bill Fulginiti
Jan Goodwin
Sen. Phil A. Griego
Rep. John A. Heaton
David Heshley
Emily Kane
Michelle Lewis
Alexis Lotero
Bruce Malott
Sen. Steven P. Neville
Andrew Padilla
Wayne Propst
Ronald Sanchez
Terry Slattery
Sen. John Arthur Smith
Christine Trujillo
Jeff Varela
Rep. Luciano "Lucky" Varela

Updated Work Plan

The Retirement Systems Solvency Task Force proposes to issue a request for proposals to obtain an analysis of the fiscal status of the retirement plans of the Public Employees Retirement Association and the Educational Retirement Board and the health care plan of the Retiree Health Care Authority.

The task force will continue its charge as called for by Laws 2009, Chapter 288, Section 19 (House Judiciary Committee Substitute for House Education Committee Substitute for House Bill 573, as amended) and as noted in the attached 2009 approved work plan for the task force.

RETIREMENT SYSTEMS SOLVENCY TASK FORCE

2010 Proposed Meeting Schedule

Date	**Location**
June 8	Santa Fe
July 12	Santa Fe
August 9-10	Santa Fe
September 9-10	Santa Fe
October 12-13	Santa Fe
November 5	Santa Fe

Revised: June 1, 2010

TENTATIVE AGENDA
for the
ORGANIZATIONAL MEETING
of the
RETIREMENT SYSTEMS SOLVENCY TASK FORCE

June 8, 2010
Room 307, State Capitol
Santa Fe

<u>Tuesday, June 8</u>

10:00 a.m. **Call to Order**
Roll Call
Approval of Minutes

10:10 a.m. **Government Restructuring Task Force**
—Paula Tackett, Director, Legislative Council Service (LCS), or Raúl E. Burciaga, Director-Designate, LCS

10:30 a.m. **Proposed Eligibility and Benefit Revisions — Proposed Actuarial Analysis**
—Task Force

11:30 a.m. **Work Plan and Schedule**
—Task Force

12:30 p.m. **Other Business**
Adjournment

Revised: July 7, 2010

TENTATIVE AGENDA
for the
SECOND MEETING
of the
RETIREMENT SYSTEMS SOLVENCY TASK FORCE

July 12, 2010
Room 307, State Capitol
Santa Fe

<u>Monday, July 12</u>

10:00 a.m.	**Call to Order and Welcome** —Representative Mimi Stewart, Co-Chair —Tito Chavez, Co-Chair
10:05 a.m.	**Public Employees Retirement Association (PERA) Review and Comparison of the Current 30-Year Plan and PERA's Proposed Model Plan; Fiscal Analysis and Summary of Benefits** —Terry Slattery, Executive Director, PERA
12:15 p.m.	**Lunch**
1:30 p.m.	**Update on Request for Proposals for Consulting Actuarial Services** —Tom Pollard, Ph.D., Legislative Fiscal Analyst, Legislative Council Service (LCS)
2:15 p.m.	**Legal Issues Related to Changing Pension Plans to Increase Solvency** —Chris Schatzman, General Counsel, Educational Retirement Board —Christopher Bulman, Assistant General Counsel, PERA —Karen Risku, Assistant General Counsel, PERA —Doris Faust, Staff Attorney, LCS
3:30 p.m.	**Review of Senate Bill 207 and Double Dipping Issues** —Terry Slattery, Executive Director, PERA —Mary Frederick, Deputy Executive Director, PERA
4:30 p.m.	**Adjourn**

TENTATIVE AGENDA
for the
THIRD MEETING
of the
RETIREMENT SYSTEMS SOLVENCY TASK FORCE

August 9, 2010
Room 322, State Capitol
Santa Fe

<u>Monday, August 9</u>

10:00 a.m.	**Call to Order and Welcome** —Representative Mimi Stewart, Co-Chair —Tito Chavez, Co-Chair
10:05 a.m.	**Educational Retirement Board (ERB); Sustainability; Fiscal Analysis and Summary of Benefits** —Jan Goodwin, Executive Director, ERB
12:00 noon	**Lunch**
1:30 p.m.	**Update on Request for Proposals for Consulting Actuarial Services** —Tom Pollard, Ph.D., Legislative Fiscal Analyst, Legislative Council Service
2:00 p.m.	**Retiree Health Care Authority (RHCA); Recent Measures Addressing Sustainability; Fiscal Analysis; Projections** —Wayne Propst, Executive Director, RHCA —Mark Tyndall, Deputy Director, RHCA
3:15 p.m.	**RHCA Solvency Recommendations** —Wayne Propst, Executive Director, RHCA
4:15 p.m.	**Committee Business; Approval of Minutes; Discussion of Future Task Force Agendas** —Staff
4:30 p.m.	**Adjourn**

Revised: August 20, 2010

TENTATIVE AGENDA
for the
FOURTH MEETING
of the
RETIREMENT SYSTEMS SOLVENCY TASK FORCE

September 10, 2010
Room 307, State Capitol
Santa Fe

<u>Friday, September 10</u>

9:00 a.m.	**Call to Order and Welcome** —Representative Mimi Stewart, Co-Chair —Tito Chavez, Co-Chair
9:05 a.m.	**Overview of the Actuarial Process, Terms and Concepts Used in Pension and Actuarial Analysis** —David Slishinsky, F.C.A., A.S.A., E.A., M.A.A., Principal and Consulting Actuary, Buck Consultants —Michelle DeLange, F.S.A., E.A., M.A.A., Director and Retirement Actuary, Buck Consultants
10:00 a.m.	**An Overview of the Problems Facing the Public Employees Retirement Association and the Educational Retirement Board — Preliminary Evaluation of the Nature and Scope of Concerns** —David Slishinsky, Buck Consultants —Michelle DeLange, Buck Consultants
11:00 a.m.	**Timing Issues: The Effect of Time Frame Decisions in Corrective Actions to Pension Plans** —David Slishinsky, Buck Consultants —Michelle DeLange, Buck Consultants
12:00 noon	**Lunch**

1:30 p.m.	**Pension Reform Options That Provide the Greatest Opportunity for Improved Solvency:** **A) Changes to the Cost-of-Living Adjustment;** **B) Imposing a Minimum Retirement Age;** **C) Changing the Multiplier;** **D) Changing the Calculation for Final Earnings; and** **E) Changing Contribution Rates** —David Slishinsky, Buck Consultants —Michelle DeLange, Buck Consultants
3:30 p.m.	**Committee Business; Approval of Minutes**
3:35 p.m.	**Adjourn**

Revised: September 27, 2010

TENTATIVE AGENDA
for the
FIFTH MEETING
of the
RETIREMENT SYSTEMS SOLVENCY TASK FORCE

October 12-13, 2010
Room 307, State Capitol
Santa Fe

<u>Tuesday, October 12</u>

9:00 a.m.	**Call to Order and Welcome** —Representative Mimi Stewart, Co-Chair —Tito Chavez, Co-Chair
9:05 a.m.	**Educational Retirement Board (ERB) Solvency Proposals** —Jan Goodwin, Executive Director, ERB
10:00 a.m.	**Retiree Health Care Authority (RHCA) Plans to Address Solvency** —Wayne Propst, Executive Director, RHCA
11:00 a.m.	**Judicial and Magistrate Judge Retirement Fund Solvency Recommendations** —Arthur W. Pepin, Director, Administrative Office of the Courts (AOC) —Oscar Arevalo, Fiscal Services Director, AOC
12:00 noon	**Lunch**
1:30 p.m.	**Report on Audits of Actuarial Valuations of the Public Employees Retirement Association (PERA) and the ERB, the Experience Studies and the PERA Reform Plan** —David Slishinsky, FCA, ASA, EA, MAA, Principal and Consulting Actuary, Buck Consultants —Michelle DeLange, FSA, EA, MAA, Director and Retirement Actuary, Buck Consultants
3:30 p.m.	**Committee Business; Approval of Minutes**
3:35 p.m.	**Recess**

Revised: October 22, 2010

TENTATIVE AGENDA
for the
SIXTH MEETING
of the
RETIREMENT SYSTEMS SOLVENCY TASK FORCE

November 12, 2010
Room 307, State Capitol
Santa Fe

<u>Friday, November 12</u>

9:00 a.m.	**Call to Order and Welcome** —Representative Mimi Stewart, Co-Chair —Tito Chavez, Co-Chair
9:05 a.m.	**Educational Retirement Board (ERB) Budget** —Jan Goodwin, Executive Director, ERB
9:35 a.m.	**Public Employees Retirement Association (PERA) Budget** —Terry Slattery, Executive Director, PERA
10:00 a.m.	**ERB Plan Solvency Proposals** —Jan Goodwin, Executive Director, ERB
11:00 a.m.	**Final Report on Audits of Actuarial Valuations** —David Slishinsky, FCA, ASA, EA, MAA, Principal and Consulting Actuary, Buck Consultants —Michelle DeLange, FSA, EA, MAA, Director and Retirement Actuary, Buck Consultants
12:00 noon	**Lunch**
1:30 p.m.	**Proposed Legislation for Task Force Recommendation** —Staff —David Slishinsky, Principal and Consulting Actuary, Buck Consultants —Michelle DeLange, Director and Retirement Actuary, Buck Consultants
3:30 p.m.	**Committee Business; Approval of Minutes**
3:45 p.m.	**Adjourn**

<u>Wednesday, October 13</u>

9:00 a.m.	**Call to Order** —Representative Mimi Stewart, Co-Chair —Tito Chavez, Co-Chair
9:05 a.m.	**Perspectives on Retirement Systems and Solvency** —Geraldine Madrid-Davis, Executive Director, National Public Pension Coalition
10:00 a.m.	**Review and Discussion of Task Force Recommendations for Retirement Systems Solvency** —Staff —David Slishinsky, FCA, ASA, EA, MAA, Principal and Consulting Actuary, Buck Consultants —Michelle DeLange, FSA, EA, MAA, Director and Retirement Actuary, Buck Consultants
12:00 noon	**Adjourn**

MINUTES
of the
FIRST MEETING
of the
RETIREMENT SYSTEMS SOLVENCY TASK FORCE

June 8, 2010
Room 307, State Capitol
Santa Fe

The first meeting of the retirement systems solvency task force was called to order by Representative Mimi Stewart, co-chair, on June 8, 2010 at 10:10 a.m.

Present
Mr. Tito Chavez, Co-Chair
Rep. Mimi Stewart, Co-Chair
Mr. Bill Fulginiti
Mr. Eduardo Holguin (for Charles Bowyer)
Ms. Emily Kane
Ms. Michelle Lewis
Ms. Alexis Lotero
Sen. Steven P. Neville
Mr. Andrew Padilla
Mr. Jeff Riggs (for Jan Goodwin)
Mr. Terry Slattery
Sen. John Arthur Smith
Mr. Jeff Varela
Rep. Luciano "Lucky" Varela

Absent
Mr. Diego Arencon
Mr. Oscar Arevalo
Mr. Charles Bowyer
Sen. Pete Campos
Ms. Jan Goodwin
Sen. Phil A. Griego
Rep. John A. Heaton
Mr. David Heshley
Mr. Bruce Malott
Mr. Wayne Propst
Mr. Ronald Sanchez
Ms. Christine Trujillo

Staff
Raúl E. Burciaga, Director-Designate, Legislative Council Service (LCS)
Tom Pollard, LCS
Doris Faust, LCS
Claudia Armijo, LCS

Guests
The guest list is located in the meeting file.

Tuesday, June 8
Co-chair Stewart noted that a quorum of members would constitute 13, and there were 10 members present, so she advised that the meeting would begin as a subcommittee. She reminded those in attendance that only members could vote. Next, the co-chair asked the members to introduce themselves, which they did.

Co-chair Stewart asked Mr. Burciaga to address the task force. Mr. Burciaga advised the members about the mandate of the New Mexico legislative council that, as a cost-savings measure, all interim committee meetings are to be held in Santa Fe, unless justified in writing as necessary to be held in another location. He added that meetings should be scheduled in a manner so as to reduce conflicts for voting members. Mr. Burciaga apprised the members of the work of the government restructuring task force and asked the members, on behalf of the legislative council, to look closely at the agencies they oversee for ways to save money through efficiency and other cost-cutting measures. Mr. Burciaga advised the members that the retirement systems solvency task force will hold eight meetings, plus the organizational meeting. He then reviewed with the members the proposed schedule. The co-chair noted that the November meeting may be changed to another date to accommodate one of the members. It was determined that, if the meeting becomes necessary, the November meeting would be changed to November 3, 2010.

Mr. Burciaga asked the members to review the work plan from last year and pointed out that it could be revised if necessary. Lastly, Mr. Burciaga told the members that he is honored by his appointment and is looking forward to working with them in his new capacity as LCS director. He added that he and his staff of dedicated professionals would continue to serve the legislature as needed.

Mr. Burciaga next directed the members' attention to the handout regarding the summary of recent legislation pertinent to the work of the task force. He highlighted a number of the legislative initiatives that were enacted and noted the changes that resulted as a consequence of their enactment. Notably, he mentioned HB 854, which provides for the swap of 1.5% of retirement contribution from employers to the employees, saving the general fund $42 million in fiscal year 2010. This provision applies to both the public employees retirement association (PERA) and the educational retirement board (ERB), and is effective July 1, 2009 through June 30, 2011. He also noted Senate Floor Substitute for Senate Public Affairs Committee Substitute for Senate Bill 207, which is the "double dipping bill" that eliminates the ability of a public employee to retire and then be subsequently employed by an affiliated public employer while receiving a Public Employees Retirement Act pension. This law becomes effective July 1, 2010.

Mr. Burciaga pointed out that the task force considered a number of options last year, citing a roundtable discussion about what might be done as it relates to reviewing the soundness and solvency of New Mexico's pension funds. Staff was asked to have an actuarial firm look at some of the possible changes and potential outcomes. Staff began this process and was planning to develop the terms for a request for proposals (RFP). However, because the PERA was in the process of issuing an RFP for a similar review, this task force's RFP has been delayed and has yet to be issued. According to Mr. Burciaga, the LCS staff now needs direction from task force members as to what they would specifically like the actuarial firm to provide. Mr. Burciaga continued by suggesting that the task force could consider having an actuarial firm start from scratch and develop and issue a report. Or, the task force could have a third party review, audit or compare reports that have already been completed or are going to be completed to determine their validity. He noted that the latter option could be a money-saving option and clearly something for the task force to determine. Mr. Burciaga reminded the members that $150,000 of fiscal year 2011 funds have been approved by the legislative council for an actuarial analysis for this project. With that, Mr. Burciaga asked the co-chair if she would like to begin discussion.

The co-chair asked Mr. Slattery, PERA's executive director, if he could explain the purpose and scope of the PERA RFP. He said it was the normal four-year RFP. He added that the PERA is using a new firm for the first time, and he does not expect that the PERA will receive anything from the firm until October. The PERA board is in the process of developing an ideal plan for what the actuarial firm will look at. Mr. Slattery said that when the plan is developed, the PERA board could present it to this task force. He noted that the plan would possibly be another option that could be used by the task force. Mr. Slattery said the costs and contribution rates will be reviewed as early as August and might be available to be presented to this task force by late August.

Mr. Riggs, deputy director for the ERB, said that there is an annual study completed at the ERB, and he is certain that the task force could use the results of that study if it would be helpful.

There was a general discussion throughout the meeting regarding the members' overall concern about the solvency of the retirement funds and whether, considering the current liabilities and the current employees, the state's retirement funds are and will remain solvent throughout the necessary time frame. The discussion turned to the concepts of increasing employee contributions, and it was noted by Mr. Slattery that the PERA board's funding policy limits any increase in contributions to no more than 2% in any one year. Mr. Slattery reminded the members that the PERA will have a substantial amount of actuarial information available from the actuary firm in October 2010. Mr. Riggs said that he anticipates similar information for the ERB in December 2010.

The task force co-chair and members discussed their options at length. Of concern was what would be the best use of the funds set aside by the legislative council. The members were concerned that they not duplicate efforts performed by other agencies or groups and that they not "reinvent the wheel". There was a discussion involving whether the ERB and PERA studies will answer the questions the task force needs to answer in order to make critical decisions or to consider statutory changes or recommendations.

The members questioned Mr. Slattery and Mr. Riggs regarding their agencies' studies from previous years and what types of information they had received from those studies in the past. Mr. Riggs indicated that most of the annual studies provide information from which the agencies can then ask the actuaries to run certain "what if" scenarios using certain assumptions based on the information from the annual reports. He added that the actuaries can then make projections using the data and project out to 30 years.

A number of members asked if the annual reports would take into consideration changes made in statute, such as the increased contribution levels for newly hired state employees. Both Mr. Slattery and Mr. Riggs said not yet, as this will be the first year for the statutory changes to go into effect. Mr. Riggs said that they will look at the rule of 80 and other changes for the ERB if they can come up with a best guess scenario.

Again, the discussion returned to whether to review other actuarial reports of the PERA and ERB or to hire an actuarial firm for the task force or to hire a firm to review the reports generated by the two boards. The timing of the reviews and the outcomes was of prime consideration for the task force members. An additional consideration was the inability of the task force to mandate the specifications of the reviews. The co-chair pointed out that the task force needs to look at some very specific items of significance. There was discussion about the fact that there are fewer employees entering the state system than had been projected and how that could impact the system as a whole. Mr. Riggs offered that, if it would be helpful, the ERB board could ask its actuary firm to expand the information from the ERB annual report to take into account additional possibilities as might be requested by the task force.

The co-chair redirected the discussion to determine what the task force should focus on with the funds that have been set aside for the study. She specifically asked the members to determine what kind of study should be done. A suggestion was made to review the PERA four-year study and then use the rest of the money to dig deeper into the ERB study. There was discussion about what types of legislation should be considered regarding the liability side of the issues. Mr. Slattery noted that the PERA will not know the extent of the liability side until it receives the October report. Mr. Riggs said the ERB will look at a number of data points to analyze the assumptions used from last year to see if they are relevant for this year as well.

Again, members discussed the potential impact of increased employee contributions under HB 573 and the consequences it may have. They decided that it is critical to look at how the legislation will change projections, particularly to determine if it will save money in the long run and lead to solvency. Mr. Slattery noted that, like the ERB, the information regarding the new legislation is not valued in the upcoming PERA report. He said that the PERA has not projected the savings out. It will be part of the overall PERA evaluation, but it will not be separated out.

The co-chair asked if the members were leaning toward hiring out for another actuary study, even if it included looking at the ERB and PERA studies. There was also discussion of creating an "ideal plan" starting from nothing and determining what an ideal system might look like. Mr. Slattery offered that the PERA board plan is sound and that, perhaps, the task force would want to have it reviewed by the task force's actuary. There was a lot of discussion about how to approach the duties of the task force, especially due to the time constraints.

The members talked about the task force issuing an RFP and how it would be written; what services it would seek to assist the task force in looking at both the PERA and the ERB reports; what current laws and provisions it would look at; what various scenarios would cost; and how it would help the task force to develop a plan for moving forward. There was discussion about the task force coming up with actual proposals for the actuary to estimate costs based on the member data and the contribution rate.

The co-chair summarized the options of the task force, including reviewing the two plans (PERA and ERB), having the actuary review and analyze task force specific proposals, such as changes in vesting periods or, perhaps, having an actuary provide the projections on a handful of very specific issues. She noted that the items are interrelated.

David Abbey, director of the legislative finance committee, addressed the committee from the audience and said that changes can be made for nonvested employees and even for vested employees. In his opinion, the statutory changes last year helped for the long term but did not deal with the unfunded actuarial costs. He claimed that the demographic trends are getting worse because state employment is down 6% and the actuarial studies assume growth. He told the members that they need an expert to advise them on dealing with financial situations and to review their studies and options.

It was observed that an actuary firm could be hired to compare New Mexico to other states, to give advice that could help the task force members answer specific questions and to come up with other suggestions. Some thought that perhaps a more dynamic approach to look at the issues would be helpful.

With a quorum, a motion was made to approach the duties of the task force in the following manner: to initiate an RFP for an advisor or consultant to perform an independent verification and evaluation on the studies from the PERA and ERB plans and any other performance reviews that the task force assigns the advisor or consultant to review, including the impact of HB 573. The motion was seconded and then unanimously passed.

The co-chair clarified for staff that the RFP will need to contain information regarding HB 573, COLA and public safety. She further noted that staff will help determine the details for the RFP. The motion was amended for the task force to issue an RFP for an advisor to assist the task force with the items in the original motion. The motion to accept the work plan and meeting schedule dates was approved by the members.

There was no other business, so the meeting was adjourned at 11:59 a.m.

MINUTES
of the
SECOND MEETING
of the
RETIREMENT SYSTEMS SOLVENCY TASK FORCE

July 12, 2010
Room 307, State Capitol
Santa Fe

The second meeting of the Retirement Systems Solvency Task Force was called to order by Representative Mimi Stewart, co-chair, on July 12, 2010 at 10:10 a.m.

Present
Rep. Mimi Stewart, Co-Chair
Mr. Oscar Arevalo
Mr. Charles Bowyer
Mr. Bill Fulginiti
Ms. Jan Goodwin
Rep. John A. Heaton
Mr. David Heshley
Ms. Emily Kane
Mr. Andrew Padilla
Mr. Wayne Propst
Mr. Terry Slattery
Sen. John Arthur Smith
Mr. Jeff Varela
Rep. Luciano "Lucky" Varela

Absent
Mr. Tito Chavez, Co-Chair
Mr. Diego Arencon
Sen. Pete Campos
Sen. Phil A. Griego
Ms. Michelle Lewis
Ms. Alexis Lotero
Mr. Bruce Malott
Sen. Steven P. Neville
Mr. Ronald Sanchez
Ms. Christine Trujillo

Staff
Raúl E. Burciaga, Director, Legislative Council Service (LCS)
Tom Pollard, LCS
Doris Faust, LCS
Claudia Armijo, LCS

Guests
The guest list is located in the meeting file.

Monday, July 12

Representative Stewart advised the task force that because a number of members had not yet arrived, the task force would be acting as a subcommittee. She additionally told them that, at the direction of the New Mexico Legislative Council, as many interim committee meetings as possible would be webcast. She further noted that today's meeting was being audio webcast, but not video webcast. Consequently, Representative Stewart asked the members to identify themselves prior to speaking and to turn their microphones on and off before and after speaking. Lastly, she clarified that the webcasts are not archived; rather, they are broadcast live.

Public Employees Retirement Association (PERA) Review and Comparison of the Current 30-Year Plan and PERA's Proposed Model Plan; Fiscal Analysis and Summary of Benefits

Mr. Slattery, executive director for the PERA, directed the members' attention to the multiple handouts provided by the PERA for the meeting discussion. He began by describing several aspects of the benefit adequacy study report issued in the spring of 2010. He noted that the study was the result of the provisions in House Bill 573, which, among other things, created the task force. Mr. Slattery told the members that the purpose of the study was to compile data and information to enable the PERA board to recommend benefit changes for future state employees hired on or after July 1, 2010. Any proposed changes would not go into effect until July 1, 2011 and would not affect current members. He noted that this would allow the task force time to consider and make recommendations.

The study was completed by Gabriel Roeder Smith & Co. (GRS) Consultants and Actuaries and involved comparing peer benefit plans to New Mexico's PERA plan in an effort to determine what might constitute an "ideal plan" for the PERA. Mr. Slattery pointed the members to page 1 of the study report, which provided a background for comparing the PERA to five other designated state retirement plans. Those five plans include Hawaii, Iowa, New Hampshire, Utah and Wyoming. When asked by the members why those particular plans were selected, Mr. Slattery replied that several possible plans were presented to the PERA board and, based on commonality of criteria, the board selected the five indicated plans and asked GRS to conduct the study accordingly.

