2013 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2059

2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee
Missouri River Room, State Capitol

SB 2059
01/17/2013
Job Number 17318

☐ Conference Committee

Committee Clerk Signature	Carie Winings

Explanation or reason for introduction of bill/resolution:

Relating to increased employer and employee contributions under the highway patrolman's retirement plan and the public employees retirement.

Minutes:

Chairman Dever: Opened hearing for SB 2059 to allow for any testimony aside from the sponsor. The sponsor of the bill, North Dakota Public Employees Retirement Systems, needs to testify later in the day due to a scheduling conflict.

Chairman Dever: Recessed hearing until PM.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee
Missouri River Room, State Capitol

SB 2059
01/17/2013
Job number 17371

☐ Conference Committee

Committee Clerk Signature	Carrie Allmaras

Explanation or reason for introduction of bill/resolution:

Relating to increase employer and employee contributions under the highway patrolmen's retirement plan and public employees retirement system.

Minutes:

Chairman Dever: Reopened hearing on SB 2059.

Sparb Collins, Executive Director of the North Dakota Public Employees Retirement System: See Attached testimony #1. (Note that the National Guard plan was not on the original plan.)

(20:00) **Chairman Dever:** Do you have any comments on the fiscal note?

Sparb Collins: Goes over numbers on fiscal note.

(21:40)Chairman Dever: Are there any other changes in the bill except for the increase?

Sparb Collins: No

Chairman Dever: Could you comment on, 2008 was a bad year, but the funded status is based on a rolling 5 year average

Sparb Collins: 5 year. (Goes over charts on page 4 of testimony in regards to the 5 year impact)

Chairman Dever: So when those years drop out then your funded status increases?

Sparb Collins: No, it will already be recorded. It is not like our assets will go up because those years are out; it will be dependent upon whatever those returns are in the future years. The other thing to keep in mind is that in the last two years since we met on the first recovery plan, our return since then was 21% the first year and 0% return last year. The one does not offset the other because of the assumed 8% each year on average. When you have a 24.5 % loss, you not only have that but you also have the 8% you did not make. So you missed your mark by 32%. So, the two years we just had, we netted a 13% gain.

Vice Chairman Berry: That was what I was going to point out, one of the reasons to protect principle, when you drop down like in 2009, 25%, to start making that money back, it is 25% plus 8%. Therefore it takes longer to make up for a loss. I am curious, this is based on 8%, are you comfortable with being able to return to 8%? It may be tougher in years to come.

Sparb Collins: I wish I could say that the overwhelming consensus in the investment community is that 8% is solid in the future, but there is much uncertainty or apprehension as to what we are heading in to. We do not automatically say that 8% is good forever, underneath our statute, we are required every 5 years to examine the underlying assumptions that are part of each of these systems and there are demographic assumptions and there are economic assumptions. The 8% is one of the economic assumptions. When the actuary comes in, they take a look at that and come back to the board and let them know if it continues to be a reasonable return. If not, we look at adjusting it. We had to update the mortality table to adjust to current mortality rates recently.

Senator Schaible: I had a question on 8% of return on your actuaries. At a one percent decrease, how much does that change your graph estimations?

Sparb Collins: It will have a couple levels of impact. Two of the most powerful assumptions in the plan are the mortality and return. If you reduce it, it will reduce the whole projection of the present value of these benefits. It will increase the cost because you are discounting it at a lower rate of return. It would be noticeable.

Senator Schaible: Clarifies again

Sparb Collins: The basic formula for the retirement plan is contributions plus earning minus administrative expense equals benefits. If you do something to the return assumption so that your investment income drops, you would have to increase the contribution side of the equation.

Senator Schaible: I guess we are seeing is that it is based how many people are contributing or withdrawing. If your amount of employees would get less in the future, then that would have a very adverse effect on this?

Sparb Collins: It potentially could have an effect. The liabilities would not be growing at the same rate so there might be some offset. Last session there was a bill to move all of the future employees into the defined contribution plan. One of the effects on that was that no new employees were coming in and the liabilities of the existing plans stayed the same but the number of people dropped significantly over time so the contribution level had to go up.

Senator Schaible: That would be a legislative change or a policy change that would require it and then we would create that gap. But, if all of the sudden we as a state do not have as many employees as we have currently, that will affect that projection.

Sparb Collins: If the liabilities don't grow it could have an effect. It is how those two things go together; liabilities and participants.

(35:25) Stuart Savelkoul, North Dakota Public Employees Association: Testified in support of the bill. The employees endorse this plan with our full hearts. We see this bill as a prudent approach to shoring up our pensions.

(36:28) **Chairman Dever:** I am curious about the merger of the two organizations; does that then present issues with the merger of a pension plan?

Stuart Savelkoul: We get that question a lot from the members and I think the reason is because there is only one letter difference between NDPERS and NDPEA, but no, one has nothing to do with the other. It will have no effect on the merging of the two entities.

(37:20) Kayla Pulvermacher, North Dakota Educators Association: Testified in support of the bill. I echo the comments of Mr. Savelkoul and support the recovery plan and we hope to see it continue.

Bill Kalanek, Association for Public Employees: Testified in support of the bill. I am right on the same page with those that spoke ahead of me. We supported this bill in the interim and we see this as a good plan and a prudent plan moving forward to restore the funded status of the pensions.

Chairman Dever: Is there any further testimony in support, opposition, neutral?

Closed hearing on SB 2059.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee
Missouri River Room, State Capitol

SB 2059
02/08/2013
Job Number 18569

☐ Conference Committee

Committee Clerk Signature	

Minutes:

(2:07))Chairman Dever: Opened SB 2059 for committee discussion.

Senator Nelson: Why were we sitting on this?

Chairman Dever: I had a presentation to make to our Caucus before we moved this out of committee. There is some interest in moving away from the defined benefits toward a defined contribution and I would like to say that we need to pass this bill whether we want to do that or not because the defined benefits bill still exists and still needs to have that increased contribution.

Senator Nelson: Moved a Do Pass and Re-Refer to Appropriation.

Senator Poolman: Seconded.

Chairman Dever: Is there any discussion?

Senator Schaible: I am going to vote against this. You mention that at some point we might believe that we need to go to a defined contribution plan and I guess I am in that camp. To have that happen, I think two things have to happen. We have to quit saying no to employer contributions and I think you need to address how you are going to fund the unfunded balance. Until those two things happen, you cannot actually have a serious discussion on how you are going to get to that plan. I know that this is only one of four plans and this is probably the only one we have on our side right now. I wish I had of made this line two years ago. I believe that to keep contributing to the employers side of a contribution plan does not enhance the discussions of going to a defined contribution plan. I think as a state and a caretaker of the state's money, it is prudent that we start looking that direction. We do need to uphold our agreement but it is whether we pay it at one percent at a time and put it on the backs of employers or in some way we address how we are going to fund it.

Chairman Dever: Do I understand that you are suggesting that rather than funding that as we go forward that we let it go broke and then address it otherwise.

