



## EMPLOYEE BENEFITS PROGRAMS COMMITTEE

Monday, June 17, 2024  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Austen Schauer, Chairman, called the meeting to order at 9:30 a.m.

**Members present:** Representatives Austen Schauer, Josh Boschee, Clayton Fegley, Patrick Hatlestad, Jim Kasper\*, Corey Mock; Senators Brad Bekkedahl, Sean Cleary, Kyle Davison, Judy Estenson, Larry Luick, Kristin Roers

**Members absent:** Representative Jorin Johnson

**Others present:** ~~Representatives Todd Porter, Mandan; and Karen Karls, Bismarck; Rebecca Fricke and Derrick Hohbein, Public Employees Retirement System; Colonel Brandon Solberg, Highway Patrol; Dylan Wheeler, Sanford Health Plan; and Megan Houn, Blue Cross Blue Shield~~Representatives Karen Karls, Bismarck; and Todd Porter, Mandan

Rebecca Fricke and Derrick Hohbein, Public Employees Retirement System; Megan Houn, Blue Cross Blue Shield; Janilyn Murtha, Retirement and Investment Office; Colonel Brandon Solberg, Highway Patrol; Bobbie Will, Susan G. Komen; and Dylan Wheeler, Sanford Health Plan

See Appendix A for additional persons present.

*\*Attended remotely*

It was moved by Representative Mock, seconded by Representative Boschee, and carried on a voice vote that the minutes of the April 25, 2024, meeting be approved as distributed.

### BILL DRAFT **ACTUARIAL REPORTS AND RECOMMENDATIONS**

The committee received technical comments ~~(Appendix B)~~, actuarial information, and comments ~~(Appendix C and Appendix D)~~ by interested persons regarding the following bill drafts over which the committee took jurisdiction because the bill drafts affect, actuarially or otherwise, the retirement programs of state employees or employees of any political subdivision, or health and retiree health plans of state employees or employees of any political subdivision pursuant to North Dakota Century Code Section 54-35-02.4:

- Bill Draft No. 129 [25.0129.01000], which revises eligibility requirements for Teachers' Fund for Retirement (TFFR) benefits.
- Bill Draft No. 143 [25.0143.01000], which provides for a state employee compensation adjustment and transfer to TFFR for a cost-of-living adjustment.
- Bill Draft No. 40 [25.0040.01000], which expands participation in the public safety retirement plan to include correctional officers employed by a governmental unit.
- Bill Draft No. 134 [25.0134.01000], which revises the Public Employees Retirement System (PERS) definition of correctional officer.
- Bill Draft No. 68 [25.0068.01000], which provides for health benefit plans to include any amount paid by an

enrollee, or on behalf of an enrollee, when calculating an enrollee's overall contribution to an out-of-pocket maximum or cost-sharing requirement for a prescription drug.

- Bill Draft No. 75 [25.0075.02000], which provides PERS health benefits coverage may not impose cost-sharing requirements for diagnostic or supplemental breast examination services.
- Bill Draft No. 116 [25.0116.01000], which provides for PERS to determine the manner of payment of administrative expenses for the deferred compensation plan and for a continuing appropriation.
- Bill Draft No. 117 [25.0117.01000], which provides for a change in the computation of final average salary for the Highway Patrol Troopers' retirement system and PERS retirement benefits.
- Bill Draft No. 120 [25.0120.01000], which provides for a transfer to the Highway Patrol Troopers' retirement system fund to increase the funded liability to 90 percent by January 1, 2026.
- Bill Draft No. 69 [25.0069.02000], which provides for PERS health benefits coverage of fertility treatment.
- Bill Draft No. 70 [25.0070.03000], which provides for PERS health benefits coverage of fertility preservation services.
- Bill Draft No. 115 [25.0115.01000], which revises the PERS definition of firefighter to include firefighters employed by the state.
- Bill Draft No. 118 [25.0118.01000], which provides for health benefit plans to include benefits for insulin drug and medical supplies for insulin dosing and administration.
- Bill Draft No. 119 [25.0119.01000], which changes PERS eligibility requirements for disability retirement benefits.
- Bill Draft No. 121 [25.0121.01000], which provides for PERS administrative changes.
- Bill Draft No. 124 [25.0124.01000], which provides step therapy protocol limitations for an associated condition of metastatic cancer.
- Bill Draft No. 138 [25.0138.01000], which provides step therapy protocol exceptions.