GRS provided estimates of costs, including system costs and replacement ratios, as well as net pay. Those factors and others were then analyzed to determine what the benefit payout plus social security payments would be for a member. This analysis was done to determine a reasonable replacement plan relative to the amount of net pay a member had been taking home during the member's career. The actuary determined the normal cost for each of the various state employee divisions: state police, general, municipal general and municipal fire. Next, the actuary developed the estimated normal costs going forward related to each of those plans. In the PERA's ideal plan, many of the costs would be less than those under the current PERA plan. Mr. Slattery noted that the PERA did not initiate making changes to the plan due to concerns over the PERA fund's solvency. Rather, the changes were made due to input from legislative committees indicating that the current member benefit plan is too "rich".

Some members commented that the term "rich", when referring to New Mexico's PERA plan, is a poor choice of words and is inaccurate. It was noted that in comparison to the other states used in the study, New Mexico has an 80% cap, which the other states do not have. Additionally, New Mexico employee contribution levels are higher than the employee contribution levels in the other states. Mr. Slattery concurred, noting that on page 13 of the report, it is evident that members get what they pay for, and he pointed out that New Mexico's employee contributions are higher than most of the other 49 states.

Mr. Slattery noted that the report was quite lengthy, as it was a culmination of a nine-month study. He asked for direction by the co-chair regarding which sections he should specifically address. Representative Stewart asked him to highlight various sections of the report that are particularly pertinent. Mr. Slattery continued by highlighting some of the significant differences between New Mexico's plan and the plans of the five other comparison states. He noted that Hawaii has an age limit of 55 and Iowa has an age limit of 65, both regardless of the member's term of service. He added that there is no real pattern or consistency in the various plans and they have all been in place for a long time, just like New Mexico's PERA plan.

Next, Representative Stewart asked Mr. Slattery to address the issue of the cost-of-living adjustment (COLA) paid to retirees pursuant to the PERA plan. Mr. Slattery indicated that the subject was covered on page 12 of the report. He noted that New Mexico has a flat 3% COLA, and he explained that once a member is retired for two full calendar years, the 3% COLA is compounded annually. He noted, however, that if the member is 65 years of age or is on disability, the two-year waiting requirement is reduced to one year. Hawaii allows COLA increases of 2.5% each year. However, the increase is based on the member's original benefit, so it is not compounded. Mr. Slattery said that Iowa uses a dividend reserve account. COLA dividends are paid only if the funds in the account grow as an investment. If this happens, Iowa declares a COLA dividend. In New Hampshire, the amount of the COLA increase is provided annually by the legislature out of a special reserve fund. In Utah, any increases for members' COLAs are given annually and are based on the consumer price index (CPI), with a maximum amount of 4% of a member's original benefit. Mr. Slattery noted that Wyoming's COLA is almost identical to that of New Mexico. He pointed out that most of the other 49 states do not have a compounding COLA factor like that of New Mexico.

Mr. Slattery next spoke regarding the specifics of the PERA's proposed ideal plan, comparing it to the legislative General Member Plan, Tier 2 Retirement Plan (General Plan). The General Plan provides that the employee contribution rate is 8.92% versus the PERA ideal plan, which would impose an employee contribution rate of 7.0%. Under the General Plan, the employer contribution is 15.09% versus 14.0% in the PERA ideal plan. According to Mr. Slattery, another significant difference in the two plans is that the General Plan uses a pension factor of 3%, whereas the ideal plan uses a pension factor of 2.5%. Also, the PERA ideal plan would include Department of Public Safety peace officers, including special investigators, motor transportation officers and juvenile corrections officers, while the General Plan excludes those members. Under the PERA's ideal plan, retirement eligibility would include age 55, with the sum of age and member's service credit equal to 85 (the Rule of 85); age 60 with 25 years of service credit; or age 65 with five years of service credit. The General Plan applies the Rule of 80, meaning that the sum of a member's age and years of service credit equals at least 80. Additionally included is any age and 30 or more years of service credit or age 67 or older with five or more years of service credit. Regarding pension calculations, the PERA's ideal plan would provide for 90% of final average salary after 36 years of service credit. The General Plan provides for 80% of the final average salary after 30 years of service credit. Again, the plans differ in their pension factor as noted above. In the ideal plan, the COLA would be determined based on the age of the member at retirement and on 75% of the change in the CPI with a 0% decrease and a 3% maximum increase. The General Plan calls for a 3% increase after two full calendar years of retirement or one calendar year if the member retires at age 65 or older. In either plan, the final average salary is the average of the highest 36 consecutive months of a member's salary. Mr. Slattery noted that this amount may or may not be the last 36 months of a member's employment.

Mr. Slattery next discussed the PERA board's goals and objectives when developing the ideal plan. He noted that those goals and objectives are located on page 26 of the study. He pointed out that the specified goals and objectives were the driving force behind the study, adding that a different set of goals and objectives would yield a very different ideal plan.

There were some questions by task force members regarding the state's contributions. Mr. Slattery was asked if he had a chart that he could provide that would indicate those contributions. He replied that he does not have such a chart, but he has information regarding normal costs that would be the depiction of what it costs to fund each of the PERA plans. He reminded the members that normal costs are the ongoing costs of service. Representative Stewart asked Mr. Slattery if he could request his staff to provide the state's contribution information for the task force, and he agreed.

Next, there was a brief discussion regarding the scrutiny concerning disability benefits. Mr. Slattery assured the members that the PERA has a low incidence of disability claims. He added that the board did not think it was imperative to change the PERA's disability benefit.

Mr. Slattery directed the task force's attention to page 18 of the study. He noted that the changes enacted by House Bill 573 will not affect the PERA's funding for 10 years. He added that House Bill 573 did not affect public safety members, only general PERA members.

There was a discussion regarding the target of an 8% yield on PERA investments. Some members questioned whether 8% is a reasonable target goal. Mr. Slattery stated that, in his opinion, the 8% is achievable. He noted that the contribution rates in the PERA ideal plan would suffice, even if the PERA lowered its assumptions to 7%, adding that the PERA would not likely do such a thing. He said that even after decades, including downturns in investments, the PERA has still exceeded the 8% target. He said that an asset allocation was recently completed, with assumptions that the PERA can earn 7.66% without active management over the long term, and he feels confident that active management can bring the rate that the PERA can earn to one that is over and above what it needs. He strongly affirmed the PERA's belief that it can earn 8%, noting that there is a reduction in the PERA membership, which means more money will probably come out of the pension fund, but the PERA is accruing less in liabilities, so the liabilities are not growing. Additionally, employees are not getting salary increases. So, if payroll does not grow via salary increases, it amounts to a net gain. Some members still questioned the PERA's ability to achieve the 8% yield and noted that other states are questioning their target yields as well. Mr. Slattery stressed that the PERA's board, in developing an ideal benefit plan, was looking for a good benefit structure with reasonable costs. These goals were articulated to the actuaries when they came up with the ideal plan.

Some members asked if Mr. Slattery had information regarding court cases challenging existing COLAs. Mr. Slattery noted that some attorneys would be presenting to the task force later and perhaps could answer those questions in better detail. He added that some of the lawsuits in certain states, like Colorado and South Dakota, were situations where the COLAs had been altered with the retirement plans asserting the adjustment was necessary in order to maintain the retirement plans' solvency. The plans are being sued by retirees alleging that the COLA is a vested benefit that cannot be changed after the fact. It was noted by some task force members that the COLA costs are considered part of the normal costs for a plan and are factored into the employee's and the employer's contributions. This point was affirmed by Mr. Slattery. Some of the members asked for information regarding what percentage of the PERA's $600 million a year in benefit payouts is attributed to the 3% COLA factor. Although not sure of the exact amount, Mr. Slattery recognized that the amount could be substantial because New Mexico's COLA is compounded.

There was discussion regarding the fact that, in the past, the state has exchanged increased PERA benefits in lieu of increases in employee's salaries. Some members inquired as to whether the ideal plan could go into effect and be applied to existing PERA members. There was discussion about assuring members that any changes to benefits would be due to the financial situation faced by the PERA. Mr. Slattery noted that the most important aspect would be to assure current members and employees that any changes would only apply to new employees hired after July 1, 2010. Discussions about making the new changes retroactive were considered, but Mr. Slattery noted that such changes would likely cause an onslaught of lawsuits.

A number of members commended the PERA board for the work it had accomplished resulting in the ideal plan. Mr. Slattery thanked the members on behalf of the board and reiterated that the board was looking for the best possible and affordable plan. The meeting recessed for lunch.

Update on Request for Proposals (RFP) for Consulting Actuarial Services

Representative Stewart reconvened the meeting at 1:30 p.m. Mr. Pollard reported to the members regarding the RFP that the LCS issued on July 2, 2010. Referring to the handout, he explained that the scope of work provides that an independent actuarial firm will conduct a review of all assumptions, valuations and methodology used by the PERA and the Educational Retirement Board (ERB) actuaries; to express an opinion regarding the reasonableness or accuracy of actuarial assumptions, actuarial cost methods, valuation results and statutory contribution rates; and to certify that the actuarial valuation report was performed by a qualified actuary, that the valuation was prepared in accordance with principles and practices prescribed by the Actuarial Standards Board and that the actuarial calculations were performed by qualified actuaries in accordance with accepted actuarial procedures. He further noted that the specific tasks required by the selected actuarial services firm are designated beginning on page 2 of the handout.

Mr. Pollard explained that the time line could be found on page 6 and that it is a quick time line with the RFP submission of proposals due on July 23, 2010. He said that the submissions received would be ranked by criteria that are outlined on page 9 and that the LCS staff would select the actuarial firm accordingly. The first report would be due on October 12, 2010. Some members asked if the RFP was drafted seeking auditors or actuaries. Mr. Pollard replied that the RFP would be responded to by actuarial companies, but the term used for the services requested is audit. The RFP specifies an independent actuarial audit and the evaluation of actuarial services related to the pension plans of the PERA and the ERB. There was a brief discussion about the differences between auditing and actuaries. Mr. Pollard said the focus of the RFP is for the selected firm to ultimately determine the consequences of each plan, such as the PERA ideal plan.

Legal Issues Related to Changing Pension Plans to Increase Solvency

Ms. Faust provided a brief overview of the legal issues related to any legislative changes to pension plans due to a desire to increase solvency. Ms. Faust began by noting that she does not practice in the area of pension plan law. However, she has performed research on the topic. She noted that there are other attorneys prepared to address the task force who practice in that area of law. She explained that they will provide their opinions as well.

Ms. Faust directed the members' attention to the PowerPoint handout. She said there are four potential groups of members that would be affected by any changes in the benefit plans. Those groups include: the not yet hired; the hired but not yet vested; the vested; and the retired employees. She advised that any analysis should include the application of potential changes for each of the four groups. She told the members that there are two sections of the New Mexico Constitution that come into play when analyzing potential legislative changes to pension benefits. She noted that the overriding applicable rule would ultimately be determined by answering the question of "What is constitutional?". The two constitutional sections that apply are the contract clause and the property rights clause.

Ms. Faust said that in some states the applicability of the contracts clause is clear, but not in New Mexico. She added that Article 2, Section 19 of the United States Constitution provides that no law impairing the obligation of contracts shall be enacted by a legislature. This raises the question of whether government employees in New Mexico have a contract right in their pension benefits. Such a contract would likely be an implied contract because for most state employees, there is likely no actual document memorializing a contractual agreement. However, the courts might find that the implied contract is unclear, and Ms. Faust noted that it would be determined on a case-by-case basis. Ms. Faust told the members that she had included a copy of La Voz, the PERA newsletter for the fall of 1994, in the members' meeting folders. She stated that the newsletter references the vote by PERA members who agreed overwhelmingly to approve a change in benefit coverage that would "improve the pension factor from 2.5% to 3% for both state general members and correctional officers". The newsletter goes on to explain that the improved pension plans would require an increase in contribution rates in order to keep the plans financially sound, and that the increased cost will be shared between the state and the members.

In response to questions by task force members, Ms. Faust said that because the members agreed to increase their contribution rates based on action by the legislature, a court could determine that the legislature and the PERA members intended to make a contract. Ms. Faust noted that there are no definitive cases on point in New Mexico, and she said that the 2009 *Beggs v. City of Portales* case does not analyze the state benefits. The *Beggs* case was briefly discussed by members who asked about the outcome, and Chris Schatzman, general counsel for the ERB, said that the case is undecided and still pending. Again, Ms. Faust pointed out that only the courts can make the final determination of these types of cases, adding that the determination will be made on a fact-specific basis. Lastly, regarding contracts, Ms. Faust told the members that there are two ways that a contract can be created: one is expressed, which is the standard written or oral contract; and the other is implied by actions of the parties. If the courts in New Mexico were to find a contract regarding the PERA members' rights, it would likely be an implied contract.

Ms. Faust continued the discussion turning next to the property rights question. She noted that Article 20, Section 22 of the New Mexico Constitution provides, in part, that upon meeting minimum service requirements, a member of a plan shall acquire a vested property right with due process protections under the applicable provisions of the New Mexico and United States constitutions. Ms. Faust noted that no case law interprets this constitutional provision, which was adopted in 1998. But, by these terms, the legislature would have to comply with due process requirements prior to changing any pension benefits. Under earlier case law, the legislature might have to compensate employees for any diminution in the value of their pension benefits.

Ms. Faust concluded that altering pension benefits for existing employees would likely be subject to litigation. It is impossible to predict the outcome of such litigation, she added. It would be up to the courts to determine whether New Mexico PERA members have a contract right, a property right or no right at all in their pension benefits.

There was then a discussion regarding the theoretical possibility of the existence of a contract right in members' pensions. It was noted by some task force members that the legislature can add to the benefits, but it was questioned as to whether benefits could be subtracted. Mr. Schatzman opined that pursuant to the *Pierce* case and to the New Mexico Constitution, there is no contract right. In his opinion, the *Beggs* case provided a contracts analysis, but was distinguished due to the City of Portales adopting a manual and encouraging its employees to adopt the manual as well. He noted that the facts in that case distinguished it due to the city's inaction when joining the retirement health care plan, but not removing existing members from the original pension plan, and taking no action to do so until five years after the fact. He pointed out that those facts can influence how a court will ultimately decide. Mr. Schatzman said that, in his opinion, it would be a higher hurdle to change earned benefits.

Karen Risku, assistant general counsel for the PERA, noted that the discussion so far had been regarding general legal principles. She added that in court, a judge would look at specific facts. She advised the members that she was not speaking on behalf of the PERA or its board. She told the members that there is an association of national public employees retirement attorneys who have compiled an analysis of all the different cases and theories that courts have looked at when plan members initiate lawsuits. She remarked that Ms. Faust had successfully identified the legal theories that New Mexico's PERA would need to look at. She also spoke regarding the theory of promissory estoppel, explaining that it meant, "You promised me something, I relied on that promise, and now you are taking it away. Consequently, I have been harmed.". Under that theory, a court could say that the benefits are contractually enforceable. In general, Ms. Risku noted that there are a number of issues that come up when changes are made to pension plans. She said that it is not possible to say if changes will present a problem unless the exact proposed changes are analyzed. She further added that in her opinion, it is known that New Mexico members have a vested property right once vested under state and federal laws, and consequently, due process must be provided. She added that any legislative changes cannot be arbitrary or irrational. This means that if the legislature wants to make changes in the benefits, it must have a good reason. Without a legitimate state goal, a change cannot be made unless an equal or greater benefit is provided. General actuarial soundness is a legitimate state goal. However, a court will require that the state prove that no less drastic modifications could be implemented in lieu of the proposed changes. Courts have ruled that merely saving the state money is not a compelling legitimate reason.

Christopher Bulman, assistant general counsel for the PERA, next spoke to the members. He told the members that it is very difficult to discuss complex issues of constitutional rights and other legalities when talking in generalities. He referred to COLA legislation in South Dakota, Colorado and Minnesota. He said that the retirement boards in those states had already proposed COLA legislation. In all three states, the legislation is directly related to the solvency of the pension funds. He noted that in South Dakota, the fund is actually fairly well-funded and solvent and the state has proposed changes and adjustments to the formula linked to the cost of living. In his opinion, South Dakota's PERA has a fairly defensible position, particularly because, in that state, the members will get back to where they were after the fund is solvent. He added that Colorado is in bad shape and has suspended the COLA for fiscal year 2010. He said that the courts will not look kindly on the suspension unless Colorado can prove it is an absolute necessity. According to Mr. Bulman, Minnesota has numerous plans, and the teachers' plan is in the worst shape. The teachers have a two-year suspension of the COLA, which is a very drastic move, and the courts will likely uphold it only if the plan is clearly headed for insolvency. In summation, the key analysis point is the link to solvency. He added that New Mexico's legal team at the PERA is keeping abreast on these current cases and their outcomes.

With regard to the contract theory and its possible applicability in New Mexico, Mr. Bulman said that, in his opinion, the contract theory is not off the table. The state offered the 3% employee contribution increase in exchange for the improved benefits, and the members voted and accepted it. He noted that he had voted in favor of the 3% contribution increase. Mr. Schatzman then said that it is his personal belief that the court will not use the contract theory. However, it could still reach the same result based on a different legal theory.

The discussion continued focusing on the realm of possibilities if changes are made to PERA members' benefits, whether employees are non-vested or vested. Additional discussion regarding changing the COLA continued as well. It was noted that actuarial soundness is not defined in New Mexico law, and courts have handled the definition of actuarial soundness differently. Generally speaking, courts have held that a retirement program must be able to meet its "continual obligations".

Mary Frederick, deputy director for the PERA, next spoke to the task force. Ms. Frederick focused on giving the members a background and history of double dipping in New Mexico. She stated that prior to 2004, there was no such thing as double dipping for PERA employees. A PERA employee could retire and come back to work as long as the employee did not earn more than $15,000 annually. In 2004, the legislature passed the double dipping bill.

Ms. Frederick explained that Senate Bill 207 from 2010 allows retirees who were reemployed by PERA affiliates before July 1, 2010 to be grandfathered in and to continue double dipping, receiving both a pension and a salary. Effective July 1, 2010, newly reemployed retirees must begin paying the employee contribution portion of their salary. The PERA affiliate will continue to pay the employer contribution amount on behalf of the employee. Employee contributions made during reemployment are non-refundable and stay in the PERA funds. The only PERA retirees who are excluded from PERA membership as of July 1, 2010 are elected officials and legislative workers during the legislative sessions. Retirees who are reemployed by PERA affiliates before July 1, 2010 will be grandfathered in under the law in place when they are reemployed. Those reemployed retirees will continue to receive both a pension and a salary.

Ms. Frederick talked about implementing an earnings cap for PERA retirees returning to work for PERA affiliates as an alternative to the flat ban on double dipping. She noted that an earnings cap could be modest and in no way comparable to a second income. It could allow state and local governments to hire employees for seasonal or temporary positions from a pool of experienced employees. She added that allowing retirees to return to work with a $25,000 annual limitation would have no actuarial impact on the PERA fund. She added that no special interest group would be favored by limited options for retirees to return to work and assist state and local governments. The only restriction is the employee cannot earn more than $25,000 in a calendar year.

Ms. Frederick pointed to a handout she supplied to the members that outlines normal retirements, including the average age and average service for the New Mexico PERA. She thought the members would be interested in learning that the average retirement age under each of the plans is actually not very young. For example, in the state General Plan One, the average retirement age is 54 years and the average service credit for that group is 21 years.

Prior to adjournment, the members were directed to the National Association of State Retirement Administrators brief regarding public pension plan investment return assumptions. It was noted that the brief focuses on the issue of investment return assumptions used by public pension plans that have been the focus of increased attention recently. The brief explains the role those assumptions play in pension finance and how it is developed and compares the assumptions with public funds actual experience.

With no more task force business, Representative Stewart adjourned the meeting at 3:40 p.m.

MINUTES
of the
THIRD MEETING
of the
RETIREMENT SYSTEMS SOLVENCY TASK FORCE

August 9, 2010
Room 322, State Capitol
Santa Fe

The third meeting of the Retirement Systems Solvency Task Force (RSSTF) was called to order by Representative Mimi Stewart, co-chair, on August 9, 2010 at 10:10 a.m.

Present
Rep. Mimi Stewart, Co-Chair
Mr. Tito Chavez, Co-Chair
Mr. Charles Bowyer
Ms. Jan Goodwin
Rep. John A. Heaton
Mr. David Heshley
Ms. Alexis Lotero
Sen. Steven P. Neville
Mr. Andrew Padilla
Mr. Wayne Propst
Sen. John Arthur Smith
Rep. Thomas C. Taylor
Ms. Christine Trujillo
Mr. Jeff Varela
Rep. Luciano "Lucky" Varela

Absent
Mr. Oscar Arevalo
Mr. Diego Arencon
Sen. Pete Campos
Mr. Bill Fulginiti
Sen. Phil A. Griego
Ms. Emily Kane
Ms. Michelle Lewis
Mr. Bruce Malott
Mr. Ronald Sanchez
Mr. Terry Slattery

Staff
Raúl E. Burciaga, Director, Legislative Council Service (LCS)
Tom Pollard, LCS
Doris Faust, LCS
Claudia Armijo, LCS

Guests
The guest list is located in the meeting file.

Handouts
Handouts and other written testimony are in the meeting file.

Monday, August 9

Representative Stewart welcomed the RSSTF and guests to the meeting. She reminded the members that the meeting was being audio webcast and asked them to introduce themselves when speaking and to turn their microphones on and off before and after speaking.

Educational Retirement Board (ERB) Sustainability; Fiscal Analysis; and Summary of Benefits

Ms. Goodwin, executive director of the ERB, presented to the members of the task force. She began by advising them that the numbers used in the ERB Status Report, which she provided for their reference, are the most up-to-date numbers available. She noted that the information is current as of June 30, 2010. Ms. Goodwin told the members that they could locate the definitions of defined benefit plans and defined contribution plans in the Status Report. Defined benefit plans are designed to provide employees with a predictable monthly benefit at retirement. The benefit amount is typically a function of the number of years an employee works at the employee's job and is based on the employee's pay, usually at the end of the employee's career. Defined contribution plans offer no implicit guarantee of retirement income. Rather, employers and, usually, employees, contribute to the plan over the course of the employee's career. Ms. Goodwin clarified that the ERB provides a defined benefit plan.

Ms. Goodwin explained that in a defined benefit plan, the longevity risks are pooled among a large number of individuals. The plan only needs to accumulate enough funds to provide benefits for the average life expectancy of the group. Unlike the individuals that are part of the plan, a defined benefit plan does not age. Consequently, the plan is able to take advantage of the enhanced investment returns that come from a balanced portfolio over long periods of time. A defined benefit plan can ride out bear markets and take advantage of buying opportunities without the concern about converting all of its money into cash for benefits in the near future.

Conversely, individuals in defined contribution plans need to set aside much more money to last for the "maximum" life expectancy. This is critical to ensure that individuals will not run out of money at retirement. Because the maximum life expectancy can be substantially greater than the average life expectancy, a defined contribution plan should set aside more money than a defined benefit plan to achieve the same level of monthly retirement income benefits.

Referring to the Status Report, Ms. Goodwin explained how the ERB's defined benefit plan works. She began by pointing out the differences between the retirement eligibility for current employees and for new hires who begin employment after July 1, 2010. Depending on when an employee begins working, the employee's retirement eligibility is calculated with the ERB retirement benefit calculation using the employee's final average salary multiplied by the employee's service credit multiplied by .0235. This calculation determines the employee's annual benefit at retirement.