Senator Schaible: The other parts of that are not a part of this bill, but yes I think there are other bills out there that list that. You are running on the anticipation that the 8% and one and one and all good things good happen over the next forty years that this fund will be 100%. My belief is that the 8% actuary is optimistic and that does not include the little blips in 2008 and 2010 that killed 40% to 60% of our fund. If you believe that is not going to happen again in the future, and 8% is realistic then yes we will be 100% by 2040.

Senator Cook: I tend to share the same thoughts as Senator Schaible. I think the key discussion that we need to have is how we make the move from a defined benefit plan to a defined contribution plan. It is one thing to kick this defined benefit can down the road but it is another thing to keep kicking that discussion down the road. That is what we are doing. That is the can I want to quit kicking. The only way I can send that message is by drawing the line in the sand and say no more defined increases in employer contributions. I have felt this way for some time. The day of defined benefits is coming to an end. The risk that is out there with them is one that we cannot put on the taxpayers of North Dakota when so many of the taxpayers who are assuming the risk of the potential financial burden are in a defined contribution plan that is seeing the same negative downturn as this one can. My biggest fear is that we have another fall in the economy and then we are going to have to tell the taxpayers they have to bail it out. We are going to have a bloodbath. The vast majority of them are people that are not going to receive the benefits of the defined benefit plan. People want their 401K plans bailed out too. It is a tough argument. We have to have the discussion of how it is we will move from a defined benefit to a defined contribution and what all the financial risks are. It has to be on the table for a public debate. I agree with the no vote, I have to say no more increases in employer contributions until we have that discussion and know what our long term plan is.

Chairman Dever: I appreciate those comments. Just one clarification, we are not just talking about increasing employer contributions, but we are talking about both sides of it - the employer and employee. We should be thinking in terms of total compensation. Appropriations is having the discussion on where to move the scale.

Senator Cook: I tend to agree with that but just because we made that decision a long time ago does not necessarily mean it is wise today. I would argue that looking at salaries only is not complete. You have to look at what you can do with that salary. That is the part that we don't study. (Gave example of a teacher that left the state and ended coming back)

Chairman Dever: (Discussed a study that pertained to salary averages)

Senator Poolman: In terms of what Senator Schaible and Senator Cook have said. I agree completely and I do think that defined benefits are on their way out, but my support of the bill is that it is the practical bill that is before us right now in terms of what we are doing and as soon as I have another practical bill to solve that problem I will vote for that but right now this is what we have before us.

Chairman Dever: I visited with Pam Sharp and if we pass this bill, our state bond rating will increase from AA+ to AAA. This is an unfunded liability at this point.

(16:30) Vice Chairman Berry: I appreciate this discussion. I agree with the sentiments that we need to move away from defined benefits. The reality is that we still have that liability. I would not want us to not live up to our obligations that we have made.

(The committee continued to discuss the issues and the bills that are out there dealing with this same topic and what could be done as a committee. Senator Cook suggested adding a study resolution on to the bill to look at the benefits and cost of moving from a defined benefit to a defined contribution plan.)

Chairman Dever: Closed committee discussion on SB 2059.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee
Missouri River Room, State Capitol

SB 2059
02/08/2013
Job Number 18585

☐ Conference Committee

Committee Clerk Signature	Carie Winings

Explanation or reason for introduction of bill/resolution:

Minutes:

Chairman Dever: Reopened committee discussion on SB 2059.

See attachment #1 for amendments proposed.

Senator Nelson and Senator Poolman Rescinded motions made earlier.

(Discussion occurred on amendments proposed and the intent. Two minor changes were made to change "may" to "shall" and adding "and options for" after" implications of")

Senator Cook: Moved Amendments.

Vice Chairman Berry: Seconded.

A Roll Call Vote Was Taken: 6 yeas, 1 nay, 0 absent.

Senator Poolman: Moved a Do Pass As Amended and Re-Refer to Appropriations.

Senator Nelson: Seconded.

Senator Schaible: I am totally in favor of the amendment, but I am still against the bill because of the reasons I stated earlier.

Chairman Dever: Understanding of course that the only way you are going to get the study is to pass the bill.

Senator Schaible: I believe that there is enough interest out there that a study is going to happen whether this bill passes or not.

Chairman Dever: Only if there is a provision in there for legislative management to consider.

Senator Cook: They could do it on their own.

A Roll Call Vote Was Taken: 4 yeas, 3 nay, 0 absent.

Chairman Dever: Carrier.

FISCAL NOTE
Requested by Legislative Council
12/21/2012

Amendment to: SB 2059

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	$0	$0	$0	$0	$0	$0
Expenditures	$0	$0	$6,183,400	$5,400,300	$12,366,800	$10,800,600
Appropriations	$0	$0	$6,183,400	$5,400,300	$12,366,800	$10,800,600

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	$0	$3,201,100	$6,402,200
Cities	$0	$1,624,600	$3,249,200
School Districts	$0	$3,040,000	$6,080,000
Townships	$0	$0	$0

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill adjusts the employer and employee contributions to the state retirement plans to implement the last two years of the four year recovery plan. The first two years were approved in the last legislative session.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The bill increases member and employer contributions for the NDPERS Main (Section 3,4,5), Judges (Section 6), Highway Patrol (Sections 1 & 2), and Defined Contribution (Sections 9 & 10) systems by 1% each in January of 2014 and 2015. The Law Enforcement Plans (Section 8) and National Guard Plan (Section 7), increase is 1/2% for the member and employer occurring over the same period of time.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

See 2B above.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

See 2B above, the appropriation is included in the executive budget.

Name: Sparb Collins
Agency: NDPERS
Telephone: 701-328-3901
Date Prepared: 01/02/2013

FISCAL NOTE
Requested by Legislative Council
12/21/2012

Bill/Resolution No.: SB 2059

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	$0	$0	$0	$0	$0	$0
Expenditures	$0	$0	$6,183,400	$5,400,300	$12,366,800	$10,800,600
Appropriations	$0	$0	$6,183,400	$5,400,300	$12,366,800	$10,800,600

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	$0	$3,201,100	$6,402,200
Cities	$0	$1,624,600	$3,249,200
School Districts	$0	$3,040,000	$6,080,000
Townships	$0	$0	$0

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill adjusts the employer and employee contributions to the state retirement plans to implement the last two years of the four year recovery plan. The first two years were approved in the last legislative session.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The bill increases member and employer contributions for the NDPERS Main (Section 3,4,5), Judges (Section 6), Highway Patrol (Sections 1 & 2), and Defined Contribution (Sections 9 & 10) systems by 1% each in January of 2014 and 2015. The Law Enforcement Plans (Section 8) and National Guard Plan (Section 7), increase is 1/2% for the member and employer occurring over the same period of time.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

See 2B above.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

See 2B above, the appropriation is included in the executive budget.