Ms. Rebecca Fricke, Executive Director, Public Employees Retirement System, provided technical comments (Appendix B) and actuarial information (Appendix C) on the bill drafts relating to PERS.

Mr. Chad Roberts, Deputy Executive Director and Chief Retirement Officer, Retirement and Investment Office, provided information and presented the actuarial report (Appendix ED) relating to Bill Draft No. 129, ~~which revises eligibility requirements for Teachers' Fund for Retirement (TFFR) benefits.~~ He noted the bill draft:

- Aligns state law with the requirements of the Internal Revenue Code related to the required minimum distribution.
- Makes changes necessary to maintain qualified retirement plan status.
- Does not actuarially impact the fund.

**It was moved by Senator Roers, seconded by Representative Boschee, and carried on a roll call vote that the committee give a ~~recommendation of~~ favorable recommendation for on Bill Draft No. 129 [25.0129.01000].** Representatives Schauer, Boschee, Fegley, Hatlestad, Kasper, and Mock and Senators ~~Estenson~~, Bekkedahl, Cleary, Davison, Estenson Luick and Roers voted "aye." No negative votes were cast.

#### **Bill Draft No. 143**

Ms. Janilyn Murtha, Executive Director, Retirement and Investment Office, provided information and presented the actuarial report (Appendix FE) relating to Bill Draft No. 143, ~~which provides for a state employee compensation adjustment and transfer to TFFR for a cost-of-living adjustment.~~ Ms. Murtha noted:

- The intent of the bill is to provide a cost-of-living adjustment to TFFR retirees.
- The TFFR plan does not include an automatic cost-of-living adjustment; it has to be approved by the legislature.
- The last cost-of-living adjustment for TFFR retirees was approved in 2009.

**It was moved by Representative Boschee, seconded by Senator Cleary, and carried on a roll call vote that the committee give a recommendation of no recommendation ~~for~~on Bill Draft No. 143 [25.0143.01000].** Representatives Boschee, Fegley, Hatlestad, Kasper, and Mock and Senators ~~Estenson~~, Bekkedahl, Cleary, Davison, Estenson and Luick voted "aye." Representative Schauer and Senator Roers voted "nay."

#### **Placeholder**

~~**Bill Draft No. 40**~~ Ms. ~~Rebecca~~ Fricke, ~~Executive Director, Public Employees Retirement System~~, provided technical comments and presented the actuarial report (Appendix GE) relating to Bill Draft No. 40, ~~which expands participation in the public safety retirement plan to include correctional officers employed by a governmental unit.~~

Representative Todd Porter, Mandan, provided comments regarding the bill draft. He ~~indicated~~noted:

- ~~The~~ The bill draft is a continuation of an effort to move first responders, including correctional officers employed by the state, to the public safety retirement plan. ~~He noted that p~~
- Political subdivisions already have the option for their employed correctional officers to be members of the public safety retirement plan.

**It was moved by Representative Fegley, seconded by Senator Estenson, and carried on a roll call vote that the committee give a ~~recommendation of favorable~~ recommendation ~~for~~on Bill Draft No. 40 [25.0040.01000].** Representatives Schauer, Boschee, Fegley, Hatlestad, Kasper, and Mock and Senators ~~Estenson~~, Bekkedahl, Cleary, Estenson Luick and Roers voted "aye." Senator Davison voted "nay."

#### **Bill Draft No. 134**

Ms. Fricke provided technical comments and presented the actuarial report (Appendix HG) relating to Bill Draft No. 134, ~~which revises the Public Employees Retirement System (PERS) definition of correctional officer.~~

Representative Porter provided comments regarding the bill draft. He noted the bill draft would allow correctional officers to join the public safety retirement plan immediately upon hire, regardless of whether the correctional officer has completed the correctional officer certification course.

Ms. Pamela Binder, Human Resources Director, Burleigh County, and Major Trent Wangen, Burleigh County Sheriff's Department, provided information about the certification process for correctional officers upon starting employment.

**It was moved by Representative Mock, seconded by Senator Roers, and carried on a roll call vote that the committee give a ~~recommendation of favorable~~ recommendation ~~for~~on Bill Draft No. 134 [25.0134.01000].** Representatives Schauer, Boschee, Fegley, Hatlestad, Kasper, and Mock and Senators ~~Estenson~~, Bekkedahl, Cleary, Davison, Estenson Luick, and Roers voted "aye." No negative votes were cast.