Ms. Goodwin explained how the ERB's cost-of-living adjustment (COLA) works. She noted that the first COLA to a retiree's benefit is made on July 1 of the year in which the retired member reaches the age of 65 or on July 1 of the year following the member's retirement date, whichever is later. The COLA is tied to the Consumer Price Index (CPI). If a change in the CPI is less than 2%, the COLA is the same percentage as the change in the CPI. If, however, the change in the CPI is greater than 2%, the COLA is one-half of the change in the CPI, but not less than 2% and no greater than 4%. Ms. Goodwin noted that 2009 was the first time in 54 years that the CPI declined. At that time, the COLA statute required a negative adjustment, which would have resulted in an annual average decrease of $69.00 in a retiree's pension benefits. However, House Bill 239, passed in the 2010 regular legislative session, amended the COLA statute to prohibit a decrease in the retirement benefits for retired members over the age of 65 if there is a decrease in the CPI.

Ms. Goodwin explained the options available to ERB retiring members: Option A, Option B and Option C. Option A provides no reduction to the monthly benefit received by a retiree other than any "Rule of 75" deductions for any community property or child support reductions. Pursuant to this option, there would be no continuing benefit to a beneficiary or estate upon the retiree's death, except the balance, if any, of contributions. Ms. Goodwin advised that such contributions are usually exhausted in two to three years. She noted that approximately 63% of ERB retirees select Option A.

Option B provides that the retiree's monthly benefit be reduced to provide for a 100% survivor's benefit. The reduced benefit is payable during the life of the member, with the provision that, upon the retiree's death, the same benefit is paid to the beneficiary for the beneficiary's lifetime. The named beneficiary may not be changed after the effective date of retirement because the amount of the option is calculated by using both the age of the member and the age of the beneficiary. If the beneficiary predeceases the member, the member's benefit will be adjusted by returning it to the Option A benefit amount. The Internal Revenue Service prohibits selection of Option B for a non-spouse beneficiary more than 10 years younger than the member. Approximately 25% of the ERB retirees select Option B.

Ms. Goodwin explained that Option C provides that the retiree's monthly benefit be reduced to provide for a 50% survivor's benefit. The benefit is payable during the life of the member with the provision that, upon the retiree's death, one-half of the member's benefit is paid to the beneficiary for the beneficiary's lifetime. Again, the named beneficiary may not be changed after the effective date of retirement. If the beneficiary predeceases the member, the member's benefit is adjusted by returning it to the Option A benefit amount. Approximately 12% of ERB retirees select Option C.

According to Ms. Goodwin, the Educational Retirement Fund is a "mature fund", meaning that each year the plan is designed to pay out more in benefits than the contributions it takes in. As a result, the difference between the amount of contributions and retiree payroll is paid from the money in the Education Retirement Fund balances. Ms. Goodwin directed the members' attention to the Status Report, which illustrates the contribution rate history by the members and employers. Ms. Goodwin noted that employer payroll has increased 61.65% from 2000. Additionally, retiree payroll has increased 111.2% from 2000. Active members have increased 5.34% from 2000, and retired members have increased 59.3% from 2000. In 2000, there were three active members working for each retired member. In 2010, there are two active members working for each retired member.

According to Ms. Goodwin, the Governmental Accounting Standards Board (GASB) establishes financial reporting standards for defined benefit pension plans. The GASB Statement 25 provides that the funding period, also known as the amortization period, should not exceed the maximum 30-year period. The ERB's current funding period is 45 years. The ERB's funding period will be in compliance with the GASB statement in 2032, when the funding period reaches 28.4 years. Ms. Goodwin said that the funding ratio (the ratio of the actuarial value of assets to the actuarial accrued liability) for the ERB stands at 67.5% in 2010. Five years ago, the ratio stood at 75.4%, and 10 years ago the ratio was 85.9%. The ratio reached an all-time high in 2001 at 91.9%. However, it began to decrease as the negative investment experience in the 2001 to 2003 fiscal years was phased into the actuarial value of assets.

Ms. Goodwin highlighted a summary of the ERB's investment results. For the fiscal year ending June 30, 2010, the Educational Retirement Fund returned 8.6%, outperforming its policy index by 5.9% and ranking in the top second percentile of public funds greater than $1 billion. Ms. Goodwin attributed the positive performance of the fund to the ERB's improved investment tools. She continued by saying that over the last 12 months, the fund experienced a gross investment gain of $1.3 billion, which includes a gross investment loss of $333 million during the second quarter. The fund's total assets decreased from $8.6 billion at the beginning of the quarter to $8.2 billion on June 30, 2010, with $38.9 million in net distributions. Over the past five years, the fund returned 4% per annum, outperforming its policy index by .8% and ranking in the top tenth percentile of the Independent Consultant Cooperatives Public Funds greater than $1 billion universe of funds. For the quarter, the fund posted a -3.9% return, outperforming its policy index by .6% and ranking in the top thirty-second percentile of public funds greater than $1 billion. All asset classes were within policy ranges on June 30, 2010.

Ms. Goodwin directed the members' attention to the Status Report, which outlines the ERB's fund allocations. She said that the Educational Retirement Fund weighs heavily toward equities and has a large exposure to international allocations. When looking at the total fund performance, particularly when compared with like portfolios, the ERB's diversification of investments is providing better returns. According to Ms. Goodwin, since 2005, with the passage of House Bill 389, the fund has had wider choices in investment products that produce good returns over long periods of time. She added that the ERB is well-poised for economic recovery.

Ms. Goodwin closed her presentation by noting that the ERB and its actuaries will be looking at all aspects and issues related to the fund at its September board meeting. Additionally, the board may be reviewing the ERB members' vesting period as the ERB tries to determine a sustainable benefit.

There was a lengthy discussion involving the long-term solvency of the Educational Retirement Fund. Members were concerned about the large unfunded liabilities and the fund's ability to meet those liabilities in years to come. Some of the members asked questions concerning exactly what the board and actuaries would be considering and reviewing at the upcoming meeting. Ms. Goodwin said that everything is on the table and up for discussion, including the 8% benchmark. She noted that the ERB is aware of its unfunded liabilities but does not want to cause undue panic on behalf of retirees. She noted that there have been investment losses. For example, one of the hedge funds lost $10 million with Madoff. Even though that is a lot of money, it is not a lot in the scheme of the huge Educational Retirement Fund itself. Ms. Goodwin noted that the ERB tries to be balanced in its portrayal of its financial situation.

There were further discussions regarding the legislators' concerns about potential costs to the state in view of the fact that the state's budget continues to deteriorate. Some members noted that a debate regarding a minimum retirement age might be a fruitful topic of discussion, and perhaps the actuaries could review the economic impact of such a provision. A brief discussion of the COLA and exactly how it is calculated followed.

Some members asked if the ERB has a benefit cap. Ms. Goodwin said that the ERB benefit formula has three components: final average salary, subject to the $225,000 federal 401 (A)(17) limit; the number of years of service, which is not capped; and the 2.35% multiplier, which is in place for everyone.

A discussion ensued regarding the average retirement age for ERB members. Ms. Goodwin said that to the best of her recollection, the average ERB member retirement age is about 57 or 58. When asked what percentage of teachers continue to teach in excess of 30 years, Ms. Goodwin said that a very small percentage teach for that many years. When asked what the economic value of the Educational Retirement Fund was prior to the economic downturn, Ms. Goodwin told the members that the fund value was just under $10 billion in 2008, and today it is $8.2 billion as of June 30, 2010.

Some of the members inquired as to when the legislature would receive the ERB's recommendations. Ms. Goodwin said that she hopes the recommendations would be presented by October 20, which is when the board plans to hold its legislative agenda meeting.

Some of the members asked if the layoffs and the cuts to the salaries of workers are affecting contributions. Ms. Goodwin stated that it is a constantly shifting picture, which the board continues to monitor. When asked what the average retirement benefit from the ERB is, Ms. Goodwin replied $23,000 annually. The co-chair asked if the ERB staff could provide more information on the benefits that are being paid out, specifically those to the highest wage earners. It was noted that it might be beneficial to look at the median benefit as well. Ms. Goodwin agreed to provide the information at a future meeting. There was a motion and a second to approve the minutes from the July 2010 meeting. The motion passed unanimously.

Update on Request for Proposals for Consulting Actuarial Services

Mr. Pollard, Ph.D., legislative fiscal analyst for the LCS, addressed the members regarding the request for proposals (RFP) for consulting actuarial services issued on behalf of the RSSTF. He explained to the members that Buck Consultants of Denver, Colorado, won the contract. A number of competing firms submitted proposals, and after review, it was determined that Buck Consultants will do the following:

A. audit the actuarial valuations of the pension plans administered by the Public Employees Retirement Association (PERA) and the ERB for the period ending June 30, 2009, or the most current valuation available at the time of contract execution;

B. audit the multiyear experience studies for the PERA and the ERB pension plans for the period ending June 30, 2008, or the most current experience studies available at the time of contract execution;

C. audit a comprehensive pension reform plan being produced by the PERA that will be available at the time of the execution of a contract or shortly thereafter;

D. prepare written recommendations to the RSSTF of an actuarial nature, including a review of existing actuarial value impact estimates of contribution or benefit modification;

E. provide general or specific actuarial or pension consulting advice to the RSSTF during its development of legislative proposals for the 2011 regular session of the New Mexico Legislature; and

F. upon request by the LCS, attend meetings of the RSSTF during the interim leading up to the convening of the New Mexico Legislature in January 2011 to present information or reports on assigned topics or to provide actuarial and technical information and advice on pending pension issues.

There was a brief discussion about the firm and actuarial services that will or could be provided. Some members stressed their desire for the firm to use an accounting approach instead of an actuarial approach. The co-chair asked Mr. Pollard if he thinks the firm would be able to provide information regarding specific scenarios upon request by the RSSTF in time for the October meeting. Mr. Pollard replied that he believes the firm would be able to supply the information. The co-chair asked that the topic be made an item on the agenda for the September meeting and the members bring forward ideas regarding specific scenarios on the subject. It was noted that the RSSTF should not come up with a laundry list of ideas; rather, certain specific ideas should be reviewed by the consulting firm. Mr. Pollard noted that because the consulting firm would be using an audit approach, the firm will be able to evaluate some of the scenarios. Additionally, the firm will work closely with the existing retirement funds and actuaries to run the numbers that will be validated independently. It was decided that Mr. Pollard would speak with the consulting firm to determine approximately how many scenarios could likely be analyzed and what information might be produced.

Retiree Health Care Authority (RHCA); Recent Measures Addressing Sustainability; Fiscal Analysis; Projections

Mr. Propst, executive director for the RHCA, and Mark Tyndall, deputy director for the RHCA, spoke to the members. Mr. Propst explained to the members that the RHCA provides medical care for pre-Medicare retirees, a population that currently includes about 44,000 members and their dependents.

Mr. Tyndall said that the challenges faced by the RHCA are clearly identifiable and, as such, are manageable. He talked about the assumptions used by the Retiree Health Care Fund and the fact that the reserve fund currently has about $160 million. He said that the moving parts associated with the fund are active employers and employee payroll and how much the fund will grow over a specific period of time, noting that historically it has grown by about 4%. He said that about half of the RHCA membership is from the public schools, about 25% consists of state employees and the rest of the membership consists of former employees of municipalities and local governments.

Mr. Tyndall spoke about recent measures addressing the sustainability of the Retiree Health Care Fund. He said that the fund was previously projected to be insolvent in 2014. In order to extend solvency to 2019, effective in fiscal year 2010, employer/employee contribution levels have increased from 1.95% to 3%. This change took effect on July 1, 2010. To extend solvency to 2025, beginning with fiscal year 2010, there was a reduction in the number of available plans to stabilize the rating structure. The RHCA board is reviewing the years of service criteria as they pertain to subsidy levels. Mr. Tyndall noted that the GASB liability has been reduced from $5 billion to $2.9 billion. Additionally, the RHCA has instituted disease management and wellness programs for all retirees; instituted cost-sharing for 20,000-plus members' Medicare supplement plans; submitted an application for the federal early retiree reinsurance program to keep the budget surpluses in both health benefits and program support funds for three consecutive years; and achieved more than $20 million in cost savings to plan design and prescription benefit manager changes. Regarding the application for the federal early retiree reinsurance program, Mr. Tyndall said that New Mexico could receive between $18 million and $20 million in reimbursements.

Mr. Tyndall explained that firefighters, police and other law enforcement employees can retire with the same benefits after 20 years of service as other retirees would have with 25 years of service. He noted that about 9% of actual employees fall into the law enforcement category.

Mr. Tyndall also noted that the RHCA receives premiums from retirees. Historically, and varying from year to year, the Retiree Health Care Fund has grown at a rate of about 3.5%. Mr. Tyndall explained that retirees that are pre-Medicare recipients pay 35% of their premium and the RHCA pays the rest. Dependents are allowed to participate until they reach age 26, but their premium is not subsidized. If a retiree is of Medicare age, the RHCA will pay 50% of the retiree's premium and 25% for the retiree's spouse, and the retiree's dependents will have access to the plan but receive no subsidy benefit.

The RHCA offers a prescription drug program that provides prescription coverage, and the RHCA gets about $12 million a year from the federal government for providing the benefit.

Mr. Tyndall told the members that the majority of the RHCA expenses are associated with medical and prescription claims. The fund uses an 8% rate of return as a projection figure, and over the last three years, 8% is very close to what has been achieved.

When talking about solvency, Mr. Tyndall directed the members' attention to the RHCA handout. He said that the actuarial projections indicate that the Retiree Health Care Fund will begin to deteriorate by the year 2017. This conclusion is based on the assumptions in the plan design remaining the same. The conclusion is also based on an 8% annual increase to retirees and the same increase in medical costs over that time. The two areas that could result in the biggest change in the fund are a change in the employee contribution rates and the lowering of the subsidy provided to retirees. Mr. Tyndall noted that, unlike the ERB and the PERA, the RHCA is a recently created program and, therefore, the return on investments does not affect the Retiree Health Care Fund as the return on investments would a large fund.

There was a general discussion about ways of lowering medical costs. It was noted that many high medical costs are driven by diseases like diabetes or by lifestyle choices such as obesity or smoking. Members wondered if there are programs in place to combat these medical conditions. Mr. Tyndall noted that health plans like Presbyterian offer a number of different lifestyle changing programs, and the key to their success is to start early. When asked, Mr. Tyndall said that the average age of the RHCA retiree is 50 years, but subsidy levels are not based on age requirements.

Mr. Tyndall reminded the RSSTF members of the RHCA's statutory obligations. He noted that the statute provides in part that the board shall provide for the collection of premiums from eligible retirees and eligible dependents. That money, when combined with other money appropriated to the Retiree Health Care Fund, shall be sufficient to provide the required insurance coverage and to pay the expenses of the authority. Notwithstanding any other provision in the Retiree Health Care Act, the legislature shall review and adjust the distributions pursuant to statute and shall review and adjust the employer and employee contributions to the RHCA to ensure the actuarial soundness of the benefits provided under the Retiree Health Care Act.

With regard to the RHCA handout, members noted that the graph depicting contributions versus subsidies paid was misleading because an employee does not get the subsidy until the employee retires; prior to that, the employee is using the employee's health insurance. Mr. Propst and Mr. Tyndall took the criticism under advisement and said that they would produce the information in a more accurate format in the future.

The members turned their attention to the topic of solvency in general and what it means pursuant to discussions regarding the various state retirement-related funds. There seemed to be a consensus that the RSSTF needs to determine a practical, logical model and decipher how to analyze the moving parts in a time and manner pertinent to the accuracy of the model. There was an interest in staff inquiring into the National Conference of State Legislatures sending experts to address the task force and provide additional information on the various subjects that the RSSTF is charged with addressing.

With no further business, the meeting was adjourned at 3:50 p.m.

MINUTES
of the
FOURTH MEETING
of the
RETIREMENT SYSTEMS SOLVENCY TASK FORCE

September 10, 2010
Room 307, State Capitol
Santa Fe

The fourth meeting of the Retirement Systems Solvency Task Force (RSSTF) was called to order by Representative Mimi Stewart, co-chair, on September 10, 2010 at 9:02 a.m.

Present
Rep. Mimi Stewart, Co-Chair
Mr. Tito Chavez, Co-Chair
Mr. Diego Arencon
Mr. Oscar Arevalo
Mr. Charles Bowyer
Ms. Jan Goodwin
Mr. H. Russell Goff
Sen. Phil A. Griego
Rep. John A. Heaton
Mr. David Heshley
Ms. Emily Kane
Ms. Alexis Lotero
Sen. Steven P. Neville
Mr. Andrew Padilla
Mr. Wayne Propst
Mr. Terry Slattery
Rep. Thomas C. Taylor
Ms. Christine Trujillo
Mr. Jeff Varela
Rep. Luciano "Lucky" Varela

Absent
Sen. Pete Campos
Mr. Bill Fulginiti
Ms. Michelle Lewis
Mr. Ronald Sanchez
Sen. John Arthur Smith

Guest Legislator
Rep. Miguel P. Garcia

Staff
Raúl E. Burciaga, Director, Legislative Council Service (LCS)
Tom Pollard, LCS
Doris Faust, LCS
Claudia Armijo, LCS

Guests

The guest list is located in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Friday, September 10

Representative Stewart welcomed the RSSTF and guests to the meeting. She noted that those members present would begin operating as a subcommittee. She reminded the members that the meeting was being audio webcast and asked them to introduce themselves prior to speaking and turn their microphones on and off before and after speaking. Next, Representative Stewart asked the presenters from Buck Consultants to introduce themselves. Buck Consultants is the actuarial services company hired by the RSSTF to assist it with issues before the task force. David Slishinsky, principal and consulting actuary of Buck Consultants, introduced himself and told the members that he has 35 years of actuary experience, more than 20 of them at Buck Consultants. He said he specializes in public sector work and is the sole actuary for the states of South Dakota, Nebraska and Alaska. Michelle DeLange, director of retirement for Buck Consultants, introduced herself and told the members that she has been working at Buck Consultants for five years and that she specializes in public sector clients.

Overview of the Actuarial Process, the Problems Facing the Public Employees Retirement Association (PERA) and the Educational Retirement Board (ERB) — a Preliminary Evaluation of the Nature and the Scope of Concerns and Timing Issues: The Effect of Time Frame Decisions in Corrective Actions to Pension Plans

Mr. Slishinsky started the presentation by explaining what he and Ms. DeLange would be discussing. He asked Representative Stewart if they could take a few minutes for task force members to let Buck Consultants know what kind of information the members would like to hear about at the meeting. Representative Stewart asked for an objective review of what the State of New Mexico's retirement systems are facing. She specifically indicated a need to determine if the PERA and the ERB are "safe and secure". She noted that some of the RSSTF members are eager to make changes to the pension plans right away, while others believe that the retirement funds typically fluctuate, going up and down in value over time. She asked the representatives from Buck Consultants to provide suggestions of what, if anything, the state might consider doing regarding its pension plans.

The members had a general discussion involving what information they would like to receive or learn more about. They were interested in the consultants' thoughts regarding what would happen to the state's pension funds if no changes are made to the plans. Members asked if the consultants think that, over time, the plans would "self-correct". Some members said that they have received calls from retirees who have read newspaper articles or heard rumors regarding the pension plans and want to know what the legislators are planning to do. Task force members noted that employees want to know specifically about changes that might affect their contribution rates and their vesting eligibility. Members mentioned that retirees and employees alike are experiencing anxiety over the perceived uncertainty surrounding the pension funds. Representative Stewart took a moment to advise the members and the audience that the presentation handout provided by Buck Consultants would be posted on the New Mexico Legislature web site, and the web site would include information regarding how to get a copy.

Mr. Slishinsky directed the members' attention to the handout and noted that he would begin presenting an overview of the actuary process, the steps involved and the topics covered. He said actuaries are professionals trained in mathematics. He said they must go through a stringent examination process. He added that actuaries focus on probability and statistics, compound interest, business and finance. Actuaries' training includes college education, on-the-job training and examinations conducted by professional organizations, such as the Society of Actuaries and the Joint Board of Enrolled Actuaries. Mr. Slishinsky continued with an overview of the types of work actuaries can perform, and he gave examples of the types of clients for whom they might provide services. He specifically mentioned that actuaries working for retirement systems analyze a wide range of variables, including contribution rates, funding periods, funding status and projections of liabilities, contribution rates and funding periods. He noted that state pension plans need to determine contribution rates, as well as target rates of returns on investments necessary for the plans to meet their liabilities.

Next, Mr. Slishinsky talked about pension plan valuation. The valuation is a snapshot in time, providing a picture of the status of the plan at any given point in time. The size of the promise must be compared against the plan's assets, and the actuary must determine how much the benefits will cost. Mr. Slishinsky told the members that the Governmental Accounting Standards Board (GASB) requires the valuation of pension plans for reporting purposes. The valuations are performed annually, and the calculations are performed on each member in the plan. The information is produced by the actuaries using model software. The end product is a valuation of the pension plan at a specific point in time, and the software used can also assist the actuary in providing projections of a plan's future value.

According to Mr. Slishinsky, there is a basic retirement funding equation: C+I=B+E, meaning "contributions plus investment income equals benefits and expenses". The equation must be viewed with an eye toward the long term. He noted that contributions are determined by funding policies.

Mr. Slishinsky continued by explaining that the population data used in the valuation include detailed information about each member, including the member's date of birth, age, salary, plan code, gender, contribution amounts, beneficiaries and form of benefit. He emphasized that as long as a pension plan can meet its amortization rate and meet its payments, the plan's fund is considered sound.

Ms. DeLange described the components of a pension plan's provisions. She said they include how much, when and to whom a benefit can be paid. She said that the PERA benefit summary for state general employees is a benefit of 3% of an employee's highest consecutive 36-month salary multiplied by the employee's years of service. She said that the PERA does not provide early retirement benefits. The PERA provides employees with a 3% cost-of-living adjustment (COLA), effective only after the employee has been retired for two years.

Next, Ms. DeLange explained the ERB benefits. She said that the ERB provides a benefit of 2.35% of the employee's final five-year average salary multiplied by the employee's number of years of service and provides for a COLA amounting to one-half the increase in the cost-of-living increase with a minimum of 2% and a maximum of 4%.

Ms. DeLange discussed the PERA and the ERB respective funds' assets, focusing on how each fund's assets are allocated. She also discussed how pension plans are valued and explained that the value of a fund is not typically determined according to the market value of the fund's assets. In other words, the market value of a plan's assets is simply the amount for which it could be sold at the time the valuation is made. Rather than using this measure, public pension fund actuaries use a valuation concept called "actuarial assets" and involves "smoothing" returns from year to year to reduce measured volatility of plan funding. Most plans smooth returns over five years, meaning that a particularly high or low return in one year will not be fully incorporated into the measure of actuarial assets for another five years. The use of market value is avoided because it can produce volatile contribution rates. Smoothing reduces the plan's value volatility. The market value of the PERA funds as of June 30, 2009 was $8,781 million, and the market value of the ERB funds was $7,113.7 million. By contrast, the smoothed actuarial value of the PERA funds as of June 30, 2009 was $12,554 million, and the ERB fund's smoothed actuarial value was $9,366 million. Ms. DeLange noted that actuarial values are expected to be below market values when the stock market is performing well and above market value when the stock market is performing poorly.

Mr. Slishinsky next provided information regarding liability and normal cost calculations. He noted that pursuant to the GASB, there are six different methods acceptable in calculating the cost of benefits. He talked about the terminology used in the actuarial field and explained the difference between aggressive and conservative assumptions. He said the actuary uses personal judgment in determining whether to apply aggressive assumptions that will produce a smaller present value or conservative assumptions that will produce a larger present value.