Name: Sparb Collins
Agency: NDPERS
Telephone: 701-328-3901
Date Prepared: 01/02/2013

13.0103.03001
Title.04000

Adopted by the Government and Veterans Affairs Committee
February 8, 2013

2/8/13
TD

PROPOSED AMENDMENTS TO SENATE BILL NO. 2059

Page 1, line 5, after "system" insert "; and to provide for a legislative management study"

Page 10, after line 26, insert:

"**SECTION 11. LEGISLATIVE MANAGEMENT STUDY - NORTH DAKOTA RETIREMENT PLANS.** During the 2013-14 interim, the legislative management shall consider studying the feasibility and desirability of existing and possible state retirement plans. The study must include an analysis of both a defined benefit plan and a defined contribution plan with considerations and possible consequences for transitioning to a state defined contribution plan. The study may not be conducted by the employee benefits committee. The legislative management shall report its findings and recommendations, together with any legislation needed to implement the recommendations, to the sixty-fourth legislative assembly."

Renumber accordingly

Date: 2/8

Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2059

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ______

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment
☒ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Nelson Seconded By Senator Poolman

Senators	Yes	No	Senator	Yes	No
Chariman Dick Dever			Senator Carolyn Nelson		
Vice Chairman Spencer Berry			Senator Richard Marcellais		
Senator Dwight Cook					
Senator Donald Schaible					
Senator Nicole Poolman					

Withdrawn later 2/8

Total (Yes) ______ No ______

Absent ______

Floor Assignment ______

If the vote is on an amendment, briefly indicate intent:

Date: 2/8

Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2059

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13.0103.03001

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Cook Seconded By Senator Berry

Senators	Yes	No	Senator	Yes	No
Chariman Dick Dever	✓		Senator Carolyn Nelson		✓
Vice Chairman Spencer Berry	✓		Senator Richard Marcellais	✓	
Senator Dwight Cook	✓				
Senator Donald Schaible	✓				
Senator Nicole Poolman	✓				

Total (Yes) 6 No 1

Absent 0

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 2/8

Roll Call Vote #: 3

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2059

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ____________

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment

☒ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Poolman Seconded By Senator Nelson

Senators	Yes	No	Senator	Yes	No
Chariman Dick Dever	✓		Senator Carolyn Nelson	✓	
Vice Chairman Spencer Berry		✓	Senator Richard Marcellais	✓	
Senator Dwight Cook		✓			
Senator Donald Schaible		✓			
Senator Nicole Poolman	✓				

Total (Yes) 4 No 3

Absent 0

Floor Assignment Senator Dever

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2059: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2059 was placed on the Sixth order on the calendar.

Page 1, line 5, after "system" insert "; and to provide for a legislative management study"

Page 10, after line 26, insert:

"**SECTION 11. LEGISLATIVE MANAGEMENT STUDY - NORTH DAKOTA RETIREMENT PLANS.** During the 2013-14 interim, the legislative management shall consider studying the feasibility and desirability of existing and possible state retirement plans. The study must include an analysis of both a defined benefit plan and a defined contribution plan with considerations and possible consequences for transitioning to a state defined contribution plan. The study may not be conducted by the employee benefits committee. The legislative management shall report its findings and recommendations, together with any legislation needed to implement the recommendations, to the sixty-fourth legislative assembly."

Renumber accordingly

2013 SENATE APPROPRIATIONS

SB 2059

2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee
Harvest Room, State Capitol

SB 2059
February 14, 2013
#18981

☐ Conference Committee

Committee Clerk Signature *Rose Laning*

Explanation or reason for introduction of bill/resolution:

A bill relating to increased employer and employee contributions under the highway patrolmen's retirement plan and public employee's retirement system.

Minutes:

Testimony attached # 1-2

Legislative Council - Brittani Reim
OMB - Sheila Peterson

Chairman Holmberg opened the hearing on SB 2059. All committee members were present.

Senator Dever, District 32, Chairman, Government and Veteran's Affairs Committee
And Chairman of Employee Benefits Program Committee

Interesting in the study and included in the amendment a provision that it not be done in the employee benefits program committee which kind of hurt until I realized the purpose was not to avoid my input into it, but rather to expand the base of legislators that have experience with dealing with that. The bill basically continues what was started in the last session and that was to increase the contribution rates on both the employer side and the employee side. During the last interim the bill was introduced to make those increases every year for each of the next four years. At that time we decided to only extend it for the first two years of that project and see what happens with the Stock market to see where we're at. This time the stock market has not improved as we had hoped it might and becomes necessary now to extend it to the last two years of that. I can provide more information for you. That might take more time than you're willing to permit me to have.

Chairman Holmberg read from Standard and Poors - Without going forward with this part of the plan our bond rating will not go forward. The bond rating may go backwards, is that something we might hear about?

Senator Dever replied I would imagine others will share that. Chairman Holmberg said that Sheila is going to give us that information and its' documented in items from Standard and Poors. That might have implications.

Senator Dever - This is pension plans so its long term implications and long term projections are that if we don't increase this at some point, we may run into trouble with the fund. I think what we did last time, prevented a dramatic fall in the funding of the pension plan and what we did brought that kind to stay level at the same level of unfunded liability that we have. The Bill would change that graph to go upward and at some point we would be fully funded again.

V.Chairman Grinberg -The Dow is within 175 points of all time high. The market has recovered to, before it crashed. Two years ago the actuarial folks investment office said that we expect it to be in 2012 not 2013, because, the market has never really recovered so what's the decision that's been made to rebalance the portfolio that maybe has been detrimental to the long term?

Senator Dever - Those who had 401K went to 201K and where are they now, I am not sure if their fully recovered from that either.

Senator Gary Lee How did the policy committee vote on this?

Senator Dever: On the amendment, unanimous. On the bill 4-3

Sparb Collins, Ex. Director, State of ND Public Employees' Retirement System (PERS)
Testified in favor of SB 2059.
Testimony attached # 1.

Chairman Holmberg might not want - take one minute and tell us why TFFR is not before us today.

Sparb: We both met and came up with recovery plans. There was an 8% increase. We came to you last session. You approved the full recovery plan for the teachers. They will go into place in next biennium. You asked us to come back. Had the same plan, but theirs was approved and ours was passed.

V.Chairman Bowman Right now, there are all of states that don't have the opportunity to raise this pool. How are they handling that with their huge debt and employee retirement because what I've heard is that's what is breaking most of the states and cities along with it that are in bankruptcy. That's what they all say on tv anyway and what are we going to do for the long haul to make sure that doesn't happen if we would happen to have a big down turn.

Sparb: ND has a Legislative Employee Benefits Committee that oversees these retirement systems. It also studies any changes these retirement have to be studied by that before they come to the Legislature. It is a great process to make sure that we stay on tack. It's proven itself to the Legislature because during the 1990's we maintained a 100%; our status went up well over 100%. So when we went into this downturn, the challenge you face today is not as severe as the challenge that some of these other states face. It is hard to generalize but here is the worse-case scenario. (27:04-28:00) The state of Illinois didn't have a process like us. They had a plan that generally deteriorated in funding status all throughout the 1990's. When they went into this down turn they were already at about 60% funded status. So, you can see that took them down even further because they didn't take care of their plan. So when you get hit, and you're sitting there at 60% you end up dropping down to 40% or worse and you're challenge or climb out becomes much steeper. I think what you have in place makes sure that the challenge doesn't become as dramatic as what these other states are facing. Of course these other states are unfunded liabilities have just soared and I don't know how there. When you're sitting at 20-30% how do you and that's because you let your funding deteriorate? Even during the good times. Not only because it isn't funded but they are also adding things to it and increasing costs and it was poor management but it just did not have the same level of oversight that you have for us.