#### **Bill Draft No. 68**

Ms. Fricke provided technical comments and presented the actuarial report (Appendix IH) relating to Bill Draft No. 68, ~~which provides for health benefit plans to include any amount paid by an enrollee, or on behalf of an enrollee, when calculating an enrollee's overall contribution to an out-of-pocket maximum or cost-sharing requirement for a prescription drug.~~

Representative Karen Karls, Bismarck, provided comments (Appendix JI) regarding the bill draft. She noted the

aim of the bill draft is to help individuals with chronic illness, including cystic fibrosis and cancer patients, afford prescription drugs.

One committee member questioned whether the bill draft alleviates pressure on drug companies to decrease the price of prescription drugs.

It was moved by Representative Kasper, seconded by Senator Luick, and carried on a roll call vote that the committee give a ~~recommendation of favorable recommendation~~ **for on** Bill Draft No. 68 [25.0068.01000]. Representatives Schauer, Boschee, Fegley, Hatlestad, Kasper, and Mock and Senators Bekkedahl, Cleary, Davison, and Luick voted "aye." Senators Estenson and Roers voted "nay."

#### **Bill Draft No. 75**

Ms. Fricke provided technical comments and presented the actuarial report (Appendix ~~KJ~~) relating to Bill Draft No. 75 ~~which provides PERS health benefits coverage may not impose cost-sharing requirements for diagnostic or supplemental breast examination services.~~

Representative Karls provided comments regarding the bill draft. She noted ~~that~~ after an abnormality is identified through an initial mammogram, some individuals delay, or do not follow through with, diagnostic or supplemental breast examination services due to the cost-sharing requirements.

Ms. Bobbie Will, State Policy and Advocacy Manager, Susan G. Komen, provided comments (Appendix K) about the bill draft. She noted breast cancer is the number one diagnosed cancer for women in North Dakota and that earlier cancer diagnosis may enable more efficient treatment, improve patient outcomes, avoid complications and disease progression, and reduce health care resource utilization and associated costs.

It was moved by Representative Kasper, seconded by Senator Luick, and carried on a roll call vote that the committee give a ~~recommendation of favorable recommendation~~ **for on** Bill Draft No. 75 [25.0075.02000]. Representatives Schauer, Boschee, Fegley, Hatlestad, Kasper, and Mock and Senators Bekkedahl, Cleary, Davison, and Luick voted "aye." Senators Estenson and Roers voted "nay."

#### **Bill Draft No. 116**

Ms. Fricke provided technical comments and presented the actuarial report (Appendix L) relating to Bill Draft No. 116 ~~which provides for PERS to determine the manner of payment of administrative expenses for the deferred compensation plan and for a continuing appropriation.~~

It was moved by Senator Estenson, seconded by Senator Davison, and carried on a roll call vote that the committee give a ~~recommendation of favorable recommendation~~ **for on** Bill Draft No. 116 [25.0116.01000]. Representatives Schauer, Boschee, Fegley, Hatlestad, Kasper, and Mock and Senators ~~Estenson~~, Bekkedahl, Cleary, Davison, Estenson Luick, and Roers voted "aye." No negative votes were cast.

#### **Bill Draft No. 117**

Ms. Fricke provided technical comments and presented the actuarial report (Appendix M) relating to Bill Draft No. 117 ~~which provides for a change in the computation of final average salary for the Highway Patrol Troopers' retirement system and PERS retirement benefits.~~

It was moved by Senator Luick, seconded by Representative Hatlestad, and carried on a roll call vote that the committee give a ~~recommendation of favorable recommendation~~ **for on** Bill Draft No. 117 [25.0117.01000]. Representatives Schauer, Boschee, Fegley, Hatlestad, Kasper, and Mock and Senators Estenson, Bekkedahl, Cleary, Davison, Luick, and Roers voted "aye." No negative votes were cast.

#### **Bill Draft No. 120**

Ms. Fricke provided technical comments and presented the actuarial report (Appendix N) relating to Bill Draft No. 120 ~~which provides for a transfer to the Highway Patrol Troopers' retirement system fund to increase the~~

~~funded liability to 90 percent by January 1, 2026.~~

The committee expressed concerns about the assumed rate of investment of 6.5 percent used in the actuarial report's projections.