Referring to the handout, Mr. Slishinsky used graphs to illustrate methods to depict fund benefits and liabilities. He explained that investment earnings represent the single greatest impact on the value of a fund. He told the members that some of the causes of unfunded actuarial liabilities are: granting initial benefits or benefits increases for services already rendered; actuarial experience that is less favorable than assumed; and contributions that differ from actuarially calculated amounts.

Ms. DeLange spoke to the members about pension plan contribution rates and funding periods. She explained that "normal costs" are costs expected to occur during one year and the value of a given year's expected benefit accruals. She said the funding period is defined as the period of time it will take to pay the unfunded liability at the plan's statutory contribution rates. Pursuant to the GASB, the standard funding period for pension plans is 30 years. However, there are proposed changes that would reduce the standard funding period. She noted that in order to maintain a 30-year funding period, a number of states are increasing plan contribution rates. When asked how work force reductions might affect the funding period, Ms. DeLange responded that without growth in the payroll amounts, there will be less money contributed to the fund and the funding period would consequently increase.

Next, Mr. Slishinsky opined that the PERA fund is "better off than most states". He stressed that recent economic markets have negatively affected most pension plans. He noted that according to the 2010 Wilshire Survey Report, the average funded ratio for pension plans declined substantially between 2008 and 2009. According to the survey, the PERA's and the ERB's actuarial values experienced less of a decline in funding ratio than the survey average. For example, in 2009, the average pension fund in the survey was funded at 72%, whereas the PERA was funded at 84%. However, although its rate of decline was less than the survey average, the ERB was funded at 68% for that same year, below the survey average of 72%.

Mr. Slishinsky said that recently, both the PERA's and the ERB's investments have produced returns better than the national average. He noted, however, that the PERA had a two-year period of negative returns from 2007 to 2009, and he said it is very important for the fund to beat its assumption rate of return. The rate of return for the PERA is 8%.

Mr. Slishinsky explained that a pension plan's funding status is a product of its actuarial assets divided by its accrued liabilities, and he graphically illustrated the PERA's and the ERB's respective historical funding status. Both funds showed unfunded liabilities in 2009. He followed with a discussion about the risk associated with various public pension funds versus their assumed real rates of return. He highlighted the information in the handout regarding "debt transfer". Debt transfer measures the amount that future taxpayers are committed to pay for past employee service benefits. The debt transfer for the PERA is 113% and for the ERB it is 175%. He noted that the debt transfer measurement is a required reporting item pursuant to the GASB. He also discussed the term "liquidity", which refers to the measure of a fund's market value divided by its benefit payments. Liquidity measures the approximate number of years of benefit payments that the fund's market value assets can cover without the fund getting future contributions. The trend toward liquidity in a fund is an indication of the fund's solvency risk, and, according to Mr. Slishinsky, a fund's period of liquidity should be between 10 and 15 years. He noted that the PERA's liquidity period is estimated to be 13.8 years, while the ERB's liquidity period is estimated to be 11 years.

Mr. Slishinsky next talked about the projected funded ratio status of both the PERA and the ERB plans through 2019. He used graphs to illustrate the unfunded liability of each fund, assuming an 8% rate of return on investments for both funds. The graphic depiction did not include assumptions resulting from the recent statutory changes applying to the state's new hires. Mr. Slishinsky said that because the changes apply only to new employees, the impact would not be significant for the purposes of the graphs in the handout. According to the information generated by Buck Consultants, the PERA fund will be 62% funded through 2019 and the ERB fund will be 60% funded. Buck Consultants projects fluctuations in the funding percentages for the ERB, with only a 57% projected funded ratio in 2013.

Mr. Slishinsky offered the following conclusions regarding the PERA and the ERB pension funds:

1) Without changes in contributions or without a significant stock market return on investments, the funds' respective funding ratios are expected to decline over the next 10 years.
2) Short-term funded ratios will be highly dependent on actual investment returns.
3) Benefit and funding policy changes are needed.

Mr. Slishinsky said that most states have an "ideal" goal of pre-funding with a funding ratio of 100%.

With respect to the effect of timing decisions related to corrective actions taken toward pension plans, Mr. Slishinsky said that changes to defined benefit plans that apply only to new members take a long time to realize significant changes to the plan. Among the potential changes that will not affect a pension fund immediately are:

1) implementing a later retirement age;
2) increasing the final average salary period;
3) lowering the COLA;
4) lowering the multipliers;
5) implementing a longer vesting period; and
6) early retirement reductions.

Again, he noted that the most significant and immediate impact on a pension plan fund is its return on investments. He further noted that New Mexico's pension plans should be monitored frequently and continually. He added that any changes to a plan's benefits should be based on the state's commitment for adequate benefit coverage and not necessarily based upon that state's funding policy.

Mr. Slishinsky talked briefly about the changes that might be expected as a consequence of New Mexico's recent benefit plan changes, specifically, the benefit changes for the new tier of employees. He said that there will be a long period of elapsed time before any savings resulting from the changes will be realized.

Pension Reform Options That Provide the Greatest Opportunity for Solvency

Mr. Slishinsky and Ms. DeLange stressed to the members that the greatest impact would continue to be investment returns. They told the members about changes made to pension plans in other states in 2010. Some of those changes include:

1) moving to a defined contribution or hybrid plan;
2) increasing employee eligibility for normal or early retirement;
3) increasing the period for the final average salary calculation;
4) increasing the service years requirement for vesting;
5) formula multiplier changes; and

6) reducing or limiting plan COLAs.

Mr. Slishinsky noted that there are states that are making changes to the benefits of current members. He added that those states are facing lawsuits as a result of the changes. There was a discussion among the members and the presenters regarding the potential for such lawsuits. It was generally agreed that the lawsuits are most likely to materialize if a state changes the benefits of members who are vested in their plans. But, even members who have not yet vested could bring suit. The state's ability to defend a suit successfully involving changes to its pension plan benefits will depend on many varied factors, including a state's statutes and its constitution. States currently facing litigation resulting from changes to pension plan benefits are Colorado, South Dakota and Minnesota.

There was next a discussion about changes to a pension plan's COLA. It was noted that a number of states are making changes and others are considering changes. Many systems are instituting maximum adjustments, and many are tying any COLA increases to the Consumer Price Index. It was noted that changes made to pension plan COLA provisions can have significant compounded savings. For example, a 1% decrease in the COLA could reduce a pension plan's normal cost rate by 8% to 12%.

Mr. Slishinsky explained that a number of states are changing their plans' retirement eligibility. In all of those states, the changes will apply only to new employees hired after the effective date of the change. States are considering changes to the minimum retirement age. Part of the reason for this consideration is the fact that employees are living longer and, therefore, enjoying longer retirements.

Formula multiplier changes will affect the funding rate of a fund. Such changes produce a direct impact and can reduce the benefits and ongoing costs to the fund by a proportional amount of a downward reduction. An obvious consideration is the fact that new plan members will understand that they are earning a lesser benefit while contributing at the same rate as members that are not new hires. Other states are considering changing their calculations for final earnings. Arizona, Illinois, New Jersey and Virginia are all changing their final average earnings calculations for new members only, while Iowa is changing it for all plan members.

Changing the contribution rates presents a significant way for a plan to reduce its unfunded liability because increased contributions immediately affect the amount of the unfunded liability. However, it was noted that increases in contributions for members participating in social security could become burdensome. The PERA's contribution rates for general employees are 15.09% for employers and 8.92% for members. According to Buck Consultants, in FY 2012, the rates will be 16.59% for employers and 7.42% for employees. The ERB contribution rates are 10.9% for the employers, increasing to 13.90% in FY 2012, and 9.40% for members, decreasing to 7.9% in FY 2012. Mr. Slishinsky noted that if the PERA increases its contribution rates by 1% in FY 2012 for both the employers and the members, its funding ratio would be 65% by FY 2019. The same increases applied to the ERB plan would see that plan's funding ratio increase to

63% in FY 2019. A number of states are changing both their members' and their employers' contribution rates.

Other options presented by Mr. Slishinsky and Ms. DeLange include early retirement reduction factors. They noted that increasing early retirement reductions can decrease the plan's normal costs rate by up to 7%. Changes to vesting requirements can affect the pension plan. Both the PERA and the ERB have five-year vesting periods. Changing to 10-year vesting periods would affect the normal cost rate by 3% to 5%, depending on the demographics.

In conclusion, Mr. Slishinsky and Ms. DeLange apprised the members of a number of points:

1) changing benefits under a new tier and implementing contribution increases will improve long-term funding but will occur slowly;

2) benefit reductions for current members would have a significant impact on funding but would lead to legal challenges;

3) the funds' respective investment returns in both the short term and the long term will ultimately determine costs and will have a significant impact on contribution rates and funding periods; and

4) New Mexico should continue to monitor the funds for progress.

There began a long discussion regarding the definition of "solvency". Members questioned Mr. Slishinsky and Ms. DeLange in an effort to have them opine as to whether the PERA and the ERB are "solvent". Mr. Slishinsky declined to make such a determination. He said that the actuaries make calculations and handle the assumptions, but they leave the hard questions like solvency to the legislators. As the discussion progressed, it continued to return to the issue of solvency and what it means, particularly for New Mexico's pension funds. Members talked about changes to the pension plans that could encourage good behavior and professional incentives. Members talked about the idea of the PERA and the ERB boards going to their respective members and getting an understanding of what the members would accept in the way of changes. The question regarding the definition of "solvency", specifically as it applies to the PERA and the ERB, continued to arise. Members stated their agreement that they need to define the term.

Representative Stewart asked the members to consider all of the information presented at the meeting along with past meeting information and to email proposals for the PERA and the ERB pension plans changes to Mr. Burciaga. She noted that the members should try to develop a list of changes they could support. The members were assured that their proposals for changes would remain anonymous. Representative Stewart requested that Mr. Burciaga and his staff then compile the information into a format useful for discussions by the members at the October RSSTF meeting.

With no further business, the meeting was adjourned at 4:20 p.m.

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MINUTES
of the
FIFTH MEETING
of the
RETIREMENT SYSTEMS SOLVENCY TASK FORCE

October 12-13, 2010
Room 307, State Capitol
Santa Fe

The fifth meeting of the Retirement Systems Solvency Task Force (RSSTF) was called to order by Representative Mimi Stewart, co-chair, on October 12, 2010 at 9:06 a.m.

Present
Rep. Mimi Stewart, Co-Chair
Mr. Tito Chavez, Co-Chair
Mr. Diego Arencon
Mr. Oscar Arevalo
Mr. Charles Bowyer
Mr. Bill Fulginiti
Mr. H. Russell Goff
Ms. Jan Goodwin
Sen. Phil A. Griego
Mr. David Heshley
Ms. Alexis Lotero
Mr. Andrew Padilla (October 12)
Mr. Wayne Propst (October 12)
Mr. Terry Slattery
Sen. John Arthur Smith
Rep. Thomas C. Taylor (October 13)
Mr. Jeff Varela
Rep. Luciano "Lucky" Varela

Absent
Sen. Pete Campos
Rep. John A. Heaton
Ms. Emily Kane
Ms. Michelle Lewis
Sen. Steven P. Neville
Mr. Ronald Sanchez
Ms. Christine Trujillo

(Attendance dates are noted for members not present for the entire meeting.)

Staff
Raúl E. Burciaga, Director, Legislative Council Service (LCS)
Tom Pollard, LCS
Doris Faust, LCS
Claudia Armijo, LCS
Michelle Aubell, Legislative Finance Committee (LFC)

Guests
The guest list is located in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

<u>Tuesday, October 12</u>

Educational Retirement Board (ERB) Solvency Proposals

Ms. Goodwin, executive director for the ERB, provided a summary of the current status of the Educational Retirement Fund, saying that as of June 30, 2010, the fund had $8.2 billion. She said the unfunded actuarial accrued liability was $5.2 billion, the funding ratio is 64.2% and the projected funding period is 67 years.

Ms. Goodwin reminded the members that certain aspects of the Educational Retirement Fund have significant effects on the fund, including:

1) the multiplier;

2) the age for unreduced benefits;

3) changes in an employee's final average salary;

4) increased contribution rates, achieved by lengthening the contribution period, converting to base pay only and eliminating sick, vacation and terminal pay; and

5) elimination or suspension of the cost-of-living adjustment (COLA).

She next discussed that the changes to certain aspects of the plan have little effect on the fund, including:

1) establishing COLA banks;

2) altering vesting periods;

3) anti-spiking provisions;

4) altering an employee's final average earnings period;

5) eliminating terminal pay from the pension earnings;

6) incentives; and

7) decreasing the interest crediting on member contributions.

Ms. Goodwin told the task force members that, if the ability to pay its benefits to members is the standard, the ERB is not insolvent because it can make those payments for many years. She added that the ERB board has set funding standard goals to include an actuarially required contribution rate of 22.95%, which is greater than the current annual contribution rate of 20.30%. Ms. Goodwin indicated that if this contribution rate is met, the funding ratio should reach 80% in 30 years.

Ms. Goodwin continued, saying the ERB would like to ensure long-term sustainability of the plan by meeting funding standards within a short time frame. The guiding principles that should be behind all changes are:

1) intergenerational equity relating to benefits and contributions for all employees, both current and new hires;

2) a commitment to the 2005 contribution rate changes; and

3) a plan that keeps New Mexico competitive in its ability to hire and retain the best employees for K-12 and higher education.

On the issue of comparing New Mexico's ERB plan to similar plans in other states, Ms. Goodwin opined that the plan is similar to most other states and noted that the ERB multiplier is not high when compared to others.

Ms. Goodwin explained that the ERB met with its actuaries earlier in October. At that meeting, the ERB determined it needed additional information prior to making final recommendations. Ms. Goodwin said that when the final recommendations are available, they will be provided to the task force. Some of the preliminary proposals made by the ERB include:

1) employers' contribution rate of 13.90%;

2) possible changes to employee contribution rates, ranging from 8.65% to 9.40%;

3) changing the future service multiplier for all employees, both current and new hires, ranging from 2.23% to 2.35%;

4) multiplier backfill provisions, depending on the status of the funding;

5) a possible minimum retirement age, ranging from 55 to 60 years; and

6) changing the number of years from which to calculate the final average salary, ranging from five to seven years.

Ms. Goodwin closed her presentation by saying that the ERB board is considering a few more factors, including:

1) adjusting the multiplier in a manner to encourage early retirement, encourage retention or reduce benefits for new members;

2) implementing a mandatory retirement age of 50, 55, 60 or 65;

3) increasing the vesting period to seven, eight, nine or 10 years; and

4) implementing varying contribution rates tied to the COLA waiver.

Prior to making final changes, the ERB would like to get input from its members. Again, Ms. Goodwin noted that the actuaries are reviewing various proposals, and the ERB will meet on October 22 to make its final recommendations.

There was a discussion about the timing of the ERB's recommendations and the input to be solicited from the ERB membership. Task force members expressed concern that agreement by members and recommendations by the ERB may not be available in time for legislation to be introduced at the upcoming legislative session. Some members advised that the legislature may have to act, regardless of receiving timely recommendations from the ERB. Some members asked what the ERB is considering, and Ms. Goodwin noted that the actuaries will be providing an analysis of all proposed changes, and the ERB will be reviewing the analysis.

Retiree Health Care Authority (RHCA) Plans to Address Solvency

Mr. Propst, executive director for the RHCA, began his presentation by referring members to a copy of a letter dated September 27, 2010, addressed to the task force co-chairs. Mr. Propst noted that, as the result of legislation, a work group was formed to study retiree health care. In December 2007, the work group made recommendations, and the RHCA has since acted upon those recommendations. Some of the steps taken by the RHCA are:

1) increasing health insurance premiums in accordance with market trends;

2) adjusting premium subsidy percentages;

3) adding cost-sharing requirements; and

4) increasing contribution levels from the Tax Administration Suspense Fund (TASF), as well as from active employees and employers.

According to Mr. Propst, the latest projections indicate that the RHCA will be solvent until calendar year 2026. In spite of improvements, the RHCA is faced with deficit spending as early as FY 2017. Consequently, the RHCA is seeking an increase in the funding it receives from the TASF to $7 million annually. According to Mr. Propst, the increased funding would add three years of solvency to the Retiree Health Care Fund.

Mr. Propst advised the members that the RHCA has already eliminated three costly pre-Medicare plans, replacing them with two plans. The board increased premiums 8% effective on January 1, 2011. As a consequence, the projected solvency of the fund has been extended to 2026.

Mr. Propst told the members that the RHCA board has exercised control over the levels of benefits provided, but it does not control the employee and employer contribution rates. Although the legislature has made changes to the contribution rates, Mr. Propst estimates that the RHCA will once again seek an increase in contributions in about five years.

Next, Mr. Propst mentioned that the RHCA would seek legislation similar to that proposed during the last session to create an interagency benefits advisory council to purchase services jointly. There was a brief discussion about why the state entities jointly bid for services, such as prescription drugs, but do not jointly purchase. Some members said that the boards do not all agree or support the proposed joint administration but would support certain components of the proposed legislation. Some members expressed concern that the proposed legislation is too expansive when dealing with the four separate entities.

There was a discussion about the possible changes and the need to keep retirees informed in advance. Some task force members noted that they get calls from constituents who are concerned over potential changes in benefits or premiums.

When asked what the RHCA covers, Mr. Propst said it covers 300 entities, including all public and charter schools and all major cities and counties in the state. He added that the largest entities not covered are the University of New Mexico and New Mexico State University.

The RHCA receives its funding through the TASF, which is the fund to which tax revenues are deposited and from which all tax revenues flow before being appropriated by the legislature. Ms. Goodwin added that there are about 20 state entities that are recipients of the TASF.

There was next a general discussion about ideas the different boards have considered for reducing the overall costs of health care. Mr. Propst said that the RHCA board has talked about incentives for positive behavioral changes, such as higher premiums for smokers. It was noted that Albuquerque Public Schools (APS) has implemented a biometric screening requirement for all employees and their spouses. Those screenings can indicate risks such as high cholesterol. Mr. Propst noted that the RHCA board has already implemented health and wellness programs for persons under the age of 65. Persons who attend the programs receive free health screenings.

A number of task force members praised Mr. Propst for his dedication, leadership and diligent work on behalf of the RHCA.

Judicial Retirement Fund and Magistrate Retirement Fund Solvency Recommendations

Arthur W. Pepin, director of the Administrative Office of the Courts (AOC), and Mr. Arevalo, fiscal services director for the AOC, next addressed the task force.

Referring to a letter addressed to the RSSTF, Mr. Pepin explained that data relating to the judicial retirement funds, which include the Judicial Retirement Account (JRA) and the Magistrate Retirement Account (MRA), reveal serious issues challenging those funds. The judiciary proposes an incremental plan that begins by asking the legislature to address in the

2011 legislative session the most serious issue facing the retirement funds, which is the reliance on docket fees. He noted that other issues can be addressed in future sessions once the problem of docket fees has been resolved.

Mr. Pepin explained that in FY 2008, judges' contributions to the JRA and MRA were at 7.5% of salary, while the state paid from the general fund 11% to the MRA and 12% to the JRA, and docket fees contributed 17.92% of salary to the MRA and 19.39% of salary to the JRA. According to the Public Employees Retirement Association's (PERA's) analysis of June 30, 2008, the total funding required for full funding was 45.87% in the JRA and 40.25% in the MRA. Thus, in FY 2008, contributions from the docket fees and general fund totaled 28.9% in the MRA (11 + 17.92) and 31.39% in the JRA (12 + 19.39). After adding in the judges' 7.5%, the total funding as a percentage of salary in FY 2008 was 36.42% in the MRA and 38.89% in the JRA. The result was a funding shortfall in the MRA of 3.83% and in the JRA of 6.98%. However, the docket fees are static, so the percentage contributed by the docket fees varies from year to year depending on case filings, and the dollar amount decreases as a percentage of salaries any time there is a salary increase.

The PERA Actuarial Evaluation Report for FY 2009 shows that judges' contributions to the JRA and MRA were 9.0% of salary, while the state paid from the general fund 10.5% to the JRA and 9.5% to the MRA, and docket fees contributed 18.16% of salary to the JRA and 14.17% of salary to the MRA. Thus, the total actual funding in FY 2009 was 37.66% in the JRA (9.0 + 10.5 + 18.16) and 32.67% in the MRA (9.0 + 9.5 + 14.17). According to the PERA's analysis, the total funding required for full funding in FY 2009 was 53.49% in the JRA and 55.30% in the MRA. This means that contributions from the docket fees and general fund in FY 2009 resulted in a funding shortfall in the JRA of 15.83% and in the MRA of 22.63%.

As these figures show, the deficit in both funds varies from year to year, but there is a recurring deficit that threatens the solvency of the funds over time. As long as the funding stream for these retirement funds relies on docket fees, the contributions will not meet the funding requirement. The FY 2009 "funded ratio" is only 60.5% in the JRA and 66.3% in the MRA. In November 2010, figures for FY 2010 showing contributions from the docket fees and other data on the JRA and the MRA should be available from the PERA.

The PERA Actuarial Evaluation for FY 2009 reiterates, as have the annual reports for many years, that the most significant risk to the JRA and the MRA is the use of docket fees as a funding source. Instead, all contributions should be related to payroll. The PERA's June 30, 2009 executive summary of its annual report states: "Historically, there has been a poor correlation between docket fee revenue and judicial payroll" and the PERA recommends "that all employer contributions be related to payroll". The PERA recommends that serious action be taken to mitigate these funds' deficiencies within the next couple of years.

In order to address solvency issues, Mr. Pepin recommended moving docket fees from retirement funding to the general fund. He explained that severing the link between docket fees and these funds is paramount to the long-term health of the funds. For this reason, the judiciary supports legislation that would direct the docket fees to the general fund and eliminate any tie between the docket fees and the JRA or the MRA. This can be accomplished in FY 2012 at no cost to the general fund if the general fund pays as a percentage of salary the same percentage that was contributed by fees in FY 2010. The data substantiating this assertion will be available from the PERA in November 2010. Mr. Pepin offered an example, saying that for FY 2009, the combined contributions from the general fund and docket fees were 28.66% to the JRA (10.5% now paid by the employer plus the docket fee contribution of 18.16%) and 23.67% to the MRA (9.5% now paid by the employer plus the 14.17% docket fee contribution). Although this would leave in place the other factors about which the PERA has expressed concerns, it would solve the issue that is most important to address first. There are several reasons to make this action the priority for the 2011 legislative session, including:

1) the "paramount" threat to the health of the funds would be eliminated;

2) addressing this paramount threat has no cost to the general fund in FY 2012;

3) this action will accomplish objective ll (4) of the New Mexico Judiciary Long-Range Strategic Plan 2008-2013: "legislation that will ensure actuarial soundness of the judicial and magistrate retirement plans, specifically eliminating dependency on docket fees as a source of funding of each plan"; and

4) once the reliance on the fluctuating docket fees is eliminated, the PERA can assess the actuarial status of the funds from a much more certain perspective and will be able to identify what level of total contributions, as a percentage of salary, will make the funds sound. The legislature can then determine appropriate contributions from either the employee or employer, or both, to ensure the funds are sound.

Mr. Pepin opined that for all of the reasons indicated, the most important "first step" that the legislature can take toward addressing the critical issues threatening judicial retirement funds would be to amend the applicable statutes to sever the tie between docket fees and the retirement funds. Once that is accomplished, other funding issues can be addressed.