Chairman Holmberg - It is not true Sparb that a number of these states that have problems like for example, Illinois, they also have built in Cola's, cost of living increases that are built into the system number one, and then number two, some of them have health care coverage which is expensive. Then as mentioned and alluded to a number of them when times were good, the state legislature, not us, took the money that there were supposed to put into the fund and used it for other things.

Sparb: Absolutely three like the situation varies from state to state. Alaska is defined the benefit hybrid plan include a health insurance coverage. You retired back then with your retirement benefit and life time health insurance. Well, that causes those liabilities to expand in a way, that health insurance keeps going up, it causes them to expand much more dramatically. The cola's that many states have which we don't have also causes you liabilities to just continue to ratchet it up. During the 1990's, the employee benefits committee talked about cola's with them and the committee, and we all said no. That is not a good idea in that, and that's the type of oversight that is making sure that the challenge that you face here today is not near as significant as the challenge that you have. You have a good process.

V.Chairman Grinberg - If we switched to define contribution, the individuals could decide how much cola's they want by the amount of risk they want to take. What is the target rate of return for the fund?

Sparb - The targeted rate of return in the PERS fund is 8%. If you look back over time, generally we've made the 8%. As you can see with these returns what is really throwing it off is that 24% loss year. If you put that into there and it factors in, when you look back on its table of returns that we have in here in 2000, we've made over 8 more than less.

V.Chairman Grinberg Could you provide us with a one or two page overview of the financial model or the portfolio fix of the asset base? Sparb: Absolutely!

Sparb: Off the top of head I can tell you it's about 55% in equities and 5% in real estate, 5% in alternatives, and the rest is in fixed income. It's a fairly conservative asset allocation. It is not as weighted to equities or alternatives in a way.

V.Chairman Grinberg Do we have a certain percentage under management by Venture Capital?

(32:00) **Sparb**: Not weighted to equities or alternatives in a way.

V.Chairman Grindberg: Do we still have a certain percentage by management by Venture capital firms.
Sparb replied that would be under the alternative, yes. But I would be happy to share that with you. You know that diversification of that investment portfolio, the year where we went down by 24% only helps to visualize why the importance of making sure that its diversified as it was because as dramatic as that was, if our portfolio had been like some over 60-70% where the equities in these things, 24% would've rapidly become 40%. That's why it was a good thing that we had the diversification to the fixed income which helped to stabilize that.

32:43 **Senator Gary Lee** You commented several times about the 24% down, and the trajectory of your line in terms of improvement. It's not only based on 8%, but is it also including no dips like that again?

Sparb replied it doesn't assume that we're not going to have dips. It just means that on average over that 30 year recovery period we're going to make 8**%.**

Sen. Gary Lee asked that you'll have to continue with that 8% rate to continue on that trajectory?

Sparb replied on average.

33:53 Senator Carlisle: Can you explain when we hear the defined benefit defined contribution? If we make any switches in the scenarios, doesn't it or what does it cost to run both or how would that work if there was that change with new employees?

Sparb: It's a complicated question. It's not a simple matter to make a change. The reason why is that the contribution that is related to each position in the defined state government that participates in this thing, has two components to it. What we call the normal cost and the unfunded liability portion. The normal cost is just the cost of adding that benefit or additional benefit and runs about 9.9%; the other part has to do with paying off the unfunded liability. We have an unfunded liability today of about $800 Million dollars. The cost of paying that off over this period is spread over all those positions. So, now the way I and so if you allow a define contribution plan to come in and you allow those members to take both sides of that contribution over the defined contribution plan we end up short that one side of the contribution to pay off the debt. It causes that to go up. (Example cited 35:29-37:03) Last session over in the House they had a bill to put all new employees in the defined contribution plan, well what we ended up showing on that related to the charts even with the increase in contributions we ended up going to zero because there wasn't anybody left to pay it off. There was huge fiscal note on it. It's complicated but I hope I gave you a concept of the challenge you face in making this adjustment.

37:39 **Senator Wanzek**: What about the benefits? The unfunded liability is benefits that are projected to be paid out over a life time. We have no cola, and I am trying to remember how we calculate benefits. What about a cost of living? There has got to be something built in there for people or is just set at where it is today and we're not looking at any increase in any benefits until we get this thing to a 100% funding.

Sparb: Ultimately that is up to you. There can be no change in this plan unless you approve it. The challenge of course today is any change is only going to increase the cost of the recovery and know there is no cola built into this plan. For the main plan with the benefit is that it is a multiplier of 2; 2x years of service somebody has in the plan, and we figure a career is like 25 years, so 2x25 means they leave with 50% of their final average salary. And that was put together way back and the goal was to provide employees with about 90% of their final average salary when they retired including social security. So Social Security will give the average employee about 40% of their final average salary, so then we figured at a career of 25 years will put in about 50 so with the 50 and the 40 together and you 90% of final average salary. Now you're right that Social Security is indexed and that will grow, ours won't grow unless you decide to give a benefit increase. The challenge today is how do you pay for that?

Senator Wanzek The day I retire, its' determined to stay at that level until the legislative action or statute would change it?

Sparb Yes, but we do have one benefit option and not to get down to deep in the weeds here. We do have a benefit option where somebody can elect to self-fund a cost of living adjustment. So their benefit is actuarially reduced at the outset from what they would normally get by 10 or 15 or 20% and then it will ratchet up. But you have to self- fund that you have to pay for it.

V.Chairman Bowman we're not getting a high enough rates on return right now, so we've got to make this whole, if I understand you, up to 8% is that what the goal is? What I'm asking is if you got forking return in investment, two years from now after we've made this whole, so that any clients, do you pay the taxpayers back what we had to bump up to get this whole or do you keep all of that and every time there is a downturn you ask them for more?

Sparb First of all its not that were not making the return right now, its' because of what occurred back then. As a matter of fact this last year we had about a zero percent and the year before we had a 21% return and the year before we had a 13% return and the year before that we had a -24 %. So it's that negative 24. Your right that once the plan is back to a 100% funded these contributions can be reduced. Our normal cost is about 10% so that is where they could potentially be reduced. This is a recovery and looking at the fiscal note, that the employees are kicking in an equal amount to that as well.

Sheila Peterson, Director of the Fiscal Management Division, OMB - representing Pam Sharp. Full support of this bill.
Attachment #2. - Global Credit Portal

Reading from page 3 - The positive outlook reflects that we view as North Dakota's strong government framework and management, strong budgetary performance, and enhanced reserves. If the states recent actions to improve pension funding level bring them more in line with Triple AAA rated peers, we could raise the rating to triple AAA. Alternatively, if these actions do not improve pension funding to that level, we could revise the outlook on North Dakota back to stable.

The PERS bill was funded in the Governor's budget. Standard and Poors is watching the outcome. If it passes Standard and Poors employees will look positively at giving us a Triple rating. If it doesn't pass, they would look very seriously at downgrading our bond rating. Clearly, this is an issue we need to take seriously and we would encourage a strong yes vote on SB 2059.