Mr. Derrick Hohbein, Chief Operating and Financial Officer, Public Employees Retirement System, noted ~~that~~ at the conclusion of the fund's valuation in July 2024, PERS will begin an experience study of all plans, followed by an asset liability study, the results of which will assist the PERS Board in developing an asset allocation policy that drives the long-term rate of investment expectation moving forward.

**It was moved by Representative Mock, seconded by Senator Roers, and carried on a roll call vote that the committee give a ~~recommendation of favorable~~ recommendation ~~for~~on Bill Draft No. 120 [25.0120.01000].** Representatives Schauer, Boschee, Fegley, Hatlestad, Kasper, and Mock and Senators ~~Estenson~~, Bekkedahl, Cleary, Davison, Estenson Luick, and Roers voted "aye." No negative votes were cast.

**Bill Draft No. 69**

Ms. Fricke provided technical comments and presented the actuarial report (Appendix O) relating to Bill Draft No. 69, ~~which provides for PERS health benefits coverage of fertility treatment.~~

**It was moved by Representative Boschee, seconded by Representative Mock, and carried on a roll call vote that the committee give a ~~recommendation of favorable~~ recommendation ~~for~~on Bill Draft No. 69 [25.0069.02000].** Representatives Schauer, Boschee, Hatlestad, Kasper, and Mock and Senators Bekkedahl, Cleary, Luick, and Davison voted "aye." Representative Fegley and Senators Estenson and Roers voted "nay."

**Bill Draft No. 70**

Ms. Fricke provided technical comments and presented the actuarial report (Appendix P) relating to Bill Draft No. 70, ~~which provides for PERS health benefits coverage of fertility preservation services.~~

**It was moved by Senator Roers, seconded by Senator Estenson, and failed on a roll call vote that the committee give a ~~recommendation of an~~ unfavorable recommendation ~~for~~on Bill Draft No. 70 [25.0070.03000].** Representative Fegley and Senators ~~Estenson~~, Davison, Estenson and Roers voted "aye." Representatives Schauer, Boschee, Hatlestad, Kasper, and Mock and Senators Cleary and Luick voted "nay."

**It was moved by Senator Estenson, seconded by Senator Bekkedahl, and failed on a roll call vote that the committee give a recommendation of no recommendation ~~for~~on Bill Draft No. 70 [25.0070.03000].** Representative Fegley and Senators Estenson, Bekkedahl, Davison, Luick, and Roers voted "aye." Representatives Schauer, Boschee, Hatlestad, Kasper, and Mock and Senator Cleary voted "nay."

**It was moved by Representative Boschee, seconded by Luick, and carried on a roll call vote that the committee give a ~~recommendation of favorable~~ recommendation ~~for~~on Bill Draft No. 70 [25.0070.03000].** Representatives Schauer, Boschee, Hatlestad, Kasper, and Mock and Senators Cleary and Luick voted "aye." Representative Fegley and Senators ~~Estenson~~, Bekkedahl, Davison, Estenson and Roers voted "nay."

**Bill Draft No. 115**

Ms. Fricke provided technical comments and presented the actuarial report (Appendix Q) relating to Bill Draft No. 115, ~~which revises the PERS definition of firefighter to include firefighters employed by the state.~~

**It was moved by Representative Mock, seconded by Representative Boschee, and carried on a roll call vote that the committee give a ~~recommendation of favorable~~ recommendation ~~for~~on Bill Draft No. 115 [25.0115.01000].** Representatives Schauer, Boschee, Fegley, Hatlestad, Kasper, and Mock and Senator Cleary voted "aye." Senators ~~Estenson~~, Bekkedahl, Davison, Estenson Luick, and Roers voted "nay."

**Bill Draft No. 118**

Ms. Fricke provided technical comments and presented the actuarial report (Appendix R) relating to Bill Draft

No. 118, ~~which provides for health benefit plans to include benefits for insulin drug and medical supplies for insulin dosing and administration.~~ Ms. Fricke requested the committee delay consideration of Bill Draft No. 118 until the next committee meeting so PERS can present the PERS Board's report on the cost-benefit analysis, which includes consideration of data through June 30, 2024.

Chairman Schauer noted consideration of the bill will be delayed until the committee's next meeting.