Members voiced concerns over the proposed changes and the inability to fully understand what the costs associated with those changes would be. Because the amount of docket fees received in any fiscal year is not a fixed amount, there is no way to project accurately how much money would go into the general fund. Members generally thought that more information is required prior to passing the proposed legislation. However, members also generally agreed that the current system of funding the judicial retirement accounts with the funds from docket fees is not workable and puts the retirement funds' solvency in jeopardy.

Report on Audits of Actuarial Valuations of the PERA and the ERB, the Experience Studies and the PERA Ideal Plan

David Slishinsky, principal and consulting actuary for Buck Consultants, and Michelle DeLange, director and retirement actuary for Buck Consultants, addressed the members regarding the review and evaluations of the PERA and the ERB.

Mr. Slishinsky started by explaining the overall purpose of conducting the review, which was to present the task force members with another actuary's opinion regarding the actuarial soundness of the PERA and the ERB. Additionally, the review offers analysis of whether the original actuarial calculations are accurate and meet the standards of practice and offers ideas of ways to improve and exercise the fiduciary obligation of completing an independent review of the plans every four to five years. He noted that the scope of the review includes:

1) reviewing the work of the PERA and the ERB actuaries, Gabriel Roeder Smith & Company (GRS). The pensions systems reviewed include the magistrate, judicial and volunteer firefighters;

2) reviewing membership data;

3) reviewing sample member calculations;

4) reviewing sample benefit calculations;

5) reviewing recent experience analysis;

6) reviewing actuarial valuation results;

7) assessing completeness and validity of membership;

8) opinions regarding reasonableness of actuarial assumptions, methods and procedures;

9) determining whether valuation procedures are technically sound;

10) determining whether generally accepted actuarial standards are being followed;

11) reviewing actuaries' reports; and

12) reviewing experience analysis reports.

Mr. Slishinsky advised the members regarding the principal findings of the actuarial review. He said the consultants noted that there are a large number of records that, although reported by the PERA, are not included in GRS's valuation. He said that missing or incomplete data are not uncommon when reviewing data from large systems. In addition, he considers the missing or unreasonable data rates moderate for most of the PERA plans and moderate for the ERB plan. He went on to recommend that the PERA and the ERB include the following data in further valuations:

1) dates of hire and termination;

2) termination reason codes, including status as vested or non-vested, and reduced or unreduced retirement;

3) a separate field showing the amount of the benefit for the joint and survivor options; and

4) remaining contribution balances for the calculation of modified cash refund benefits.

Next, Mr. Slishinsky spoke regarding the asset smoothing analysis for the PERA plan. He noted that the PERA uses a four-year smoothing period. He said that according to the National Association of State Retirement Administrators (NASRA) Public Fund Survey, 57% of plans use a five-year smoothing period, while 17% of plans use a four-year smoothing period. He said that the PERA may want to consider using a five-year smoothing period, noting that more than 40% of the PERA's recent investment losses are not yet recognized in the actuary valuation of assets because of the smoothing period used.

Mr. Slishinsky advised that the ERB currently uses a five-year smoothing period but recommends adopting a 20% corridor, which would increase the unfunded liability by $830 million. He added that more than 30% of the ERB's recent investment losses are not yet recognized in the current actuary valuation of assets.

Mr. Slishinsky noted that the consultants reviewed the actuarial cost methods of both plans. They recommended that, for the ERB plan, GRS use the conventional Individual Entry Age Normal Method, which is the same method used by the PERA.

After completing the remaining areas of review of the PERA and the ERB plans, Mr. Slishinsky and Ms. DeLange concluded that:

1) the demographic assumptions are generally reasonable and reflect system experience, with some instances recommending further review;

2) Buck Consultants recommends that both the PERA and the ERB review economic assumptions as a consequence of the recent economic crisis, the extent of economic recovery and lower inflation and investment returns expectations;

3) the asset valuation method is appropriate for the ERB, properly applied and reasonable;

4) Buck Consultants recommends a change to the actuarial asset value (AVA) method for the PERA so that it converges to market asset value (MVA) sooner. Also, the PERA could consider removing the corridor for judicial and magistrate plans if the AVA method is adopted;

5) for the plans without a corridor, actuarial value of assets is between 32% and 43% more than the MVA; the plans should be aware of the difference between the MVA and the AVA and the short-term impact on the funded status, funding periods and actuarial contribution rates of the plans;

6) Buck Consultants recommends that GRS use the conventional Entry Age Normal Method for the ERB; and

7) Buck Consultants' review of the PERA plan is not complete, and the consultants are waiting for the test case information.

Mr. Slishinsky next addressed the issue of defining solvency. He advised that there are different approaches that can be used to get a quantitative view of solvency. One approach is to meet a 30-year amortization objective in accordance with the Governmental Accounting Standards Board (GASB) standards. He added that if the 30-year employer contribution rates are always made, the fund will always have enough money to pay the benefits.

Another approach is to project the market value balances using expected contributions, investment return and benefit payments. Using this method, the system is "insolvent" if assets are fully depleted during the projection period.

Mr. Slishinsky next directed the members' attention to the handout that contains graphs illustrating the PERA and the ERB projections of market values and a projection of the ratio of market value of assets to benefit payments. In both cases, the projected assets are not growing as fast as the benefit payments.

There was a discussion about the recommendations and who would receive them in their final form. Ms. DeLange said that the recommendations would be given to the PERA and the ERB for use by the actuaries, and she added that copies could be supplied to the task force as well. Some members asked why the consultants had recommended a longer asset smoothing period. Mr. Slishinsky explained that a longer period moves the funds' asset valuation further from the market valuation of assets.

When discussion continued, Mr. Slishinsky opined that the single most important decision the respective pension plan boards can make is to determine their risk tolerance. All of their investment decisions, and other plan-related decisions, will flow from the level of tolerable risk.

After additional questions and discussion, with no further business, the meeting recessed at 3:40 p.m.

Wednesday, October 13

The meeting was reconvened by Representative Stewart at 9:15 a.m. She reminded the members that the meeting was being audio webcast.

Referring to a handout that looks similar to a dollar bill, Mr. Slattery, executive director for the PERA, explained its significance. He said it illustrates the PERA's funding for every $1.00. He said $.69 of every $1.00 in the fund is from investments, $.19 represents employer contributions and $.12 represents employee contributions.

Gerri Madrid-Davis, executive director for the National Public Pension Coalition (NPPC), addressed the task force. She thanked the members for the opportunity to speak. She clarified before speaking that her remarks represent her personal viewpoint and are not a sanctioned viewpoint of the NPPC.

Ms. Madrid-Davis gave a brief overview of the work of the NPPC and mentioned some of its working partners, including the AFL-CIO and the National Education Association. She told the members that the NPPC supports the continuation of defined benefit plans. She opined that defined benefit plans are the foundation of a secure retirement. She noted that, in its defense of defined benefit plans, the NPPC:

1) tracks state and local plan design changes;

2) supports strategic assessments and state coalitions;

3) develops and disseminates messaging; and

4) synthesizes and distributes research to inform state and local policy discussions.

In explaining the NPPC's support of defined benefit plans, Ms. Madrid-Davis noted attributes of the plans, including:

1) shared responsibility;

2) age-proof retirement income;

3) pooled investment and longevity risks;

4) protections against inflationary risks;

5) death and disability components are built in;

6) the plans are processionally managed with lower fees and better returns;

7) local and state economic supports;

8) the funds hedge against elderly poverty;

9) the funds aid in recruitment, retention and orderly retirement; and

10) the funds can be enhanced by supplemental plans, such as supplemental defined contribution plans.

Ms. Madrid-Davis told the members that attacks on defined benefit plans have escalated in recent years, particularly in light of their recent poor performance in the stock market. She noted that there has been a broader attack on government and public employees. She mentioned that there has been interest in some sort of federal oversight. She also noted the irony that Wall Street hands out huge million dollar bonuses after the bailout, yet there is a heightened focus on public pension plans whose recipients receive an average of between $20,000 and $30,000 a year.

In concluding her presentation, Ms. Madrid-Davis said that the alternatives to a well-designed defined benefits plan are inadequate. She cited:

1) growing retirement insecurity;

2) the nation's $6.6 trillion retirement income deficit;

3) that the use of defined contribution plans as primary retirement "plans" is a failure in its current form;

4) that governments are not corporations and must provide a safety net for the uninsured and under-insured; one-third of retirees rely solely on social security and 50% rely on social security payments for at least half of their income; and

5) that governments remain the laboratories of democracy; only one in five persons in private sector employment has access to a defined benefit plan.

Prior to her closing remarks, Ms. Madrid-Davis complimented the task force members on their work and foresight related to New Mexico's retirement plans. She advised them that they have time to make informed, responsible decisions, and she encouraged them to re-embrace the current system to maintain sustainability.

There was a discussion regarding the news articles all over the country pertaining to the solvency of state pension funds. Ms. Madrid-Davis said that the newspapers have sensationalized the issue and that the real problems have been the failures to fund the actuarial values in a timely fashion. She added that the majority of the news attention tends to focus on the states that are not doing well with regard to their pension plans and funding. She advised that states, municipalities and localities must understand that they cannot "get out" of their pension obligations.

Review and Discussion of Task Force Recommendations for Retirement Systems Solvency

Representative Stewart asked Ms. Faust, assistant director of drafting services for the LCS, to lead the members in a discussion regarding the various ideas task force members emailed to the LCS over the past few weeks. The ideas were organized by topic and compiled in a document by the LCS. A copy of the proposed ideas was handed out for the members' reference during the discussion. Among the proposed ideas were definitions of "solvency". Members discussed the proposed definitions. Some preferred definition #5, which included meeting obligations when they come due and reaching a funded ratio of 80% within the GASB suggested 30-year time frame.

Other proposed ideas included recommendations to the PERA and the ERB plans. The proposals ranged from no support for any changes to either plan to a qualified agreement with the proposed change already in development by both the PERA and the ERB boards.

Members discussed possible outcomes that might happen if changes to the plans are made. There was a discussion about pending litigation in other states and the prospect of similar litigation in New Mexico.

There was another discussion regarding the expertise and qualifications that should be required for board members of all plans. Members talked about the pros and cons of requiring certain expertise. Continued education requirements were also discussed as a positive requirement.

Some members discussed the value of incentives for longer retirement and other retention strategies. Members inquired as to whether the Investments Oversight Committee (IOC) could take up the retirement systems solvency issues because the task force is ending its work in the next couple of months. Mr. Burciaga, director for the LCS, said that the IOC is created annually by the New Mexico Legislative Council and as such, it would be up to the council to create the IOC again and assign it the oversight duties.

Representative Stewart asked the staff to draft bills for both the ERB and the PERA "ideal plans" for the task force members to review and discuss. Mr. Slishinsky suggested that the PERA and the ERB actuaries run the numbers on the ideal plans. He added that Buck Consultants could offer some input.

Representative Stewart also asked staff to draft a bill to increase employer funding for the ERB from the current 10.9% to 13.9% over six years, a bill to change the source of judicial and magistrate judge retirement funding from docket fees to the general fund and a bill to allow return to work for retirees for up to $15,000 before the double-dipping prohibition takes effect. Task force members agreed to those five bill requests.

With no further business, the meeting was adjourned at 12:10 p.m.

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MINUTES
of the
SIXTH MEETING
of the
RETIREMENT SYSTEMS SOLVENCY TASK FORCE

November 12, 2010
Room 307, State Capitol
Santa Fe

The sixth meeting of the Retirement Systems Solvency Task Force (RSSTF) was called to order by Representative Mimi Stewart, co-chair, on November 12, 2010 at 9:15 a.m.

Present
Rep. Mimi Stewart, Co-Chair
Mr. Tito Chavez, Co-Chair
Mr. Diego Arencon
Mr. Oscar Arevalo
Mr. Charles Bowyer
Sen. Pete Campos
Mr. Bill Fulginiti
Mr. H. Russell Goff
Ms. Jan Goodwin
Rep. John A. Heaton
Mr. David Heshley
Ms. Emily Kane
Ms. Alexis Lotero
Mr. Andrew Padilla
Mr. Wayne Propst
Mr. Terry Slattery
Sen. John Arthur Smith
Rep. Thomas C. Taylor
Ms. Christine Trujillo
Rep. Luciano "Lucky" Varela
Mr. Jeff Varela

Absent
Sen. Phil A. Griego
Ms. Michelle Lewis
Sen. Steven P. Neville
Mr. Ronald Sanchez

Staff
Raúl E. Burciaga, Director, Legislative Council Service (LCS)
Tom Pollard, LCS
Doris Faust, LCS
Claudia Armijo, LCS
Michelle Aubel, Legislative Finance Committee (LFC)

Guests

The guest list is located in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

<u>Friday, November 12</u>

Educational Retirement Board (ERB) Solvency Proposals

Ms. Goodwin, executive director for the ERB, reported on the current ERB budget. Referring to the handout dated November 12, 2010, Ms. Goodwin told the members that the purpose of the ERB is to provide secure retirement benefits to active and retired members so that those members can have a secure monthly benefit when their careers are finished. Ms. Goodwin then highlighted some of the ERB performance measures for FY 2010. She noted that the ERB came close to meeting most of its performance measures.

Next, Ms. Goodwin advised the members regarding the performance of the Educational Retirement Fund. She noted that for the fiscal year ending June 30, 2010, the fund returned 18.2%, outperforming its policy index by 5.9% and ranking in the top second percentile of public funds valued at greater than $1 billion. She further added that for the quarter ending September 30, 2010, the fund returned 8.4%.

Over the past 12 months, the Educational Retirement Fund experienced gross investment gains of $1.3 billion, which includes a gross investment loss of $333 million experienced during the second quarter. The fund's total assets decreased from $8.6 billion at the beginning of the quarter to $8.2 billion on June 30, 2010, with $38.9 million in net distributions. She added that as of September 30, 2010, the Educational Retirement Fund balance is $8.8 billion.

Ms. Goodwin said that over the past five years, the fund returned 4.0% per annum, outperforming its policy index by 0.8% and ranking in the top tenth percentile of the Independent Consultant Cooperative's Public Funds valued greater than $1 billion Universe. For the quarter, the fund posted a -3.9% return, outperforming its policy index by 0.6% and ranking in the top thirty-second percentile of public funds valued at greater than $1 billion. Lastly, she noted that all of the fund's asset classes were within their respective policy ranges on June 30, 2010.

Ms. Goodwin provided a comparison of the ERB's operating budget requests, comparing the FY 2010 request to that of the requests for FY 2011 and FY 2012. She told the members that for FY 2012, the ERB would be requesting a 0.5% increase over the FY 2011 operating budget. The increase can be attributed to a continual increase in retiree payroll. She noted that the number of retirees has increased from 21,186 in 2000 to 33,749 in 2010, an increase of 59.30%. She further noted that active members have increased 5.34% from 60,090 in 2000 to 63,297 in 2010. The ERB FY 2011 operating budget is $26,908.3 million, and the ERB is asking for a 2012 operating budget of $43,883.0 million.

Ms. Goodwin also noted that budget expenses for investment managers and custody fees have also increased due to complex investment strategies and changes in manager compensation. Due to ongoing litigation, the ERB has experienced increased expenditures for attorney fees and employee liability insurance.

Next, Ms. Goodwin explained that the ERB would be making a special appropriation request in the amount of $3.5 million for a two-year project to upgrade the ERB Integrated Retirement Information System (IRIS). The money would be used to pay for an upgrade to the most current IRIS available. The IRIS is the software application used to calculate such things as: monthly benefit payroll, member funds information and employer contribution reports. It is also used for document imaging and other critical ERB agency tasks. Ms. Goodwin explained that the update will add functionality to the IRIS that is not available under the current application. Additionally, she said the upgrade would allow the agency to create a web-friendly application, enabling members to perform tasks online, such as applying for refunds and retirement benefits. The funding requested by the ERB will be used to pay the vendor to upgrade the code from Powerbuilder to Java and will also be used for independent validation and verification.

Ms. Goodwin noted that two term information technology (IT) business analysts will be hired to assist in the upgrade.

Lastly, Ms. Goodwin told the task force members that the ERB would be making a capital request for $9.7 million to acquire land, plan, design and construct or renovate a building for the purpose of a new ERB headquarters in Santa Fe County. She told the members that the current ERB facility does not meet the privacy needs of members who come to the agency, and she added that the current facility lacks the space needed for membership and staffing growth.

Ms. Goodwin reminded the task force members that in 2009 there was an appropriation of $2.5 million for the planning and site acquisition for the building project. She said that the programming phase for the project has been completed, and based on preliminary documents, the ERB anticipates reducing the capital request from $9.7 million to $8.0 million. Ms. Goodwin also explained that the current ERB headquarters was appraised at approximately $3.5 million in June 2007. Prior to closing her presentation, she noted that the project has been placed on hold pending legislative and executive support.

A discussion ensued regarding the merits of the proposed capital request, particularly during the current stressed economic times for the state. Additionally, members inquired as to what percentage of the ERB's budget is targeted for salaries and benefits, and whether it includes the IT salaries for the IRIS upgrade. Ms. Goodwin responded that the IT salaries are included in the supplemental request, not in the ERB proposed operating budget.

Members returned to the capital request for the new ERB facility. Some members inquired as to whether it would be better to relocate to Albuquerque. Ms. Goodwin responded that the ERB has locations in Albuquerque and needs to serve the needs of members in the northern section of the state. When asked if the current ERB building is for sale, Ms. Goodwin said that it is not for sale because the ERB does not know if the legislature will sanction the acquisition of a new facility.

Public Employees Retirement Association (PERA) Budget

Mr. Slattery, executive director of the PERA, presented the PERA's FY 2012 budget proposal. Referring to the handout, Mr. Slattery began by telling the members that the total FY 2012 budget request for the PERA is $30,504.0 million. This amount is down $2,080,300, or 6.4%, from the PERA FY 2011 operating budget of $32,584.3 million. He noted that the requested budget for salaries and benefits decreased by 6.3% in the amount of $376,700, and there is a decrease of 6.7% in the amount of $1,703,600 for contractual expenses. All other requested budgetary expenses remain flat.

Mr. Slattery reminded the task force members that the PERA budget is not funded with a general fund appropriation. Rather, operating revenues are generated from fund balances that revert back each year to the fund members' and employers' contributions and investment income. He advised the members that in FY 2010, the PERA returned approximately $10 million of its operating budget back to the fund. Mr. Slattery also reminded the members that, although all of the PERA's expenses are paid from the fund, appropriations made to the PERA must first be approved by the legislature and the governor.

Pursuant to statute, the PERA is granted the authority to increase its operating budget for the safety and security needs of the PERA building, which it owns. Mr. Slattery noted that the PERA moved into a new building about a year and a half ago. That new building has received numerous awards for its "green construction". For example, the PERA facility uses reclaimed water for its irrigation needs. Additionally, the facility has received energy awards. The PERA also has the authority to increase its operating budget to compensate investment fund managers for amounts they have earned while managing the fund's investment portfolios.

Mr. Slattery told the members that the PERA's annual administrative expenses are low, averaging only 27 basis points, or 0.27% of the total market value of the investment portfolio. He noted that for the FY 2012 budget request, the PERA is requesting funding for salaries for 76 employees, versus 88 for FY 2011. He noted that on June 30, 2011, 12 term employee positions will expire. He further noted that in FY 2010, the PERA operated with a vacancy rate as high as 10.5%. However, the PERA's historic average vacancy rate is 3.5%.

Members inquired as to how many fund managers the PERA uses in managing the fund. Mr. Slattery replied that there are about 80 fund managers. He added that the PERA limits the amount of exposure to any one management group to between $15 million and $20 million. Members requested a list of the largest fund managers, and Mr. Slattery agreed to provide the information.

ERB Plan Solvency Proposals

Ms. Goodwin presented the ERB's plan for changes to the ERB. She referred to the handout dated November 12, 2010 as she spoke. First, she directed the members' attention to a graph depicting the increase to the unfunded liability of the Educational Retirement Fund between 2000 and 2010. She noted that according to the Governmental Accounting Standards Board (GASB) recommendations, the funding period, also known as the amortization period, for a public retirement fund should not exceed 30 years. As of June 30, 2010, the ERB's current funding period is 67 years. The funding ratio, the ratio of the actual value of the fund's assets to the actuarial accrued liability, stands at 64.2% in 2010. Five years ago, the ratio was 75.4%. In 2001, the ratio hit an all-time high of 91.9%. However, it then began to decrease as the negative investment returns were experienced between fiscal years 2001 and 2003, and those returns were phased into the actuarial value of the assets. Ms. Goodwin opined that if no changes are made to the ERB plan, the funding ratio of the fund will never meet the GASB recommended status of 80%.

Ms. Goodwin told the members that the ERB's proposed plan changes were designed with the goals of:

1) sustainable retirement benefits for its members;
2) maintaining equity among all ERB members with varying start dates;
3) sharing the burden with both current and future members (which helps maintain equity);
4) placing the fund on a path to actuarial soundness (which includes achieving an 80% funding ratio and an unfunded liability amortized within 30 years); and
5) not reducing benefits for current retirees.

Ms. Goodwin noted that current ERB retirees retired before salary increases went into effect, and the retirees have only a modest cost-of-living adjustment (COLA) for which they must be 65 years of age to receive.

Next, Ms. Goodwin reminded the members that the ERB hired the Albuquerque-based polling firm, Research & Polling, Inc. (Research & Polling) to conduct a survey of ERB members. The purpose of the survey was to find out what, if any, support polled members might have for certain changes to the ERB plan. The survey was conducted in the week beginning October 30, 2010. The ERB staff provided Research & Polling with contact numbers for 400 randomly selected active ERB members. Of those polled, 35% were higher education employees and 65% percent were K-12 employees. Ms. Goodwin noted that those percentages reflect the breakdown of the current ERB active membership. Task force members requested and received copies of the questions posed to the polled ERB active members. Copies of the questionnaire can be located on the ERB web site and in the RSSTF meeting file.

Those polled were asked a total of 14 questions, based on the initial stated premise:

"As you know, the amount of money in the Educational Retirement Fund that covers your retirement benefits is not keeping pace with anticipated needs. As a result, the ERB and the Legislature are considering various options to improve the fund's financial soundness for the long-term future. Generally, there are two basic methods to increase the soundness of the ERB fund. One method is to increase the money flowing <u>into the fund</u> by increasing member contribution rates, while the other way is to reduce the amount of payments that are dispersed <u>from the fund</u> to retirees. Holding all things equal regarding the financial impact on the fund, would you prefer the Board recommend to the Legislature increasing member contribution rates or reducing member benefits at the time of retirement; or would you prefer the Legislature select a combination of the two options?".

After listening to the above statement and question, the polled members responded. The questions in the poll related to the potential ERB plan changes currently under consideration by the board and include the following proposals:

1) increasing member contribution rates;
2) increasing the final average salary (FAS) calculation from five years to seven years;
3) implementing a minimum age for unreduced benefits (members were asked if there should be a minimum age, and if so, what should that age be?);
4) reducing the COLA for current workers; and
5) changing the multiplier, which is currently 2.35% (potential changes asked about included decreasing it and adding incentives for longer employment terms).

Ms. Goodwin next shared the results of the poll. She highlighted the results, telling the task force members that all of the survey results can be found on the ERB web site. She noted that 35% of those polled approved an increase in member contributions, while only 5% approved a decrease in retirement benefit payments for current employees. She said that 12% asked did not approve such changes and 4% did not know or declined to respond. Three percent of those polled responded "It depends". According to Ms. Goodwin, 41% of those polled approved a combination of increased member contributions and decreased retiree benefits for current employees for the purpose of providing solvency to the Educational Retirement Fund.