44:52. **Senator Warner** if we're not bonding anything anyway, is there any benefit to this besides bragging points?

Sheila: It certainly is hard to quantify how much bonding or what dollars we could save if we were bonding or not bonding or at what levels. But yes it certainly is important to overall to have a solid rating. It really doesn't look very good to go down.

Senator Robinson There is a schedule of investment fund balances, where is that located. We've got the trust fund balances, but it's not there.

Sheila: Are you talking about the bonds we have outstanding?

Senator Robinson: I am talking about our investment fund, the investments. Teachers Fund for Retirement, the Highway Fund, all those funds were just talking about in this bill.

Sheila No, you would not find any of those in our budget documents. I could quickly gather them from the state investment board and PERS and Land Department who invest funds and all of them.

Senator Robinson To look at those, it might be interested for the committee to have that.

V.Chairman Grinberg: That's what I had asked, but your request is much broader than other funds than just the retirement.

Closed hearing on SB 2059.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee
Harvest Room, State Capitol

SB 2059
02-15-2013
Job # 19025

☐ Conference Committee

Committee Clerk Signature	Alice Delzer

Explanation or reason for introduction of bill/resolution:

A BILL for Increased employer and employee contributions (PERS)

Minutes: You may make reference to "attached testimony."

Chairman Holmberg called the committee to order on Friday, February 15, 2013. All committee members were present.

Brady Larson - Legislative Council
Tammy R. Dolan -OMB

Senator Schaible: To come in and speak. I am here today because I believe our defined benefit plan is flawed and that is kind of why I am against the bill. I understand this bill was put together with a group of stakeholders that came and make this as a recovery plan. I also understand that because doing this it might make our performance rating on our bonding look better, but quite frankly if it's back by North Dakota it should be way up there anyway. If you think we need to continue to recovery, these plans and to make them whole this is probably the best way to go. But what I am suggesting this is not the best way to proceed. First of all I believe the actuary at 8% is very optimistic and it has to be that way, for up to 30 years. If we look back at our 2001-2002 we lost 8% of our funds, and in 2008-2009 we lost up to 25% of our funds and I compare these to a hundred year and a 500 year flood and we stick a lot of money into protecting floods that aren't predicted to happen in 100-500 years. I feel this is the same kind of thing. If we have another incident like 2001 or 2008 we drop a great percentage of our fund and even if we continue at 8% after that we're still not doing very well. So it is a very, very flawed process. The other thing is our only solution to solve this problem is a one on one and two on two and whatever and it seems to be irresponsible way to do it. Looking at the effect of this has to our employers you know we have trouble with comparative and competitive salaries and this takes more money away from them to do that. It takes money away from take-home, it takes money away the total amount that would be available for their salaries, so it seems like we're defeating our own plan by continuing down this path. The other thing is that contributing to a plan that is only partially funded. So there not getting the benefit of what they put into it. It is a plan that we've agreed to. Nothing that I am going to say do I think that we ever have to hurt our employees. I think we've made a commitment to them. I think that we live up to that commitment and that really should be the first thing that is ever said on these plans is that we are here to protect our employees and we plan on playing them. I think that is important, but the other thing is now their investing into a plan that's 60-80% funded and not getting any return on that because it's very unlikely that they're going to have the potential to get more benefit after they retired because our plans are in such shape. The other thing is what is this doing to our employers? Employers have less revenue to use for salaries because of the demands of our contribution rates. In the spirit of property tax relief, we require unfunded balance to our political subs and then we provide them with tax relief and then we give them a larger percentage of the states' fund in how to pay for their bills. So it seems like there again we're contradicting what we're trying to do. Government is expanding, employees are expanding and I think that is a good thing because it shows the work of our state and that's not bad. But at some point I think we're going to see a reversal of that. I hope it's a long ways down the line. But if it does happen, we also then will have less employees, more retirees and less employees paying for the fund at that time. That also is going to have counter effect to what we are doing with the employment.

So we get to the point of whose is going to pay this. The people of the state because right now whether it's the employees which we pay; which we give the people to pay them, or its' our share of the contribution. So who is going to pay? Well right now it's the state and I think we can find a more reasonable way to do that. I am not going to go into the benefits of changing the system as I think we all know where there at; but what I believe is this attitude of the state if we're at a point where we are looking for a solution in moving forward, three things have to happen. First we have to say no to more contributions to these plans. It does two things, it draws a line in the sand, it makes you serious about moving forward into looking for a solution and then how do you look for these solutions if your contributing more money to these plans and you keep going down this path and saying, well, this plan is solvable and its going to work and then we also try to look at the other thing. I think if you're serious about looking at something different at some point we've got to say this is enough and we're going to seriously look at something else. I think the first step in that is saying no to contributions. Second thing that has to happen is how do you manage this unfunded balance? Well as we contribute more money to these balances in these funds, it kind of takes our opportunity to do. Say no to contributions, address how you're going to fund these unfunded balances; and then you have the path to move to a new solution in these retirements. There are some benefits for everybody by looking at a different plan, but I'll take a whack at that on the floor. This is the jest of what I am saying against this bill. I just think that being responsible and for generations to come this is a 60-80 commitment even if we switch; if we do not switch, its 80 years and way beyond that. If you think we can sustain an 8% actuary for 30 some years without these 100-500 year storms which I believe with the turmoil in our economics and our condition I think they're going to be more frequent than what we've seen. I guess for that reasons I am against more contributions and would be happy to try to answer any of your questions.

Senator Carlisle Did you read the testimony that PERS handed out and from Sheila?

Senator Schaible: Yes, I did and I'm not and I even talked with my Chairman today and I didn't want to end round him and do that. I don't think there is a disagreement on that. If you believe that we should continue down this path, this idea of this one on one and two and two and whatever it takes is probably the best way to make that soluble. Yes, if you believe that this is it. But that's a plan that was based on everybody at the table and a recovery plan saying how do we fix this plan? The idea of ever switching or doing something else probably wasn't even discussed.

Senator Carlisle But, I haven't heard the alternative yet. If you run dual plans, you know with the fiscal note, talking about hundreds and millions of dollars and you can't starve the defined benefit out either. People got to pay in in the way I understood it, Mr. Collins asked us for a couple of more years to see where we are at. I understand about the 8%, and one year the plan lost 24%, but other years its' done pretty well. The actuaries that are trained they run the numbers; anything is based on the money that goes in and the expense so. A person can certainly listen but I haven't heard and alternative. You just can't stop putting into the plan. You have a moral commitment to all of the folks that are working here now and we don't have a cola clause, we don't have medicals in this, so the benefit like my wife as a retired state employee, her check isn't going to change. Now her ING check has her retirement from another 29 years, has a cola clause, but its funded. It is a Swiss Insurance outfit.

Senator Schaible I don't disagree with any of anything that you said. When we make this change and how you do it, is, are you putting the cart before the horse? You either got to explain how you're going to fund the unfunded balance, and then quit doing it, but right now what we are doing here is $58M more to do this. I have an idea how that other plan should look and I think this idea is, but there is some questions on that, such as do we continue and we need to develop a plan and keep doing this. It doesn't seem reasonable that if you're going create a different plan and look at that, that you keep funding both at the same time. I am not saying we cut anybody's benefits and everybody gets paid, but I think we find a better way to fund that.