#### **Bill Draft No. 119**

Ms. Fricke provided technical comments and presented the actuarial report (Appendix S) relating to Bill Draft No. 119, ~~which changes PERS eligibility requirements for disability retirement benefits.~~

**It was moved by Senator Bekkedahl, seconded by Senator Roers, and carried on a roll call vote that the committee give a ~~recommendation of~~ favorable recommendation ~~for on~~ Bill Draft No. 119 [25.0119.01000].**

Representatives Schauer, Boschee, Fegley, Hatlestad, Kasper, and Mock and Senators ~~Estenson~~, Bekkedahl, Cleary, Davison, Estenson Luick, and Roers voted "aye." No negative votes were cast.

#### **Bill Draft No. 121**

Ms. Fricke provided technical comments and presented the actuarial reports (~~Appendix~~Appendices T and ~~Appendix U~~) relating to Bill Draft No. 121, ~~which provides for PERS administrative changes.~~

**It was moved by Representative Kasper, seconded by Senator Luick, and carried on a roll call vote that the committee give a ~~recommendation of~~ favorable recommendation ~~for on~~ Bill Draft No. 121 [25.0121.01000].**

Representatives Schauer, Boschee, Fegley, Hatlestad, Kasper, and Mock and Senators ~~Estenson~~, Bekkedahl, Cleary, Davison, Estenson Luick, and Roers voted "aye." No negative votes were cast.

#### **Bill Draft No. 124**

Ms. Fricke provided technical comments and presented the actuarial report (Appendix V) relating to Bill Draft No. 124, ~~which provides step therapy protocol limitations for an associated condition of metastatic cancer. A committee member~~

~~Representative Mock, Grand Forks,~~Representative Mock noted the bill draft affects a very narrow portion of patients that have an accelerated treatment schedule ~~given~~due to the advanced condition of their illness.

**It was moved by Senator Roers, seconded by Representative Boschee, and carried on a roll call vote that the committee give a ~~recommendation of~~ favorable recommendation ~~for on~~ Bill Draft No. 124 [25.0124.01000].**

Representatives Schauer, Boschee, Fegley, Hatlestad, Kasper, and Mock and Senators ~~Estenson~~, Bekkedahl, Cleary, Davison, Estenson Luick, and Roers voted "aye." No negative votes were cast.

#### **Bill Draft No. 138**

Ms. Fricke provided technical comments and presented the actuarial report (Appendix W) relating to Bill Draft No. 138, ~~which provides step therapy protocol exceptions.~~

~~After discussion, the committee decided it~~Committee members noted they would like to receive more information about Bill Draft No. 138 before considering ~~it~~the bill draft.

Chairman Schauer noted consideration of Bill Draft No. 138 would be delayed until the committee's next meeting.

### **JURISDICTION OF BILL DRAFTS**

#### **BILL DRAFT NO. 84JURISDICTION**

**MS. FRICKE PROVIDED TECHNICAL COMMENTS RELATING TO BILL DRAFT NO. 84 [25.0084.01000], WHICH PROVIDES FOR MEDICAL ASSISTANCE COVERAGE TO INCLUDE PAYMENT FOR APPLIED BEHAVIOR ANALYSIS. SHE NOTED ~~THAT~~ UPON FURTHER ANALYSIS, THE BILL DRAFT DOES NOT AFFECT, ACTUARIALLY OR OTHERWISE, THE HEALTH OR RETIREE HEALTH PLANS OF STATE EMPLOYEES OR EMPLOYEES OF ANY**

**POLITICAL SUBDIVISION. SHE REQUESTED THE COMMITTEE RECONSIDER ITS  
PREVIOUS ACTION OF TAKING JURISDICTION OVER THE BILL DRAFT.**

**It was moved by Senator Bekkedahl, seconded by Representative Boschee, and carried on a roll call vote that the committee reconsider its previous action of taking jurisdiction over Bill Draft No. 84 [25.0084.01000].** Representatives Schauer, Boschee, Fegley, Hatlestad, Kasper, and Mock and Senators ~~Estenson~~, Bekkedahl, Cleary, Davison, Estenson Luick, and Roers voted "aye." No negative votes were cast.

**It was moved by Senator Roers, seconded by Representative Mock, and carried on a roll call vote that the committee not take jurisdiction over Bill Draft No. 84 [25.0084.01000].** Representatives Schauer, Boschee, Fegley, Hatlestad, Kasper, and Mock and Senators ~~Estenson~~, Bekkedahl, Cleary, Davison, Estenson Luick, and Roers voted "aye." No negative votes were cast.

No further business appearing, ~~Representative Austen~~ Chairman Schauer adjourned the meeting at 2:20 p.m.

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Beth Dittus  
Counsel

ATTACH: 23