In a separate summary handout provided to the task force, Research & Polling provided some of the reasons respondents to the poll gave for preferring certain options presented by the pollsters. Those reasons were:

1) it is better to pay more now while I am working than to have less at retirement;
2) doing both (combining increased member contributions and decreased retiree benefits) will reduce the impact or spread the impact;
3) doing both is fairer to everyone;
4) I will be retiring soon;
5) I can't afford to take more out (the proposed increase to member contributions); I need money now; and
6) I don't know or won't say.

In the summary, Research & Polling determined that the preferred option to increase the soundness of the fund as a result of paired statements from the survey reflects the following:

1) 14% approve reducing the multiplier from 2.35% to 2.0%;
2) 71% approve calculating the FAS on seven years of FAS versus the current five years of FAS;
3) 10% approve neither of the above options; and
4) 4% do not know or won't say.

Those with inquiries concerning the survey may contact Brian Sanderoff at Research & Polling.

In her conclusion regarding the survey results, Ms. Goodwin said that members are willing to:

1) increase current member contributions by 0.5%;
2) change the FAS used to calculate benefits from five years to seven years;
3) implement a minimum retirement age of 60 years for unreduced benefits;
4) implement increased multipliers with continuing additional years of service; and
5) implement a minimum retirement age of 60 years for members to receive ANY retirement benefits.

Ms. Goodwin said that members polled are divided on the issues of increasing current members' contributions by 1.0%. She also noted that members polled are not willing to reduce the multiplier for future service, nor are they willing to reduce the COLA for current workers upon their retirement.

Ms. Goodwin shared the board's recommendation, explaining that the proposed changes would apply to all active members, meaning that, as of the effective date of the changes, there would no longer be a two-tiered system for the ERB members. Currently, there are Tier 1 and Tier 2 ERB members, with varying requirements and benefits between the two tiers.

The changes proposed by the ERB are as follows:

1) the multiplier would remain at 2.35%;
2) the member contributions would be 8.4% for members earning a salary of $20,000 or less and 9.9% for members earning more than $20,000;
3) the FAS would be based on the highest seven consecutive years of a member's salary;
4) the years of service requirement for retirement with no benefit reduction would be 35 years;
5) the age plus service requirement would be 60 years plus 30 years of earned service credits (no benefits with less than 30 years). The benefit reduction for retirees below age 60 plus 30 years service requirement would be 0.6% each quarter year for a retiree under age 60. There is no provision for retirement before age 60 with fewer than 30 years of earned service credit;
6) 67 years of age plus five years of earned service credit;
7) there would be a "safe harbor" for active members who have 22 years of earned service credit as of the effective date of the plan changes; they would be grandfathered to the Tier 1 current requirements; and
8) the employer contribution rate would be increased to 13.9% (the amount currently in statute at Section 22-11-21 NMSA 1978).

According to the ERB actuarial results, the proposed changes to the ERB plan would result in a funding ratio of 101.5% in the year 2040. The actuarial analysis was based on a targeted investment return assumption of 7.75%.

Members asked several questions regarding the various plan changes contemplated by the ERB. Some members asked for a breakdown of the impact on the fund of each proposed change in isolation from the other changes. Many members asked if the actuary could determine less drastic changes that could be made to the plan that would result in the plan attaining a funding ratio of 80% in the recommended 30-year period, instead of the projected 101.5% funding ratio anticipated by the board's proposed changes.

Final Report on Audits of Actuarial Valuation

Michelle DeLange, director and retirement actuary, and David Slishinsky, principal and consulting actuary, both of Buck Consultants, spoke to the members regarding Buck Consultants' findings after auditing both the PERA and the ERB actuarial reports. Mr. Slishinsky contributed to the discussion via teleconferencing. Ms. DeLange began by referring to the handout dated November 12, 2010. She explained that Buck Consultants asked for additional information from the Gabriel Roeder Smith and Company (GRS), the PERA's previous actuary. She said that the information received from the GRS was incomplete, and as a consequence, Buck Consultants was not able to fully evaluate and confirm results for the PERA 2009 report. She then explained the purpose of the review was to:

1) provide another actuary's opinion on the actuarial soundness of the PERA and ERB;
2) confirm that the actuary's calculations are right;
3) get ideas on how to do things differently/better;
4) exercise fiduciary obligation and recommend that an independent review be completed periodically (once every four to five years); and
5) confirm funded status and contribution rates.

Ms. DeLange reminded the members that the scope of Buck Consultants' actuarial review was to review the work of the PERA and ERB actuaries, GRS. She said that a limited scope of review was performed. Ms. DeLange said that the technical scope of the review includes a review of the following:

1) membership data;
2) sample member calculations;
3) sample benefit calculations;
4) recent experience analysis; and
5) actuarial valuation results.

Ms. DeLange further noted that Buck Consultants also reviewed the 2009 reports to:

1) assess completeness and validity of membership data;
2) comment on the reasonableness of actuarial assumptions, methods and procedures;
3) determine whether valuation procedures were technically sound;
4) determine if generally accepted actuarial standards were being followed;
5) review actuaries' reports; and
6) review experience analysis reports.

Regarding the PERA, Ms. DeLange told the members that Buck Consultants recommends changing the smoothing period of assets to include expected returns on the fund's market value of assets. In Buck Consultants' projection of the PERA fund to 2029 depicted on page 6 of the handout, it applied its calculations retroactively to determine what the future debt for the fund would be. (See the chart entitled "Comparison of Current and Recommended Asset Method Projected to 2029".) Using Buck Consultants' smoothing method recommendations and applying the asset method retroactively to 2005, Buck Consultants observed the following:

1) the difference between the current and recommended method is not material in 2009, but is expected to become more significant as recent investment losses are recognized;
2) the funded ratio and funding period is not materially different in 2009 based on the recommended asset method, but it is expected to become more significant in 2010 to 2012;
3) the method includes an actual return of 15.02% for FY 2010 and an assumed return thereafter; and
4) the method includes updated cash flows based on open group population provided by the GRS.

Regarding the other valuation issues, sample member calculations were reviewed from the actuary's valuation system to determine if benefits are valued accurately and correct assumptions are used. Buck Consultants reviewed sample calculations from the June 30, 2009 actuarial valuation for the PERA that the GRS provided. Ms. DeLange told the task force members that Buck Consultants was unable to get responses from the GRS to questions regarding the sample calculations in an effort to confirm Buck Consultants' findings. She added that with the information received from the GRS, Buck Consultants was able to match all inactive members except for those in the judicial plan. She said that regarding the judicial plan:

1) the summary of liability did not match the detailed calculation for the retired member. In the detailed calculation, it appears the COLA was being applied on the valuation date instead of being delayed for two calendar years; and
2) the summary of liability did not match the liability for terminated vested members. It appears the COLA was delayed too long.

Regarding Buck Consultants' review of other valuation issues of sample calculations for active members, Ms. DeLange said that sample calculations were not complete for active members. She said that Buck Consultants received calculations by decrement for different members, but not one complete calculation for a single member. Some sample member calculations were not provided with a social security number, so Buck Consultants was unable to match the information with the data that the PERA provided to the GRS. She said that Buck Consultants found several differences between its results and the GRS' results for active members, and she said Buck Consultants was unable to confirm why there are differences.

Ms. DeLange offered Buck Consultants' determination of issues that need further review as follows:

1) whether the disability and death benefits valued are non-duty as stated in the report;

2) the report states that the retirement decrement is assumed to occur at the beginning of the year, but it appears that the retirement benefit is being calculated in the middle of the year;

3) also for municipal fire members, the death benefit was valued as the minimum of 50% (instead of 30%) of pay and the accrued benefit. The report says all death benefits are non-duty related;

4) for state general employees, there was a similar issue as for the municipal fire members regarding different service amounts for the same age as described above. The exception is that this applied to every sample member in state general employees;

5) the disability benefit appears to be valued as the minimum of 35% of pay and the accrued benefit. The report does not describe the minimum of 35% of pay and only describes the accrued benefit;

6) for municipal police and fire members, the disability benefit appears to be valued as the minimum of 40% of pay and the accrued benefit. It is possible the benefit was valued as a duty disability and used projected service;

7) for municipal general members, the disability benefit appears to be valued as the minimum of 65% of pay and the accrued benefit;

8) for magistrate members, there is a similar issue as for the municipal fire members regarding different service amounts for the same age as described above. The exception is that this was for the death benefit only; and

9) for state police members, it does not appear that the enhanced service credit (1.2 years of credited service per year) is included for eligibility purposes. The death benefit appears to have the same issue as municipal fire. The disability benefit appears to have the same issue as municipal general.

Ms. DeLange told the members that a full replication is currently being done by the new actuary. She advised that Buck Consultants recommends that the results of the new actuary's replication be reviewed to see if additional auditing should be done on the PERA. She also recommended that the PERA consider an increase in the audit scope to include the new actuary's replication of the 2009 valuation of the PERA. Lastly, Ms. DeLange concluded that based on the limited information Buck Consultants received from the GRS, Ms. DeLange and Mr. Slishinsky are unable to render an opinion on the accuracy of the 2009 valuation results for the PERA.

Ms. DeLange spoke to the members regarding determining solvency for the PERA fund and the Educational Retirement Fund. She began by noting that when analyzing the graphs contained in the handout, it is important to note whether the graph depicts information related to "open" or "closed" groups. Open groups means current members plus new hires, and closed groups means current members only. Ms. DeLange explained the graph on page 13 of the handout. The graph depicts a projection of the PERA's market value of assets and actuarial value of assets. The projection is solely based on a closed group. Additionally, the projections were based on a 4.5% payroll growth and include:

1) the unfunded liability payment on new entrant payroll and new benefit structure for new hires after June 30, 2010;

2) an actual return on assets of 15.02% for FY 2010 and 8% thereafter;

3) an employee contribution rate of 10.99% for FY 2010 and FY 2011, then 10.25% thereafter; and

4) an employer contribution rate of 13.97% for FY 2010 and FY 2011, then 14.71% thereafter.

According to the projections, the PERA would have no assets in the year 2034.

Members expressed concern over why Buck Consultants chose to make projections based on a closed group because it is not realistic to estimate no growth in the state employee work force. Additionally, some members inquired as to whether the projections reflect the PERA board's "ideal plan", and Ms. DeLange responded that it did not reflect the ideal plan, but it does include the current statutory changes.

Next, Ms. DeLange provided the same projection information for the ERB. The projections were again based on a closed group with information provided by the GRS and applying a 3.75% payroll growth. The projections also include:

1) the unfunded liability payment on new entrant payroll and new benefit structure for new hires after June 30, 2010;

2) actual return on assets of 18.6% for FY 2010 and 8% thereafter;

3) employee contributions: 9.40% for FY 2010 and FY 2011 and 7.90% thereafter; and

4) employer contributions: 10.90% for FY 2010 and FY 2011, 13.15% for FY 2012 and 13.90% thereafter.

According to the projection, the Educational Retirement Fund would have zero actuarial assets in 2039. Again, members questioned the validity of projections using closed group assumptions.

Continuing the discussion on solvency for both the PERA and the ERB, Ms. DeLange provided Buck Consultants' projection of market value of assets and actuarial value of assets using open groups. For the PERA projection, the assumption applied was an open group with no population growth and was based on data received from the GRS. The projections include:

1) the PERA new benefit structure for new hires after June 30, 2010;

2) an actual return on assets of 15.02% for FY 2010 and 8% thereafter;

3) employee contribution rates of 10.99% for FY 2010 and FY 2011, then 10.25% thereafter; and

4) employer contribution rates of 13.97% for FY 2010 and FY 2011, then 14.71% thereafter.

The analysis results in a projection of the PERA having zero assets in 2057.

When developing the projections for the ERB based on an open group, Buck Consultants used a 1.5% population growth (although the 1.5% population growth was used for the projection, it was based on the information supplied by the GRS. Buck Consultants does not find it to be a reasonable estimated growth rate.). The projection also includes:

1) the new benefit structure for new hires after June 30, 2010;

2) an actual return on assets of 18.6% for FY 2010 and 8% thereafter;

3) employee contribution rates of 40% for FY 2010 and FY 2011, then 7.90% thereafter; and

4) employer contribution rates of 10.90% for FY 2010 and FY 2011, 13.15% for FY 2012 and 13.90% thereafter.

Next, Ms. DeLange discussed how the timing involved in making changes to the plans will impact the plans. She noted that Buck Consultants analyzed changes made to the plans now versus changes implemented in three years. The graphs depicting the changes and projections are contained in the handout on pages 19 through 22. She told the members that both plans could expect an immediate 10% reduction in normal costs if changes to the plans are implemented in FY 2012 for new hire employees. The projections for the PERA plan for changes implemented for FY 2012 are based on a closed group and a 4.5% payroll growth. The projections also include:

1) the unfunded liability payment on new entrant payroll and new benefit structure for new hires after June 30, 2010;

2) an actual return on assets of 15.02% for FY 2010 and 8% thereafter;

3) employee contribution rates of 10.99% for FY 2010 and FY 2011, then 10.25% thereafter;

4) employer contribution rates of 13.97% for FY 2010 and FY 2011, then 14.71% thereafter; and

5) an additional change that impacts benefits by 10% for new hires in FY 2012 and later.

According to the projections, the PERA's assets would reach zero one year later than if no changes are made to the plan. Notably, if the changes to the plan are implemented in

FY 2015 instead of FY 2012, there is no difference in the time frame before the PERA has zero assets.

Next, Ms. DeLange provided the same projections for the ERB. The projections are based on changes to the ERB plan made in FY 2012 and based on a closed group with a 3.75% payroll growth. Additional assumptions used for the projections include:

1) the unfunded liability payment on new entrant payroll and new benefit structure for new hires after June 30, 2010;

2) an actual return on assets of 18.6% for FY 2010 and 8% thereafter;

3) employee contribution rates of 9.40% for FY 2010 and FY 2011, then 7.90% thereafter;

4) employer contribution rates of 10.90% for FY 2010 and FY 2011, 13.15% for FY 2012 and 13.90% thereafter; and

5) an additional change that impacts benefits by 10% for new hires in FY 2012 and later.

If the plan changes are implemented in FY 2012, Ms. DeLange said Buck Consultants projects the Educational Retirement Fund to reach zero in assets in 2044, about five years later than if no changes are made. Additionally, if the changes are implemented in FY 2015, the projections show the fund having zero assets in FY 2043, about four years later than if no changes are made.

There was a lengthy discussion about the problems associated with the projections provided by Buck Consultants because the GRS had supplied inadequate information. Staff told the task force members that the GRS had been asked to supply the current and complete information but simply had not fully responded to the requests. Mr. Slattery noted that the PERA's new actuary has already completed a review of the 2009 PERA report and has reached results that are reasonably the same as those in the report. Members noted also that some of the errors, although troublesome, are errors in calculating "test case" benefits, not actual benefits calculations. Ms. Goodwin followed by noting that the ERB's actuary will be reviewing the 1.5% growth rate that had been questioned by Buck Consultants.

Members inquired as to whether Buck Consultants would be providing a summary of its work for the task force. Ms. DeLange responded that the summary is already being written and is presently in draft form. She added that it should be finalized in a few weeks.

Next, there was a motion to approve the minutes from the task force meeting held on October 12 and 13, 2010. The motion was seconded and unanimously passed.

Proposed Legislation for Task Force Recommendation

Next, the members held discussions regarding potential legislation the task force would consider for endorsement and referral to the Investments Oversight Committee (IOC).

The first proposed legislative initiative considered by the task force is discussion draft number .183068.1, which would delay employer contribution increases to the ERB required in legislation passed in 2005 and in 2009. The draft provides that the state's contribution rates into the Educational Retirement Fund would be increased by .5% per year for six years, beginning July 1, 2011. The contribution rates would go from 10.9% to 11.4% in FY 2012 and incrementally increase yearly, resulting in a rate of 13.9% beginning in FY 2017 and continuing thereafter. A motion in support of endorsing the proposed legislation was seconded, and it passed without opposition.

The next proposed legislative initiative considered by the task force is discussion draft number .183087.2, which would capture a portion of the docket and jury fees and deposit it in the state general fund. Additionally, the draft provides that judicial and magistrate retirement benefits would be paid from the general fund. Members expressed concern about the provisions of the draft because the court docket and jury fees fluctuate. Some members expressed a concern regarding drafting legislation that could provide an incentive for the courts to raise fees. After further discussion, there was a motion in support of endorsing the proposed legislation, which was seconded and passed without opposition.

The next proposed legislative initiative considered by the task force is discussion draft number .183080.2, which would amend the Public Employees Retirement Act to allow retired members to return to work for a state entity on a part-time basis without suspending their retirement benefits, provided they do not earn more than $15,000 annually. There was discussion among the members who had concerns that this proposed legislation would effectively "undo" the double-dipping legislation that had been passed in the 2010 legislative session. Some members asserted that the proposed $15,000 cap is too high, while others expressed concern that it might be too low. Members of the PERA board noted that they were unwilling to support an amount higher than the proposed $15,000 cap. There was a motion in support of endorsing the proposed legislation, which was seconded and passed without opposition.

The next proposed legislative initiative considered by the task force is discussion draft number .183084.3, which provides the statutory framework for the PERA's ideal plan. The ideal plan would change the Public Employees Retirement Act significantly. The provisions of the proposed ideal plan can be found on the PERA web site and in the handouts from previous RSSTF meetings when the plan was explained in detail to the task force.

A lengthy discussion ensued regarding the merits of the PERA ideal plan. Of significant concern were the provisions of the plan that would require uniform members, particularly firefighters, to work 25 years for unreduced retirement benefits. Members noted that uniform members work in jobs that see enhanced burnout issues. Some members agreed with provisions that would increase the employees' contribution rates, but not the provision lengthening the required years of service. Other members pointed out that because most municipalities have contracts with provisions allowing the municipality to pay up to 75% of an employee's contribution, raising the employee contribution rates will most likely negatively impact the municipalities at a time when they are financially strapped already. Other members pointed out that the length of service required for retirement of uniform members is a huge recruitment tool. Some task force members expressed the view that the ideal plan is overreaching.

There was discussion regarding a motion to amend the proposed PERA ideal plan legislation. However, the members could not come to consensus regarding how to amend it. Because the members could not reach agreement regarding the proposed legislation that would implement the PERA ideal plan, the co-chair suggested that the task force send the legislative initiative to the IOC for its review, and the task force members agreed.

Representative Stewart thanked the members for their efforts and hard work. With no other task force business, the meeting was adjourned at 3:15 p.m.

LEGISLATION

BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; DELAYING EMPLOYER CONTRIBUTION INCREASES FOR EDUCATIONAL RETIREMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 22-11-21 NMSA 1978 (being Laws 1967, Chapter 16, Section 144, as amended) is amended to read:

"22-11-21. CONTRIBUTIONS--MEMBERS--LOCAL ADMINISTRATIVE UNITS.--

A. Except as provided in Subsection C of this section, each member shall make contributions to the fund according to the following schedule:

(1) through June 30, 2005, an amount equal to seven and six-tenths percent of the member's annual salary;

(2) from July 1, 2005 through June 30, 2006, an amount equal to seven and six hundred seventy-five

thousandths percent of the member's annual salary;

(3) from July 1, 2006 through June 30, 2007, an amount equal to seven and seventy-five hundredths percent of the member's annual salary;

(4) from July 1, 2007 through June 30, 2008, an amount equal to seven and eight hundred twenty-five thousandths percent of the member's annual salary; and

(5) on and after July 1, 2008, an amount equal to seven and nine-tenths percent of the member's annual salary, except that from July 1, 2009 through June 30, 2011, for members whose annual salary is greater than twenty thousand dollars ($20,000), the member contribution rate shall be nine and four-tenths percent of the member's annual salary.

B. Except as provided in Subsection C of this section, each local administrative unit shall make an annual contribution to the fund according to the following schedule:

(1) through June 30, 2005, a sum equal to eight and sixty-five hundredths percent of the annual salary of each member employed by the local administrative unit;

(2) from July 1, 2005 through June 30, 2006, a sum equal to nine and forty-hundredths percent of the annual salary of each member employed by the local administrative unit;

(3) from July 1, 2006 through June 30, 2007, a sum equal to ten and fifteen-hundredths percent of the annual

salary of each member employed by the local administrative unit;

(4) from July 1, 2007 through June 30, 2008, a sum equal to ten and ninety-hundredths percent of the annual salary of each member employed by the local administrative unit;

(5) from July 1, 2008 through June 30, 2009, a sum equal to eleven and sixty-five hundredths percent of the annual salary of each member employed by the local administrative unit;

(6) from July 1, 2009 through June 30, 2011, a sum equal to ten and nine-tenths percent of the annual salary of each member employed by the local administrative unit, except that for members whose annual salary is twenty thousand dollars ($20,000) or less, the local administrative unit shall contribute twelve and four-tenths percent of the member's annual salary;

(7) from July 1, 2011 through June 30, 2012, a sum equal to [~~thirteen and fifteen-hundredths~~] eleven and four-tenths percent of the annual salary of each member employed by the local administrative unit; [~~and~~]

(8) from July 1, 2012 through June 30, 2013, a sum equal to eleven and four-tenths percent of the annual salary of each member employed by the local administrative unit;

(9) from July 1, 2013 through June 30, 2014, a sum equal to eleven and nine-tenths percent of the annual salary of each member employed by the local administrative unit;

(10) from July 1, 2014 through June 30, 2015, a sum equal to twelve and four-tenths percent of the annual salary of each member employed by the local administrative unit;

(11) from July 1, 2015 through June 30, 2016, a sum equal to twelve and nine-tenths percent of the annual salary of each member employed by the local administrative unit;

(12) from July 1, 2016 through June 30, 2017, a sum equal to twelve and nine-tenths percent of the annual salary of each member employed by the local administrative unit; and

[~~(8)~~] (13) on and after July 1, [~~2012~~] 2017, a sum equal to thirteen and nine-tenths percent of the annual salary of each member employed by the local administrative unit.

C. If, in a calendar year, the salary of a member, initially employed by a local administrative unit on or after July 1, 1996, equals the annual compensation limit set pursuant to Section 401(a)(17) of the Internal Revenue Code of 1986, as amended, then:

(1) for the remainder of that calendar year, no additional member contributions or local administrative unit contributions for that member shall be made pursuant to this section; provided that no member shall be denied service credit solely because contributions are not made by the member or on behalf of the member pursuant to the provisions of this subsection; and

(2) the amount of the annual compensation limit shall be divided into four equal portions, and, for purposes of attributing contributory employment and crediting service credit, each portion shall be attributable to one of the four quarters of the calendar year."

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2011.

HOUSE BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

AN ACT

RELATING TO JUDICIAL RETIREMENT; PROVIDING THAT CERTAIN AMOUNTS OF THE CIVIL DOCKET AND JURY FEES BE DEPOSITED INTO THE GENERAL FUND; PROVIDING THAT CONTRIBUTIONS TO JUDICIAL AND MAGISTRATE RETIREMENT BE PROVIDED FROM THE GENERAL FUND; INCREASING CONTRIBUTIONS TO THE JUDICIAL AND MAGISTRATE RETIREMENT FUNDS; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 10-12B-1 NMSA 1978 (being Laws 1992, Chapter 111, Section 1) is amended to read:

"10-12B-1. SHORT TITLE.--[~~Sections 1 through 17 of this act~~] Chapter 10, Article 12B NMSA 1978 may be cited as the "Judicial Retirement Act"."