Chairman Holmberg The employee benefits committee over some years looked at the issue and last session presented a proposed fix for TFFR and PERS? Is the legislature sending mixed messages when last session we approved the full fix for TFFR and then we do not engage in the full fix on the PERS? Is that a strange message that we are sending? You might have been against the 4 year plan last time for TFFR I don't know.

Senator Schaible: I probably voted for it and I probably shouldn't have for the same reason. We have 10 plans that we're talking about and they all come up at different times and there all over the board. We have to get the same message to everybody. This is the one before us, and at some point you got to say is this enough and when do we do that? You can always do that at a latter day to make sure everybody is the same and then do it, but at some point you just got to say this is enough and we're going to look at something else. I am not saying about unjustifying employees or employers if you have to make adjustments. At some point you make a decision to do something else and you move to that resolution and get there.

Vice Chairman Bowman What is so magical about the 8% what if it was 6 % would it be more solvent and would we have to be putting in the $58 M or whatever you said?

Senator Schaible I asked the same question, I didn't get a very decent answer. I think 8% is what makes the plan work at 2041. You can adjust percentage amount that pays in and the amount of money you use to make anything you want work but that's kind of my thought that 8% pretty bold figure.

Chairman Holmberg We are glad you were able to come down and present that side of the picture. The hearing was closed on SB 2059.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee
Harvest Room, State Capitol

SB 2059
February 15, 2013
Job # 19039

☐ Conference Committee

Committee Clerk Signature	Rose Laning

Explanation or reason for introduction of bill/resolution:

A bill relating to increased employer and employee contributions under the highway patrolmen's retirement plan and public employee's retirement system.

Minutes:

Chairman Holmberg opened the hearing on SB 2059 and said this bill was the product of the interim committee. There are arguments on all sides of that.

Senator Robinson moved approval the bill as presented. He appreciated the concerns of Senator Schaible. I'm not suggesting that we're different as a state, but we are. We don't have the COLA. We don't have health insurance provisions. Sheila Sandness from Legislative Council pointed out that our vigilance, monitoring and staying on top of this as it moves through the session and certainly over the interim. At this juncture we need to move the bill out.

Senator Krebsbach seconded the motion.

Discussion:

Senator Wanzek: I feel like we're buying time hoping the market will bail us out, but I don't have a response at this point in time of what else we could do. I do understand any changes we would make would require significant commitment on our part to make that change. We would be making that decision right now, so in a sense, I feel we are buying some time hoping the market is at least earning 8%, but this is the best option we have at this point in time. We need to support it.

A roll call vote was taken. Yea: 10 Nay: 3 Absent: 0
The bill goes back to GVA and Senator Dever will carry the bill.

FISCAL NOTE
Requested by Legislative Council
12/21/2012

Amendment to: SB 2059

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	$0	$0	$0	$0	$0	$0
Expenditures	$0	$0	$6,183,400	$5,400,300	$12,366,800	$10,800,600
Appropriations	$0	$0	$6,183,400	$5,400,300	$12,366,800	$10,800,600

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	$0	$3,201,100	$6,402,200
Cities	$0	$1,624,600	$3,249,200
School Districts	$0	$3,040,000	$6,080,000
Townships	$0	$0	$0

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill adjusts the employer and employee contributions to the state retirement plans to implement the last two years of the four year recovery plan. The first two years were approved in the last legislative session.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The bill increases member and employer contributions for the NDPERS Main (Section 3,4,5), Judges (Section 6), Highway Patrol (Sections 1 & 2), and Defined Contribution (Sections 9 & 10) systems by 1% each in January of 2014 and 2015. The Law Enforcement Plans (Section 8) and National Guard Plan (Section 7), increase is 1/2% for the member and employer occurring over the same period of time.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

See 2B above.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

See 2B above, the appropriation is included in the executive budget.

Name: Sparb Collins
Agency: NDPERS
Telephone: 701-328-3901
Date Prepared: 01/02/2013

FISCAL NOTE
Requested by Legislative Council
12/21/2012

Bill/Resolution No.: SB 2059

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	$0	$0	$0	$0	$0	$0
Expenditures	$0	$0	$6,183,400	$5,400,300	$12,366,800	$10,800,600
Appropriations	$0	$0	$6,183,400	$5,400,300	$12,366,800	$10,800,600

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	$0	$3,201,100	$6,402,200
Cities	$0	$1,624,600	$3,249,200
School Districts	$0	$3,040,000	$6,080,000
Townships	$0	$0	$0

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill adjusts the employer and employee contributions to the state retirement plans to implement the last two years of the four year recovery plan. The first two years were approved in the last legislative session.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The bill increases member and employer contributions for the NDPERS Main (Section 3,4,5), Judges (Section 6), Highway Patrol (Sections 1 & 2), and Defined Contribution (Sections 9 & 10) systems by 1% each in January of 2014 and 2015. The Law Enforcement Plans (Section 8) and National Guard Plan (Section 7), increase is 1/2% for the member and employer occurring over the same period of time.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

See 2B above.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

See 2B above, the appropriation is included in the executive budget.

Name: Sparb Collins
Agency: NDPERS
Telephone: 701-328-3901
Date Prepared: 01/02/2013

Date: 2-15-13

Roll Call Vote # 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2059

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ________

Action Taken DP

Motion Made By Robinson Seconded By Krebsbach

Senators	Yes	No	Senator	Yes	No
Chariman Ray Holmberg	✓		Senator Tim Mathern	✓	
Co-Vice Chairman Bill Bowman		✓	Senator David O'Connell	✓	
Co-Vice Chair Tony Grindberg		✓	Senator Larry Robinson	✓	
Senator Ralph Kilzer	✓		Senator John Warner	✓	
Senator Karen Krebsbach	✓				
Senator Robert Erbele	✓				
Senator Terry Wanzek	✓				
Senator Ron Carlisle	✓				
Senator Gary Lee		✓			

Total (Yes) 10 No 3

Absent 0

Floor Assignment BVA Dever

If the vote is on an amendment, briefly indicate intent: Dever ?

REPORT OF STANDING COMMITTEE

SB 2059, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2059 was placed on the Eleventh order on the calendar.

2013 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2059

2013 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee
Fort Union Room, State Capitol

SB 2059
March 7, 2013
19545

☐ Conference Committee

Committee Clerk Signature	Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to increased employer and employee contributions under the highway patrolman's retirement plan and public employees retirement.

Minutes:

You may make reference to "attached testimony."

Vice Chair Randy Boehning gaveled in and attendance was taken. He then took a 30 minute recess.

Chairman Jim Kasper opened the hearing on HB 2059.

Sparb Collins, Executive Director of NDPERS, appeared in support. He presented **Attachment 2.** (1:35-7:30) He explained the graph on Page 6. (Continued testimony 9:12-25:16)

Rep. Vicky Steiner Earlier testimony prior to crossover stated that 8% might go to 7%. Do you think that is likely and should we be looking at those charts instead?