SECTION 2. Section 10-12B-11 NMSA 1978 (being Laws 1992, Chapter 111, Section 11, as amended) is amended to read:

.183087.2

underscored material = new
[~~bracketed material~~] = delete

"10-12B-11. EMPLOYER CONTRIBUTIONS.--[~~A.~~] The member's court shall contribute [~~the following amounts to the fund:~~

~~(1) prior to July 1, 2005, nine percent of salary for each member in office;~~

~~(2) from July 1, 2005 through June 30, 2006, ten and one-half percent of salary for each member in office; and~~

~~(3) on and after July 1, 2006, twelve percent of salary for each member in office, except that, from July 1, 2009 through June 30, 2011, for members whose annual salary is greater than twenty thousand dollars ($20,000), the member's court contribution rate shall be ten and one-half~~] thirty and forty-nine hundredths percent of salary for each member in office.

[~~B. Thirty-eight dollars ($38.00) from each civil case docket fee paid in the district court, twenty-five dollars ($25.00) from each civil docket fee paid in metropolitan court and ten dollars ($10.00) from each jury fee paid in metropolitan court shall be paid by the court clerk to the employer's accumulation fund.~~]"

SECTION 3. Section 10-12C-11 NMSA 1978 (being Laws 1992, Chapter 118, Section 11, as amended) is amended to read:

"10-12C-11. EMPLOYER CONTRIBUTIONS.--[~~A.~~] The state, through the administrative office of the courts, shall contribute [~~the following amounts to the fund:~~

underscored material = new
[~~bracketed material~~] = delete

~~(1) through June 30, 2006, ten percent of salary for each member in office; and~~

~~(2) on and after July 1, 2006, eleven percent of salary for each member in office, except that, from July 1, 2009 through June 30, 2011, for members whose annual salary is greater than twenty thousand dollars ($20,000), the state contribution rate shall be nine and one-half~~] twenty-five and ninety-six hundredths percent of salary for each member in office.

[~~B. Twenty-five dollars ($25.00) from each civil case docket fee paid in magistrate court and ten dollars ($10.00) from each civil jury fee paid in magistrate court shall be paid by the court clerk to the employer's accumulation fund.~~]"

SECTION 4. Section 35-6-1 NMSA 1978 (being Laws 1968, Chapter 62, Section 92, as amended) is amended to read:

"35-6-1. MAGISTRATE COSTS--SCHEDULE--DEFINITION OF "CONVICTED".--

A. Magistrate judges, including metropolitan court judges, shall assess and collect and shall not waive, defer or suspend the following costs:

docket fee, criminal actions under Section 29-5-1 NMSA 1978 . . . . $ 1.00;

docket fee, to be collected prior to docketing any other criminal action, except as provided in Subsection B

underscored material = new
[~~bracketed material~~] = delete

of Section 35-6-3 NMSA 1978 . . . . 20.00. Proceeds from this docket fee shall be transferred to the administrative office of the courts for deposit in the court facilities fund;

docket fee, twenty dollars ($20.00) of which shall be deposited in the court automation fund [~~and~~], fifteen dollars ($15.00) of which shall be deposited in the civil legal services fund and twenty-five dollars ($25.00) of which shall be deposited in the general fund, to be collected prior to docketing any civil action, except as provided in Subsection A of Section 35-6-3 NMSA 1978 . . . . 72.00;

jury fee, ten dollars ($10.00) of which shall be deposited in the general fund, to be collected from the party demanding trial by jury in any civil action at the time the demand is filed or made 25.00;

copying fee, for making and certifying copies of any records in the court, for each page copied by photographic process . . . . .50. Proceeds from this copying fee shall be transferred to the administrative office of the courts for deposit in the court facilities fund; and

copying fee, for computer-generated or electronically transferred copies, per page . . . . 1.00. Proceeds from this copying fee shall be transferred

underscored material = new
[~~bracketed material~~] = delete

to the administrative office of the courts for deposit in the court automation fund.

Except as otherwise specifically provided by law, docket fees shall be paid into the court facilities fund.

B. Except as otherwise provided by law, no other costs or fees shall be charged or collected in the magistrate or metropolitan court.

C. The magistrate or metropolitan court may grant free process to any party in any civil proceeding or special statutory proceeding upon a proper showing of indigency. The magistrate or metropolitan court may deny free process if it finds that the complaint on its face does not state a cause of action.

D. As used in this subsection, "convicted" means the defendant has been found guilty of a criminal charge by the magistrate or metropolitan judge, either after trial, a plea of guilty or a plea of nolo contendere. Magistrate judges, including metropolitan court judges, shall assess and collect and shall not waive, defer or suspend the following costs:

(1) corrections fee, to be collected upon conviction from persons convicted of violating any provision of the Motor Vehicle Code involving the operation of a motor vehicle, convicted of a crime constituting a misdemeanor or a petty misdemeanor or convicted of violating any ordinance that may be enforced by the imposition of a term of imprisonment as

follows:

in a county with a metropolitan court $10.00;

in a county without a metropolitan court 20.00;

(2) court automation fee, to be collected upon conviction from persons convicted of violating any provision of the Motor Vehicle Code involving the operation of a motor vehicle, convicted of a crime constituting a misdemeanor or a petty misdemeanor or convicted of violating any ordinance that may be enforced by the imposition of a term of imprisonment 10.00;

(3) traffic safety fee, to be collected upon conviction from persons convicted of violating any provision of the Motor Vehicle Code involving the operation of a motor vehicle 3.00;

(4) judicial education fee, to be collected upon conviction from persons convicted of operating a motor vehicle in violation of the Motor Vehicle Code, convicted of a crime constituting a misdemeanor or a petty misdemeanor or convicted of violating any ordinance punishable by a term of imprisonment 3.00;

(5) jury and witness fee, to be collected upon conviction from persons convicted of operating a motor vehicle in violation of the Motor Vehicle Code, convicted of a crime constituting a misdemeanor or a petty misdemeanor or convicted of violating any ordinance punishable by a term of imprisonment

. . . . 5.00;

(6) brain injury services fee, to be collected upon conviction from persons convicted of violating any provision of the Motor Vehicle Code involving the operation of a motor vehicle . . . . 5.00; and

(7) court facilities fee, to be collected upon conviction from persons convicted of violating any provision of the Motor Vehicle Code involving the operation of a motor vehicle, convicted of a crime constituting a misdemeanor or a petty misdemeanor or convicted of violating any ordinance that may be enforced by the imposition of a term of imprisonment as follows:

in a county with a metropolitan court 24.00;

in any other county . . . . 10.00.

E. Metropolitan court judges shall assess and collect and shall not waive, defer or suspend as costs a mediation fee not to exceed five dollars ($5.00) for the docketing of small claims and criminal actions specified by metropolitan court rule. Proceeds of the mediation fee shall be deposited into the metropolitan court mediation fund."

SECTION 5. APPROPRIATION.--Three million fifty-one thousand dollars ($3,051,000) is appropriated from the general fund to the department of finance and administration for expenditure in fiscal year 2012 for distribution to the supreme court, court of appeals, district courts, Bernalillo county metropolitan court and the administrative office of the courts to pay the increased employer contributions. Any unexpended or unencumbered balance remaining at the end of fiscal year 2012 shall not revert to the general fund.

SECTION 6. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2011.

HOUSE BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

AN ACT

RELATING TO PUBLIC EMPLOYEES RETIREMENT; AMENDING THE PUBLIC EMPLOYEES RETIREMENT ACT TO CHANGE THE REQUIREMENTS FOR RETURNING TO PUBLIC EMPLOYMENT AFTER RETIREMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 10-11-8 NMSA 1978 (being Laws 1987, Chapter 253, Section 8, as amended) is amended to read:

"10-11-8. NORMAL RETIREMENT--RETURN TO EMPLOYMENT--BENEFITS CONTINUED--EMPLOYER CONTRIBUTIONS.--

A. A member may retire upon fulfilling the following requirements prior to the selected date of retirement:

(1) a written application for normal retirement, in the form prescribed by the association, is filed with the association;

(2) employment is terminated with all employers

covered by any state system or the educational retirement system;

(3) the member selects an effective date of retirement that is the first day of a calendar month; and

(4) the member meets the age and service credit requirement for normal retirement specified in the coverage plan applicable to the member.

B. The amount of normal retirement pension is determined in accordance with the coverage plan applicable to the member.

C. Except as provided in Subsection D of this section, on or after [~~July 1, 2010, a retired member may be subsequently employed by an affiliated public employer only pursuant to the following provisions:~~

~~(1) the retired member has not been employed as an employee of an affiliated public employer or retained as an independent contractor by the affiliated public employer from which the retired member retired for at least twelve consecutive months from the date of retirement to the commencement of employment or reemployment with an affiliated public employer;~~

~~(2) the retired member's pension shall be suspended upon commencement of the employment;~~

~~(3) except as provided in Subsection F of this section, the previously retired member shall not become a~~

~~member and thus the previously retired member shall accrue no service credit and the previously retired member and that person's affiliated public employer shall make no contributions under any coverage plan pursuant to the Public Employees Retirement Act; and~~

~~(4) upon termination of the subsequent employment, the previously retired member's pension shall resume in accordance with the provisions of Subsection A of this section~~] July 1, 2011, if a member retires and is subsequently employed by any affiliated public employer, the retired member's pension shall be suspended effective the first day of the month following the month in which the previously retired member has earned fifteen thousand dollars ($15,000) or more during a calendar year. When the pension is suspended, the following conditions shall apply:

(1) the retired member who is subsequently employed by an affiliated public employer shall become a member. The previously retired member and the subsequent affiliated public employer shall make the required employee and employer contributions, and the previously retired member shall accrue service credit for the period of subsequent employment; and

(2) when a previously retired member terminates the subsequent employment with an affiliated public employer, the member shall retire according to the provisions of the

Public Employees Retirement Act, subject to the following conditions:

(a) payment of the pension shall resume in accordance with the provisions of Subsection A of this section;

(b) unless the previously retired member accrued at least three years of service credit on account of the subsequent employment, the recalculation of pension shall: 1) employ the form of payment selected by the previously retired member at the time of the first retirement; and 2) use the provisions of the coverage plan applicable to the member on the date of the first retirement; and

(c) the recalculated pension shall not be less than the amount of the suspended pension.

D. The provisions of Subsection C of this section do not apply to:

(1) a retired member employed by the legislature for legislative session work; or

(2) a retired member who is elected to serve a term as an elected official; provided that:

(a) the retired member files an irrevocable exemption from membership with the association within thirty days of taking office; and

(b) the irrevocable exemption shall be for the elected official's term of office.

E. A retired member who returns to employment during

underscored material = new
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retirement pursuant to Subsection D of this section is entitled to receive retirement benefits but is not entitled to accrue service credit or to acquire or purchase service credit in the future for the period of the previously retired member's reemployment with an affiliated public employer.

[~~F. At any time during a previously retired member's subsequent employment pursuant to Subsection C of this section, the previously retired member may elect to become a member and the following conditions shall apply:~~

~~(1) the previously retired member and the subsequent affiliated public employer shall make the required employee and employer contributions, and the previously retired member shall accrue service credit for the period of subsequent employment; and~~

~~(2) when the previously retired member terminates the subsequent employment with an affiliated public employer, the previously retired member shall retire according to the provisions of the Public Employees Retirement Act, subject to the following conditions:~~

~~(a) payment of the pension shall resume in accordance with the provisions of Subsection A of this section;~~

~~(b) unless the previously retired member accrued at least three years of service credit on account of the subsequent employment, the recalculation of pension shall: 1) employ the form of payment selected by the previously~~

underscored material = new
[~~bracketed material~~] = delete

~~retired member at the time of the first retirement; and 2) use the provisions of the coverage plan applicable to the member on the date of the first retirement; and~~

~~(c) the recalculated pension shall not be less than the amount of the suspended pension.~~

~~G.~~] F. A previously retired member who returned to work with an affiliated public employer prior to July 1, 2010 shall be subject to the provisions of this section in effect on the date the previously retired member returned to work; provided that, on and after July 1, 2010, the previously retired member shall pay the employee contribution in an amount specified in the Public Employees Retirement Act for the position in which the previously retired member is employed; <u>and provided further that the affiliated public employer's contributions as specified in that act or as adjusted for full actuarial cost at the determination of the association shall be paid to the fund</u>.

[~~H.~~] <u>G.</u> The pension of a member who has three or more years of service credit under each of two or more coverage plans shall be determined in accordance with the coverage plan that produces the highest pension. The pension of a member who has service credit under two or more coverage plans but who has three or more years of service credit under only one of those coverage plans shall be determined in accordance with the coverage plan in which the member has three or more years of service credit. If the service credit is acquired under two different coverage plans applied to the same affiliated public employer as a consequence of an election by the members, adoption by the affiliated public employer or a change in the law that results in the application of a coverage plan with a greater pension, the greater pension shall be paid a member retiring from the affiliated public employer under which the change in coverage plan took place regardless of the amount of service credit under the coverage plan producing the greater pension; provided the member has three or more years of continuous employment with that affiliated public employer immediately preceding or immediately preceding and immediately following the date the coverage plan changed. The provisions of each coverage plan for the purpose of this subsection shall be those in effect at the time the member ceased to be covered by the coverage plan. "Service credit", for the purposes of this subsection, shall be only personal service rendered an affiliated public employer and credited to the member under the provisions of Subsection A of Section 10-11-4 NMSA 1978. Service credited under any other provision of the Public Employees Retirement Act shall not be used to satisfy the three-year service credit requirement of this subsection."

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2011.

BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO RETIREMENT; AMENDING THE PUBLIC EMPLOYEES RETIREMENT ACT TO CREATE RETIREMENT PLANS AND AMEND COST-OF-LIVING ADJUSTMENTS FOR UNIFORMED AND NONUNIFORMED STATE AND MUNICIPAL EMPLOYEES HIRED ON OR AFTER JULY 1, 2011 AND TO CLOSE ELIGIBILITY FOR EXISTING RETIREMENT PLANS TO EMPLOYEES HIRED ON OR AFTER JULY 1, 2011; ADDING NEW RETIREMENT PLANS TO THE CATEGORIES OF ENHANCED PLANS IN THE RETIREE HEALTH CARE ACT; REPEALING SECTIONS OF LAW IN LAWS 2009; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2003; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW BY REPEALING LAWS 2009, CHAPTER 287, SECTION 2.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Public Employees Retirement Act is enacted to read:

"[NEW MATERIAL] STATE GENERAL MEMBER COVERAGE PLAN 4--APPLICABILITY.--State general member coverage plan 4 is applicable to state general members who were not members or retired members on June 30, 2011 and who are not specifically covered by another coverage plan."

SECTION 2. A new section of the Public Employees Retirement Act is enacted to read:

"[NEW MATERIAL] STATE GENERAL MEMBER COVERAGE PLAN 4--AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL RETIREMENT.--Under state general member coverage plan 4, the age and service credit requirements for normal retirement are:

A. age sixty-five years or older and five or more years of service credit;

B. age sixty years and twenty-five or more years of service credit; or

C. age fifty-five years if the sum of the member's age and years of service credit equals at least eighty-five."

SECTION 3. A new section of the Public Employees Retirement Act is enacted to read:

"[NEW MATERIAL] STATE GENERAL MEMBER COVERAGE PLAN 4--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under state general member coverage plan 4, the amount of pension under form of payment A is equal to two and one-half percent of final average salary multiplied by service credit. The amount shall not exceed ninety percent of the final average salary."

SECTION 4. A new section of the Public Employees Retirement Act is enacted to read:

"[NEW MATERIAL] STATE GENERAL MEMBER COVERAGE PLAN 4--MEMBER CONTRIBUTION RATE.--A member under state general member coverage plan 4 shall contribute seven percent of salary starting with the first full pay period that ends within the calendar month in which state general member coverage plan 4 becomes applicable to the member."

SECTION 5. A new section of the Public Employees Retirement Act is enacted to read:

"[NEW MATERIAL] STATE GENERAL MEMBER COVERAGE PLAN 4--STATE CONTRIBUTION RATE.--The state shall contribute fourteen percent of the salary of each member covered by state general member coverage plan 4 starting with the first full pay period that ends within the calendar month in which state general member coverage plan 4 becomes applicable to the member."

SECTION 6. A new section of the Public Employees Retirement Act is enacted to read:

"[NEW MATERIAL] STATE POLICE MEMBER AND ADULT CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 2--APPLICABILITY.--State police member and adult correctional officer member coverage plan 2 is applicable to state police members and adult correctional officer members who were not members or retired members on June 30, 2011."

SECTION 7. A new section of the Public Employees

Retirement Act is enacted to read:

"[<u>NEW MATERIAL</u>] STATE POLICE MEMBER AND ADULT CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 2--AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL RETIREMENT.--Under state police member and adult correctional officer member coverage plan 2, the age and service credit requirements for normal retirement are:

A. age sixty-five years or older and five or more years of service credit;

B. age fifty-five years if the sum of the member's age and years of service credit equals at least eighty; or

C. age fifty years and twenty-five or more years of service credit."

SECTION 8. A new section of the Public Employees Retirement Act is enacted to read:

"[<u>NEW MATERIAL</u>] STATE POLICE MEMBER AND ADULT CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 2--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under state police member and adult correctional officer member coverage plan 2, the amount of pension under form of payment A is equal to three and one-half percent of final average salary multiplied by service credit. The amount shall not exceed ninety percent of the final average salary."

SECTION 9. A new section of the Public Employees Retirement Act is enacted to read:

"[<u>NEW MATERIAL</u>] STATE POLICE MEMBER AND ADULT CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 2--MEMBER CONTRIBUTION RATE.--A member under state police member and adult correctional officer member coverage plan 2 shall contribute twelve percent of salary starting with the first full pay period that ends within the calendar month in which state police member and adult correctional officer member coverage plan 2 becomes applicable to the member."

SECTION 10. A new section of the Public Employees Retirement Act is enacted to read:

"[NEW MATERIAL] STATE POLICE MEMBER AND ADULT CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 2--STATE CONTRIBUTION RATE.--The state shall contribute twenty-four percent of the salary of each member covered by state police member and adult correctional officer member coverage plan 2 starting with the first full pay period that ends within the calendar month in which state police member and adult correctional officer member coverage plan 2 becomes applicable to the member."

SECTION 11. A new section of the Public Employees Retirement Act is enacted to read:

"[NEW MATERIAL] MUNICIPAL GENERAL MEMBER COVERAGE PLAN 5--APPLICABILITY.--Municipal general member coverage plan 5 is applicable to municipal general members who were not members or retired members on June 30, 2011 and who are not specifically covered by another coverage plan."

SECTION 12. A new section of the Public Employees Retirement Act is enacted to read:

"[NEW MATERIAL] MUNICIPAL GENERAL MEMBER COVERAGE PLAN 5--AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL RETIREMENT.--Under municipal general member coverage plan 5, the age and service credit requirements for normal retirement are:

A. age sixty-five years or older and five or more years of service credit;

B. age sixty years and twenty-five or more years of service credit; or

C. age fifty-five years if the sum of the member's age and years of service credit equals at least eighty-five."

SECTION 13. A new section of the Public Employees Retirement Act is enacted to read:

"[NEW MATERIAL] MUNICIPAL GENERAL MEMBER COVERAGE PLAN 5--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal general member coverage plan 5, the amount of pension under form of payment A is equal to two percent of final average salary multiplied by service credit. The amount shall not exceed ninety percent of the final average salary."

SECTION 14. A new section of the Public Employees Retirement Act is enacted to read:

"[NEW MATERIAL] MUNICIPAL GENERAL MEMBER COVERAGE PLAN 5--MEMBER CONTRIBUTION RATE.--A member under municipal general member coverage plan 5 shall contribute five and sixty-seven hundredths percent of salary starting with the first full pay period that ends within the calendar month in which municipal

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general member coverage plan 5 becomes applicable to the member."

SECTION 15. A new section of the Public Employees Retirement Act is enacted to read:

"[NEW MATERIAL] MUNICIPAL GENERAL MEMBER COVERAGE PLAN 5--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--An affiliated public employer shall contribute eleven and thirty-three hundredths percent of the salary of each member covered by municipal general member coverage plan 5 starting with the first full pay period that ends within the calendar month in which municipal general member coverage plan 5 becomes applicable to the member."

SECTION 16. A new section of the Public Employees Retirement Act is enacted to read:

"[NEW MATERIAL] MUNICIPAL GENERAL MEMBER COVERAGE PLAN 6--APPLICABILITY.--Municipal general member coverage plan 6 is applicable to a designated group of municipal general members who were not members or retired members on June 30, 2011 whose affiliated public employer has adopted municipal general member coverage plan 6 for the designated group of municipal general members hired on or after July 1, 2011. The affiliated public employer shall certify this adoption to the retirement board in the form prescribed by the retirement board."

SECTION 17. A new section of the Public Employees Retirement Act is enacted to read:

underscored material = new
[~~bracketed material~~] = delete

"[NEW MATERIAL] MUNICIPAL GENERAL MEMBER COVERAGE PLAN 6--AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL RETIREMENT.--Under municipal general member coverage plan 6, the age and service credit requirements for normal retirement are:

A. age sixty-five years or older and five or more years of service credit;

B. age sixty years and twenty-five or more years of service credit; or

C. age fifty-five years if the sum of the member's age and years of service credit equals at least eighty-five."

SECTION 18. A new section of the Public Employees Retirement Act is enacted to read:

"[NEW MATERIAL] MUNICIPAL GENERAL MEMBER COVERAGE PLAN 6--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal general member coverage plan 6, the amount of pension under form of payment A is equal to two and one-half percent of final average salary multiplied by service credit. The amount shall not exceed ninety percent of the final average salary."

SECTION 19. A new section of the Public Employees Retirement Act enacted to read:

"[NEW MATERIAL] MUNICIPAL GENERAL MEMBER COVERAGE PLAN 6--MEMBER CONTRIBUTION RATE.--A member under municipal general member coverage plan 6 shall contribute seven percent of salary starting with the first full pay period that ends within the calendar month in which municipal general member coverage plan

6 becomes applicable to the member."

SECTION 20. A new section of the Public Employees Retirement Act is enacted to read:

"[NEW MATERIAL] MUNICIPAL GENERAL MEMBER COVERAGE PLAN 6--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--An affiliated public employer shall contribute fourteen percent of the salary of each member covered by municipal general member coverage plan 6 starting with the first pay period that ends within the calendar month in which municipal general member coverage plan 6 becomes applicable to the member."

SECTION 21. A new section of the Public Employees Retirement Act is enacted to read:

"[NEW MATERIAL] MUNICIPAL PUBLIC SAFETY MEMBER COVERAGE PLAN 6--APPLICABILITY.--

A. Municipal public safety member coverage plan 6 is applicable to municipal public safety members who were not members or retired members on June 30, 2011 and whose affiliated public employer has adopted municipal public safety member coverage plan 6 for its municipal public safety officers. The affiliated public employer shall certify this adoption to the retirement board in the form prescribed by the retirement board.

B. For the purposes of this section, "municipal public safety officer" includes municipal police members, municipal fire members and municipal detention officer members."

SECTION 22. A new section of the Public Employees Retirement Act is enacted to read:

"[NEW MATERIAL] MUNICIPAL PUBLIC SAFETY MEMBER COVERAGE PLAN 6--AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL RETIREMENT.--Under municipal public safety member coverage plan 6, the age and service credit requirements for normal retirement are:

A. age sixty years or older and five or more years of service credit;

B. age fifty-five years if the sum of the member's age and years of service credit equals at least eighty; or

C. age fifty years and twenty-five or more years of service credit."

SECTION 23. A new section of the Public Employees Retirement Act is enacted to read:

"[NEW MATERIAL] MUNICIPAL PUBLIC SAFETY MEMBER COVERAGE PLAN 6--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal public safety member coverage plan 6, the amount of pension under form of payment A is equal to two and nine-tenths percent of final average salary multiplied by service credit. The amount shall not exceed ninety percent of the final average salary."

SECTION 24. A new section of the Public Employees Retirement Act is enacted to read:

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"[NEW MATERIAL] MUNICIPAL PUBLIC SAFETY MEMBER COVERAGE PLAN 6--MEMBER CONTRIBUTION RATE.--A member under municipal public safety member coverage plan 6 shall contribute ten percent of salary starting with the first full pay period that ends within the calendar month in which municipal public safety member coverage plan 6 becomes applicable to the member."

SECTION 25. A new section of the Public Employees Retirement Act is enacted to read:

"[NEW MATERIAL] MUNICIPAL PUBLIC SAFETY MEMBER COVERAGE PLAN 6--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--An affiliated public employer shall contribute twenty percent of the salary of each member covered by municipal public safety member coverage plan 6 starting with the first full pay period that ends within the calendar month in which municipal public safety member coverage plan 6 becomes applicable to the member."

SECTION 26. A new section of the Public Employees Retirement Act is enacted to read:

"[NEW MATERIAL] MUNICIPAL PUBLIC SAFETY MEMBER COVERAGE PLAN 7--APPLICABILITY.--

A. Municipal public safety member coverage plan 7 is applicable to municipal public safety members who were not members or retired members on June 30, 2011 and whose affiliated public employer has adopted municipal public safety member coverage plan 7 for its municipal public safety officers. The affiliated public employer shall certify this adoption to the retirement board in the form prescribed by the retirement board.

B. For the purposes of this section, "municipal public safety officer" includes municipal police members, municipal fire members and municipal detention officer members."

SECTION 27. A new section of the Public Employees Retirement Act is enacted to read:

"[NEW MATERIAL] MUNICIPAL PUBLIC SAFETY MEMBER COVERAGE PLAN 7--AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL RETIREMENT.--Under municipal public safety member coverage plan 7, the age and service credit requirements for normal retirement are:

A. age sixty years or older and five or more years of service credit;

B. age fifty-five years if the sum of the member's age and years of service credit equals at least eighty; or

C. age fifty years and twenty-five or more years of service credit."

SECTION 28. A new section of the Public Employees Retirement Act is enacted to read:

"[NEW MATERIAL] MUNICIPAL PUBLIC SAFETY MEMBER COVERAGE PLAN 7--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal public safety member coverage plan 7, the amount of pension under form of payment A is equal to three and one-half percent of final average salary multiplied by service credit. The amount shall not exceed ninety percent of the final average salary."

SECTION 29. A new section of the Public Employees Retirement Act is enacted to read:

"[NEW MATERIAL] MUNICIPAL PUBLIC SAFETY MEMBER COVERAGE PLAN 7--MEMBER CONTRIBUTION RATE.--A member under municipal public safety member coverage plan 7 shall contribute twelve percent of salary starting with the first full pay period that ends within the calendar month in which municipal public safety member coverage plan 7 becomes applicable to the member."

SECTION 30. A new section of the Public Employees Retirement Act is enacted to read:

"[NEW MATERIAL] MUNICIPAL PUBLIC SAFETY MEMBER COVERAGE PLAN 7--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--An affiliated public employer shall contribute twenty-four percent of the salary of each member covered by municipal public safety member coverage plan 7 starting with the first full pay period that ends within the calendar month in which municipal public safety member coverage plan 7 becomes applicable to the member."

SECTION 31. Section 10-7C-15 NMSA 1978 (being Laws 1990, Chapter 6, Section 15, as amended by Laws 2009, Chapter 287, Section 2 and by Laws 2009, Chapter 288, Section 3) is amended

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to read:

"10-7C-15. RETIREE HEALTH CARE FUND CONTRIBUTIONS.--

A. Following completion of the preliminary contribution period, each participating employer shall make contributions to the fund pursuant to the following provisions:

(1) for participating employees who are not members of an enhanced retirement plan, the employer's contribution shall equal:

(a) one and three-tenths percent of each participating employee's salary for the period from July 1, 2002 through June 30, 2010;

(b) one and six hundred sixty-six thousandths percent of each participating employee's salary for the period from July 1, 2010 through June 30, 2011;

(c) one and eight hundred thirty-four thousandths percent of each participating employee's salary for the period from July 1, 2011 through June 30, 2012; and

(d) two percent of each participating employee's salary beginning July 1, 2012;

(2) for participating employees who are members of an enhanced retirement plan, the employer's contribution shall equal:

(a) one and three-tenths percent of each participating employee's salary for the period from July 1, 2002 through June 30, 2010;

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(b) two and eighty-four thousandths percent of each participating employee's salary for the period from July 1, 2010 through June 30, 2011;

(c) two and two hundred ninety-two thousandths percent of each participating employee's salary for the period from July 1, 2011 through June 30, 2012; and

(d) two and one-half percent of each participating employee's salary beginning July 1, 2012; and

(3) each employer that chooses to become a participating employer after January 1, 1998 shall make contributions to the fund in the amount determined to be appropriate by the board.

B. Following completion of the preliminary contribution period, each participating employee, as a condition of employment, shall contribute to the fund pursuant to the following provisions:

(1) for a participating employee who is not a member of an enhanced retirement plan, the employee's contribution shall equal:

(a) sixty-five hundredths of one percent of the employee's salary for the period from July 1, 2002 through June 30, 2010;

(b) eight hundred thirty-three thousandths of one percent of the employee's salary for the period from July 1, 2010 through June 30, 2011;

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(c) nine hundred seventeen thousandths of one percent of the employee's salary for the period from July 1, 2011 through June 30, 2012; and

(d) one percent of the employee's salary beginning July 1, 2012;

(2) for a participating employee who is a member of an enhanced retirement plan, the employee's contribution shall equal:

(a) sixty-five hundredths of one percent of the employee's salary for the period from July 1, 2002 through June 30, 2010;

(b) one and forty-two thousandths percent of the employee's salary for the period from July 1, 2010 through June 30, 2011;

(c) one and one hundred forty-six thousandths percent of the employee's salary for the period from July 1, 2011 through June 30, 2012; and

(d) one and one-fourth percent of the employee's salary beginning July 1, 2012; and

(3) as a condition of employment, each participating employee of an employer that chooses to become a participating employer after January 1, 1998 shall contribute to the fund an amount that is determined to be appropriate by the board. Each month, participating employers shall deduct the contribution from the participating employee's salary and

shall remit it to the board as provided by any procedures that the board may require.

C. On or after July 1, 2009, no person who has obtained service credit pursuant to Subsection B of Section 10-11-6 NMSA 1978, Section 10-11-7 NMSA 1978 or Paragraph (3) or (4) of Subsection A of Section 22-11-34 NMSA 1978 may enroll with the authority unless the person makes a contribution to the fund equal to the full actuarial present value of the amount of the increase in the person's health care benefit, as determined by the authority.

D. Except for contributions made pursuant to Subsection C of this section, a participating employer that fails to remit before the tenth day after the last day of the month all employer and employee deposits required by the Retiree Health Care Act to be remitted by the employer for the month shall pay to the fund, in addition to the deposits, interest on the unpaid amounts at the rate of six percent per year compounded monthly.

E. Except for contributions made pursuant to Subsection C of this section, the employer and employee contributions shall be paid in monthly installments based on the percent of payroll certified by the employer.

F. Except in the case of erroneously made contributions or as may be otherwise provided in Subsection D of Section 10-7C-9 NMSA 1978, contributions from participating employers and participating employees shall become the property of the fund on receipt by the board and shall not be refunded under any circumstances, including termination of employment or termination of the participating employer's operation or participation in the Retiree Health Care Act.

G. Notwithstanding any other provision in the Retiree Health Care Act and at the first session of the legislature following July 1, 2013, the legislature shall review and adjust the distributions pursuant to Section 7-1-6.1 NMSA 1978 and the employer and employee contributions to the authority in order to ensure the actuarial soundness of the benefits provided under the Retiree Health Care Act.

H. As used in this section, "member of an enhanced retirement plan" means:

(1) a member of the public employees retirement association who, pursuant to the Public Employees Retirement Act, is included in:

(a) state police member and adult correctional officer member coverage plan 1;

(b) municipal police member coverage plan 3, 4 or 5;

(c) municipal fire member coverage plan 3, 4 or 5; [~~or~~]

(d) municipal detention officer member coverage plan 1; [~~or~~]

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(e) municipal public safety member coverage plan 6 or 7; or

(f) state police member and adult correctional officer member coverage plan 2; or

(2) a member pursuant to the provisions of the Judicial Retirement Act."

SECTION 32. Section 10-11-26.1 NMSA 1978 (being Laws 1994, Chapter 128, Section 2) is amended to read:

"10-11-26.1. STATE GENERAL MEMBER COVERAGE PLAN 3--APPLICABILITY.--State general member coverage plan 3 is applicable to state general members who became members on or before June 30, 2011, and who are not specifically covered by another plan, in the first full pay period after July 1, 1995 if the retirement board certifies to the secretary of state that a majority of the members voting of those members to be covered under state general member coverage plan 3 has voted to approve adoption of this plan at an election conducted pursuant to Laws 1994, Chapter 128, Section 17 [~~of this act~~]."

SECTION 33. Section 10-11-27 NMSA 1978 (being Laws 1987, Chapter 253, Section 27, as amended by Laws 2003, Chapter 268, Section 9 and by Laws 2003, Chapter 269, Section 1) is amended to read:

"10-11-27. STATE POLICE MEMBER AND ADULT CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--APPLICABILITY.--

A. State police member and adult correctional officer

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member coverage plan 1 is applicable to state police members [~~who are not specifically covered by another coverage plan~~] and adult correctional officer members who became members on or before June 30, 2011 and who are not specifically covered by another plan. The credited service of a state police member who has held the permanent rank of patrolman, sergeant, lieutenant or captain and does not hold an exempt rank or who is assigned to the aircraft division as a pilot, or of an adult correctional officer member, shall have actual credited service increased by twenty percent for the purposes of state police member and adult correctional officer member coverage plan 1.

B. State police member and adult correctional officer member coverage plan 1 is applicable to adult correctional officer members who became members on or before June 30, 2011, and who are not specifically covered by another plan, in the first full pay period after July 1, 2004 if the retirement board certifies to the secretary of state that, of those adult correctional officer members to be covered under state police member and adult correctional officer member coverage plan 1, a majority of the members voting have voted to approve adoption of that plan at an election conducted pursuant to [~~Section 16 of this 2003 act~~] Laws 2003, Chapter 268, Section 16."

SECTION 34. Section 10-11-33 NMSA 1978 (being Laws 1987, Chapter 253, Section 33) is amended to read:

"10-11-33. STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN 1--

APPLICABILITY.--State hazardous duty member coverage plan 1 is applicable to state hazardous duty members who became members on or before June 30, 2011 and who are not specifically covered by another coverage plan."

SECTION 35. Section 10-11-38.1 NMSA 1978 (being Laws 1994, Chapter 128, Section 9) is amended to read:

"10-11-38.1. STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN 2--APPLICABILITY.--State hazardous duty member coverage plan 2 is applicable to state hazardous duty members, who became members on or before June 30, 2011 in the first full pay period after July 1, 1995 if the retirement board certifies to the secretary of state that a majority of the members voting of those members to be covered under state hazardous duty member coverage plan 2 has voted to approve adoption of this plan at an election conducted pursuant to Laws 1994, Chapter 128, Section 17 [~~of this act~~]."

SECTION 36. Section 10-11-44 NMSA 1978 (being Laws 1987, Chapter 253, Section 44) is amended to read:

"10-11-44. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 1--APPLICABILITY.--Municipal general member coverage plan 1 is applicable to municipal general members who became members on or before June 30, 2011 and who are not specifically covered by another coverage plan."

SECTION 37. Section 10-11-50 NMSA 1978 (being Laws 1987, Chapter 253, Section 50, as amended) is amended to read:

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"10-11-50. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 2--APPLICABILITY.--

A. Municipal general member coverage plan 2 is applicable to a designated group of municipal general members the first day of the calendar month following an affirmative vote by the majority of the municipal general members in a designated group. A designated group may be all members who became members on or before June 30, 2011 and who are:

(1) employed by [~~the~~] an affiliated public employer;

(2) an organizational group whose compensation is established by negotiated contract; or

(3) all members employed by [~~the~~] an affiliated public employer whose compensation is not established by negotiated contract.

B. The election shall be conducted by the retirement board in accordance with procedures adopted by the retirement board. The procedures shall afford all municipal general members who are part of the designated group an opportunity to vote.

C. A new election for coverage by municipal general member coverage plan 2 shall not be held prior to the expiration of six months following the date of an election [~~which~~] that failed to adopt municipal general member coverage plan 2.

D. An election adopting municipal general member coverage plan 2 is irrevocable for the purpose of subsequently adopting a coverage plan [~~which~~] that would decrease employer or employee contributions with respect to all current and future municipal general employees of [~~the~~] an affiliated public employer who are part of the designated group."

SECTION 38. Section 10-11-56 NMSA 1978 (being Laws 1987, Chapter 253, Section 56) is amended to read:

"10-11-56. MUNICIPAL POLICE MEMBER COVERAGE PLAN 1--APPLICABILITY.--Municipal police member coverage plan 1 is applicable to municipal police members who became members on or before June 30, 2011 and whose affiliated public employer has adopted municipal police member coverage plan 1 for its municipal police officers. The affiliated public employer shall certify this adoption to the retirement board in the form prescribed by the retirement board."

SECTION 39. Section 10-11-62 NMSA 1978 (being Laws 1987, Chapter 253, Section 62) is amended to read:

"10-11-62. MUNICIPAL POLICE MEMBER COVERAGE PLAN 2--APPLICABILITY.--Municipal police member coverage plan 2 is applicable to municipal police members who became members on or before June 30, 2011 and whose affiliated public employer has adopted municipal police member coverage plan 2 for its municipal police officers. The affiliated public employer shall certify this adoption to the retirement board in the form

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prescribed by the retirement board."

SECTION 40. Section 10-11-68 NMSA 1978 (being Laws 1987, Chapter 253, Section 68) is amended to read:

"10-11-68. MUNICIPAL POLICE MEMBER COVERAGE PLAN 3--APPLICABILITY.--Municipal police member coverage plan 3 is applicable to municipal police members who became members on or before June 30, 2011 and whose affiliated public employer has adopted municipal police member coverage plan 3 for its municipal police officers. The affiliated public employer shall certify this adoption to the retirement board in the form prescribed by the retirement board."

SECTION 41. Section 10-11-74 NMSA 1978 (being Laws 1987, Chapter 253, Section 74, as amended) is amended to read:

"10-11-74. MUNICIPAL POLICE MEMBER COVERAGE PLAN 4--APPLICABILITY.--Municipal police member coverage plan 4 is applicable to municipal police members who became members on or before June 30, 2011 of an affiliated public employer on the first day of the calendar month following certification of the election adopting municipal police member coverage plan 4 by an affirmative vote of the majority of the affiliated public employer's municipal police members. The election shall be conducted by the affiliated public employer. The certification shall be in the form prescribed by the retirement board. The election procedures shall afford all municipal police members of the affiliated public employer an opportunity to vote. An

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election adopting municipal police member coverage plan 4 for a given affiliated public employer is irrevocable for the purpose of subsequently adopting a coverage plan [~~which~~] that would decrease employer or employee contributions with respect to all current and future municipal police members of that affiliated public employer."

SECTION 42. Section 10-11-80 NMSA 1978 (being Laws 1987, Chapter 253, Section 80, as amended) is amended to read:

"10-11-80. MUNICIPAL POLICE MEMBER COVERAGE PLAN 5--APPLICABILITY.--Municipal police member coverage plan 5 is applicable to municipal police members who became members on or before June 30, 2011 of an affiliated public employer on the first day of the calendar month following certification of the election adopting municipal police member coverage plan 5 by an affirmative vote of the majority of the affiliated public employer's municipal police members. The election shall be conducted by the affiliated public employer. The certification shall be in the form prescribed by the retirement board. The election procedures shall afford all municipal police members of the affiliated public employer an opportunity to vote. An election adopting municipal police member coverage plan 5 for a given affiliated public employer is irrevocable for the purpose of subsequently adopting a coverage plan [~~which~~] that would decrease employer or employee contributions with respect to all current and future municipal police members of that affiliated

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public employer."

SECTION 43. Section 10-11-86 NMSA 1978 (being Laws 1987, Chapter 253, Section 86) is amended to read:

"10-11-86. MUNICIPAL FIRE MEMBER COVERAGE PLAN 1--APPLICABILITY.--Municipal fire member coverage plan 1 is applicable to municipal fire members who became members on or before June 30, 2011 and whose affiliated public employer has adopted municipal fire member coverage plan 1 for its municipal firefighters. The affiliated public employer shall certify this adoption to the retirement board in the form prescribed by the retirement board."

SECTION 44. Section 10-11-92 NMSA 1978 (being Laws 1987, Chapter 253, Section 92) is amended to read:

"10-11-92. MUNICIPAL FIRE MEMBER COVERAGE PLAN 2--APPLICABILITY.--Municipal fire member coverage plan 2 is applicable to municipal fire members who became members on or before June 30, 2011 and whose affiliated public employer has adopted municipal fire member coverage plan 2 for its municipal fire members. The affiliated public employer shall certify this adoption to the retirement board in the form prescribed by the retirement board."

SECTION 45. Section 10-11-98 NMSA 1978 (being Laws 1987, Chapter 253, Section 98) is amended to read:

"10-11-98. MUNICIPAL FIRE MEMBER COVERAGE PLAN 3--APPLICABILITY.--Municipal fire member coverage plan 3 is applicable to municipal fire members who became members on or before June 30, 2011 and whose affiliated public employer has adopted municipal fire member coverage plan 3 for its municipal firefighters. The affiliated public employer shall certify this adoption to the retirement board in the form prescribed by the retirement board."

SECTION 46. Section 10-11-104 NMSA 1978 (being Laws 1987, Chapter 253, Section 104, as amended) is amended to read:

"10-11-104. MUNICIPAL FIRE MEMBER COVERAGE PLAN 4--APPLICABILITY.--Municipal fire member coverage plan 4 is applicable to municipal fire members who became members on or before June 30, 2011 of an affiliated public employer on the first day of the calendar month following certification of the election adopting municipal fire member coverage plan 4 by an affirmative vote of the majority of the affiliated public employer's municipal fire members. The election shall be conducted by the affiliated public employer. The certification shall be in the form prescribed by the retirement board. The election procedures shall afford all municipal fire members of the affiliated public employer an opportunity to vote. An election adopting municipal fire member coverage plan 4 for a given affiliated public employer is irrevocable for the purpose of subsequently adopting a coverage plan [~~which~~] that would decrease employer or employee contributions with respect to all current and future municipal fire members of that affiliated

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public employer."

SECTION 47. Section 10-11-110 NMSA 1978 (being Laws 1987, Chapter 253, Section 110, as amended) is amended to read:

"10-11-110. MUNICIPAL FIRE MEMBER COVERAGE PLAN 5--APPLICABILITY.--Municipal fire member coverage plan 5 is applicable to municipal fire members <u>who became members on or before June 30, 2011</u> of an affiliated public employer on the first day of the calendar month following certification of the election adopting municipal fire member coverage plan 5 by an affirmative vote of the majority of the affiliated public employer's municipal fire members. The election shall be conducted by the affiliated public employer. The certification shall be in the form prescribed by the retirement board. The election procedures shall afford all municipal fire members of the affiliated public employer an opportunity to vote. An election adopting municipal fire member coverage plan 5 for a given affiliated public employer is irrevocable for the purpose of subsequently adopting a coverage plan [~~which~~] <u>that</u> would decrease employer or employee contributions with respect to all current and future municipal fire members of that affiliated public employer."

SECTION 48. Section 10-11-115.1 NMSA 1978 (being Laws 2003, Chapter 268, Section 2) is amended to read:

"10-11-115.1. MUNICIPAL DETENTION OFFICER MEMBER COVERAGE PLAN 1--APPLICABILITY.--Municipal detention officer member coverage plan 1 is applicable to municipal detention officer members, who became members on or before June 30, 2011, on the later of July 1, 2004 or the first day of the calendar month following certification of the election adopting municipal detention officer member coverage plan 1 by an affirmative vote of the majority of [~~the~~] an affiliated public employer's municipal detention officer members. The election shall be conducted by the affiliated public employer. The certification shall be in the form prescribed by the retirement board. The election procedures shall afford all municipal detention officer members of the affiliated public employer an opportunity to vote. An election adopting municipal detention officer member coverage plan 1 for a given affiliated public employer is irrevocable for the purpose of subsequently adopting a coverage plan that would decrease employer or employee contributions with respect to all current and future municipal detention officer members of that affiliated public employer."

SECTION 49. Section 10-11-118 NMSA 1978 (being Laws 1987, Chapter 253, Section 118, as amended) is amended to read:

"10-11-118. COST-OF-LIVING ADJUSTMENTS.--

A. For the purposes of this section:

(1) "adjustment factor" means a multiplicative factor computed to provide an annuity adjustment pursuant to the provisions of Subsection C of this section;

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(2) "consumer price index" means the average of the monthly consumer price indexes for a calendar year for the entire United States for all items as published by the United States;

(3) "next preceding calendar year" means the full calendar year immediately prior to the preceding calendar year; and

[~~(1)~~] (4) "preceding calendar year" means the twelve-month period ending on the December 31 preceding the July 1 in which pensions are being adjusted [~~and~~

~~(2) "second preceding calendar year" means the full calendar year prior to the preceding calendar year~~].

B. Except as provided in Subsection C of this section, the amount of pension payable to a qualified pension recipient shall be increased three percent each July 1. The amount of the increase shall be determined by multiplying the amount of pension inclusive of all prior adjustments by three percent.

C. The amount of pension payable to a qualified pension recipient in state general member coverage plan 4, state police member and adult correctional officer member coverage plan 2, municipal general member coverage plan 5, municipal general member coverage plan 6, municipal public safety member coverage plan 6 and municipal public safety member coverage plan 7 shall be increased by applying an

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adjustment factor that results in an adjustment equal to three-fourths of the percentage increase of the consumer price index between the next preceding calendar year and the preceding calendar year, except that the adjustment shall not exceed three percent in absolute value nor shall it be less than zero percent in absolute value. The amount of pension payable shall not be decreased in the event that there is a decrease in the consumer price index between the next preceding calendar year and the preceding calendar year.

[~~C.~~] D. A qualified pension recipient is:

(1) a normal retired member who has been retired for at least two full calendar years from the effective date of the latest retirement prior to July 1 of the year in which the pension is being adjusted;

(2) a normal retired member who has attained age sixty-five years and been retired for at least one full calendar year from the effective date of the latest retirement prior to July 1 of the year in which the pension is being adjusted;

(3) a disability retired member who has been retired for at least one full calendar year from the effective date of the latest retirement prior to July 1 of the year in which the pension is being adjusted;

(4) a survivor beneficiary who has received a survivor pension for at least two full calendar years; or

(5) a survivor beneficiary of a deceased retired member who otherwise would have been retired at least two full calendar years from the effective date of the latest retirement prior to July 1 of the year in which the pension is being adjusted.

[~~D.~~] E. A qualified pension recipient may decline an increase in a pension by giving the association written notice of the decision to decline the increase at least thirty days prior to the date the increase would take effect."

SECTION 50. REPEAL.--Laws 2009, Chapter 287, Section 2 and Laws 2009, Chapter 288, Sections 6 through 10 are repealed.

SECTION 51. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2011.

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