Sparb Collins The underlying assumptions are broken into two categories, the demographic assumptions such as death rates and mortalities and economic assumptions such as investment return. There is a regular review of those assumptions. If you look at the table on Page 5, over the last 12 years we made the 8% return six times and we missed it six. Of course, one of those six was a terrible miss. If you look back since 1990, we made it 15 and missed it out of 7. As of yesterday, returns were around 11% year to date. Last year we had about a 0% return; the year before we had 21% return; the year before that we had a 13% return. He reminded the committee about the fiscal year versus the calendar year and the measuring period is an important thing when we talk about looking at these.

Rep. Vernon Laning Is there any consideration of reducing those contributions rates in some of those funds once they reach 100% or is it best just to continue and let them overfund, more or less?

Sparb Collins That is something that can be done when those return back to 100% funded status. There are two parts to a retirement contribution. Normal cost is the cost of paying for one more year of benefits. In the PERS main plan our normal cost is around 10%. The second part of the cost is called the amortization payment or the debt payment or the unfunded liability. Once it is paid off, that could be taken away and the plan would be paying its way. If we wanted to reduce the return assumption in the plan, that does cost additional money to do. You could allocate it to reducing the return assumption.

Rep. Ben Koppelman Any time you are facing a deficit, there are two ways to make that deficit up, increase revenues and decrease expenditures. Was there any discussion of decreasing expenditures based on how long people are expected to live and what market returns are today versus the assumptions they were 20 years ago?

Sparb Collins He handed out **Attachment 3** to help answer this question. (31:32-34:50)

Rep. Karen Karls Didn't this legislature in the mid 80s put about $12 million into one of these funds? I am not sure if it was PERS or TFFR? It was TFFR.

Rep. Gail Mooney This is specific to the law enforcement, judges, and National Guard and not to the main PERS?

Sparb Collins It also includes the main PERS.

Rep. Gail Mooney To the local subdivisions then what we are talking about is expanding into two more increases, the same as the last two increases?

Sparb Collins That was the four year recovery plan.

Rep. Gail Mooney In the next two years, there would be another 4% overall contribution that would be made into the fund? Sparb answered yes. Are we planning on coming back again then in the 2015 legislative session to continue it further?

Sparb Collins No, that would complete the entire four year recovery plan that was presented and should put all the plans back on track to 100% funded status. Hopefully, once we get farther down the road, the next thing you could be considering is whether you want to reduce those contributions.

Chairman Jim Kasper Could we amend the retirement formula in current statue for ongoing opportunities?

Sparb Collins Here again that fell in that area that is not so clear. There could be strong legal arguments that you couldn't and there could be strong legal arguments that you could.

Chairman Jim Kasper Looking at your second chart, if we amended the statue in a way that we would have more flexibility to change benefits or change contribution levels for those newly hired after a certain date, would that be a problem?

Sparb Collins As we understand, anything that just deals with newly hired is your discretion.

Chairman Jim Kasper If this bill were to pass, what would be the total contribution percentage for employees and employers?

Sparb Collins On the main system, this would rise to 16.12%. The employer contribution would be 8.12% and the employee contribution would be 8%. Let me clarify on the employee side. The state is one of our employers and then there are all the political subdivisions that are employers. Back in 81-82 or 82-83, the state elected to pick up at that time the 4% employee contribution. I think you are asking what is the employer like for the the state actually paying, so we said employer paid for the state would be 12.12% and 4% employee paid. The political subdivisions will make their own decisions.

Pam Sharp, Director of OMB, appeared in support. Look at this issue from a bigger picture and that is the overall financial condition that the state is in, how others perceive the financial condition that the state is in, and what the impact of passing or not passing this bill will have on us. Since the statement by Standard and Poor's that was read by Sparb I have had many conversations with Standard and Poor's about our bond rating. Last fall she attended a meeting in New York to request and convince Standard and Poor's that we should have a triple A bond rating. Right now for both Moody's and S&P, we are one step below a triple A. The only thing from giving us this rating is our unfunded pension liability. We need to be on a plan to be fully funded. It leverages state employees. It uses their money and it also uses money from the political subdivisions. We are not using all general fund money. We are using a good mix of funds of getting us on this plan. We felt bad when we hear that Williston was downgraded and the Federal government was downgraded. I think we have an opportunity here to do the right thing for our state and fund our legal commitments and we have an option to not let that happen to North Dakota. The Governor does support this and funded it in the Governor's budget. When you passed OMB's budget appropriation bill1015, you did take that funding out for this recovery plan. I would like you to reconsider that by passing this bill.

Chairman Jim Kasper Can you make that Standard and Poor's document available? Do you know how Standard and Poor's rates these other states that are in worse position than North Dakota? Have they downgraded their ratings as well?

Pam Sharp I know they have downgraded some states. I don't know which ones they have downgraded and which ones they haven't downgraded and for what specific reasons. **Attachment 5** was made available at a later time which was requested by Chairman Kasper.

Rep. Scott Louser What was our unfunded liability when you and the Governor went to DC last May?

Pam Sharp We went last fall and it was about $800 million.

Rep. Scott Louser Are there any states that are triple A?

Pam Sharp There are several states that are triple A, probably a dozen or so. They don't feel we need that to take care of this in one biennium. What they are looking for is a plan that will get us to that point.

Chairman Jim Kasper What is the result of one step downgrade from the best as far as bond cost?

Pam Sharp I can't tell you in dollar terms. Obviously, we do get better interest rates the better bond rating we have. We are really in a different realm than most other states.

Rep. Steven Zaiser If we were to pass this bill and if we were to reverse next session, did they talk to you about what kind of impact that would have?

Pam Sharp I believe the way they would look at that is they would look at the bill that was passed, look at the shape that we are in at that time, and see what the impact of that change would be. If we had just huge market gains and everything was looking much better and we decrease the contributions a little bit, if we were still on track to deal with that liability over time, I don't believe they would see that as a negative. They would just see us adjusting as necessary.

Rep. Gail Mooney Is there anything like a state issued dollar amount like was done in the past for TFFR possible?

Pam Sharp That probably is a better question for Sparb. A large influx of general fund dollars probably isn't the best use of general fund dollars because we don't leverage employee dollars, federal dollars, state dollars, and we don't leverage the contributions from the political subdivisions.

Rep. Gail Mooney I ask because we continually refer to the subdivision contributions and yet at the same time in this particular session, we have an enormous pressure for property tax reduction and those general dollars comes from property tax. Either we on a local level are able to opt to pull in and pay for all of the employee portion or share it as the one and one or the two and two ultimately. In either case, though, now the employee is facing a decrease in their benefit package ratio to their compensation package.

Chairman Jim Kasper What would be the effect of closing the PERS main plan to political subdivisions and giving them a date certain where they would have to take their funds out of the plan and go back to having their own retirement plan?

Sparb Collins The best answer would be from our actuary. Would that help our overall funding challenge? Probably not.

Chairman Jim Kasper Would it impact it at all?

Sparb Collins I am suspecting no.

Chairman Jim Kasper We have an unfunded liability when we look at the main plan for not only the state employees, but we are also having to look at the unfunded liability for the other political subdivision employees which creates a requirement to fund. If the political subdivisions don't match what we are doing, what is going to be the result of how their benefits and their contribution levels will affect what we are trying to do here?

Sparb Collins Under this statue they would match. This proposal shares it with all participants equally. About 50% of the state comes from general fund and the other 50% comes from all other funding sources. If you go to one funding source to pick it up, that is when you end up with equity issues.

Chairman Jim Kasper Under the retirement contribution formula, all the political subdivisions are going to have to contribute the same employer percentage and the employees will contribute the same employee percentage as the state dollars are?

Sparb Collins Yes.

Chairman Jim Kasper When an employee retires, if they earn the maximum retirement benefit based upon years of service, what percent of salary will they retire on?

Sparb Collins Our multiplier is 2. You take 2 x the years of service, so the 20 year employee gets 40% of their final average salary. The 25 year employee would get 50% and a 15 year employee would get 30%. Their age is a variable in that you cannot get a full retirement benefit until you reach age 65 or under our system, the rule of 85 which is age plus years of service. If you retire before normal retirement age, there is about ½ % reduction for each month you retire before or 6% a year. If you would go five years before, it would be a 30% reduction. In the main you can't retire earlier than 55.

Chairman Jim Kasper Could you give us a memo of what you told me. Mr. Collins agreed to do so.

Rep. Bill Amerman What is the difference between law enforcement with service and law enforcement without prior service?

Sparb Collins Contribution rates are different. The reason why is those who joined that system, who brought with them prior service, they were more expensive than those who didn't and so there is a different contribution rate. Same benefits, different contribution rates.

Rep. Steven Zaiser Assuming we pass this bill and political subdivisions are ill equipped to fund their share or refuse to fund their share, what are the consequences?

Sparb Collins It would be a legal requirement that they do. We have made every attempt to keep in contact. They are aware of it.

Rep. Steven Zaiser Do you know how many have bought into this or did not? I really see that potential because there are some political subdivisions that aren't doing very well and struggling. What are the consequences?

Sparb Collins That would be a legal question. This was a four year recovery plan and they have all gone through the first two.

Rep. Steven Zaiser Again, this is sort of the last step in the process. I still have this open question.

Chairman Jim Kasper Does the statue allow that if a political subdivision does not meet their funding obligation, that they could be jettisoned from the plan?

Sparb Collins A political subdivision always has an option to quit. If you elect to quit, the actuary would take a look at what your unfunded liability is associated with what has been earned. You would pay that and you could go out.

Rep. Steven Zaiser If they refused to pay, they would be jettisoned from the plan?

Sparb Collins That would be a legal question. They do have an option to send us a letter and formally quit. I don't know how our options work if they refuse to pay. We have the authority to terminate them or just pursue payment/

Rep. Steven Zaiser Would it make sense to talk to the attorney general to get an opinion?

Sparb Collins For your information, I can ask informally our attorney and outlined for you what those are.

Chairman Jim Kasper Give us a memo on that when you get an informal answer.

Vice Chair Randy Boehning Is it just the main plan that is 50-50 between the state and the political subs, and then the judges and everything else would be the other 3 plus million that we are picking up?

Sparb Collins The main system is the one that is 50-50. Judges are 100% state employees. Law enforcement is mostly political subdivisions accept for BCI. Highway Patrol is all state. The main system is 98% of these people.

Stuart Savelkoul, ND Public Employees Association, appeared in support of SB 2059. Our members aren't wild about getting a raise in July and in January their take home pay goes down because they have to increase their retirement contribution. We understand at the end of the day, it is a sacrifice that needs to be made in order to keep the fund in a healthy position.

Bill Kalanek, Association for Public Employees, could not appear today in support but did leave **Attachment 1** testimony.

Opposition:

Adam Otteson, State Employee, appeared in opposition. **Attachment 4.** (1:04:35-1:10:30)

Rep. Ben Koppelman I understand your logic. At the end of the day there isn't enough money to do what you are suggesting. If this is done, is it safe to say that it would be okay to not offer any pay increases for a decade to fund this if that is what it took to recover the fund back?

Adam Otteson: If the contribution was paid by the state and not on our behalf, there is actually some additional savings that is there that would cover part of the loss there too. In regard to offsetting raises, because of that additional expense that is there that is reducing our take home pay, I would be more in support of that.

The hearing was closed.

2013 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee
Fort Union Room, State Capitol

SB 2059
March 22, 2013
20378

☐ Conference Committee

Committee Clerk Signature	Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to increased employer and employee contributions under the highway patrolman's retirement plan and public employees retirement.

Minutes:

Attachment 1

Attachment 1 was requested information from PERS that came in after the March 7 hearing.

Chairman Jim Kasper opened the session on SB 2059. The majority leader and the chairman of the House appropriations committee had met with the Senate leadership. They are working on trying to balance our budgets and trying to coordinate what the House and what the Senate is going to do. One of the things that came about is SB 2059. The Senate is a little bit untrustworthy of what the House's intentions are, so they are saying we want you to kill 2059 so we know you are serious about trying to come forward with the right type of program for the salaries for the employees and the benefit package and the whole works. They wanted it done today so that there are things that can happen next week that they have to go through to keep the session moving. What SB 2059 does do is provides additional employee retirement benefit contributions from the state of North Dakota for 2% for 2014 and 2% for 2015 which is a total of 4%. You recall a couple days ago talking about the formula of how the retirement unfunded liabilities are calculated, and we use a five year smoothing average. We are still in the throes of using the last year or two when the markets were bad, but the market has now reached its all-time high. Once we appropriate additional funds to that retirement plan, they are there forever. The discussion is that as the market has continued to improve, we may not need to put any more dollars in so we can put more dollars into wages and benefits for the state employees.

Rep. Karen Rohr moved a Do not pass.

Vice Chair Randy Boehning seconded.

Rep. Gail Mooney The two appropriations have another bill that they are working on?

Chairman Jim Kasper In the OMB budget and the other appropriations bills, there is another bill that deals with retirement benefits that is out there. They are going to reconcile probably in the OMB budget, so this gives them the opportunity to do that, so there is no lose strings out there, so to speak.

A roll call vote was taken and resulted in **DO NOT PASS, 11-3. Chairman Jim Kasper** is the carrier.

FISCAL NOTE
Requested by Legislative Council
12/21/2012

Amendment to: SB 2059

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	$0	$0	$0	$0	$0	$0
Expenditures	$0	$0	$6,183,400	$5,400,300	$12,366,800	$10,800,600
Appropriations	$0	$0	$6,183,400	$5,400,300	$12,366,800	$10,800,600

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	$0	$3,201,100	$6,402,200
Cities	$0	$1,624,600	$3,249,200
School Districts	$0	$3,040,000	$6,080,000
Townships	$0	$0	$0

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill adjusts the employer and employee contributions to the state retirement plans to implement the last two years of the four year recovery plan. The first two years were approved in the last legislative session.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The bill increases member and employer contributions for the NDPERS Main (Section 3,4,5), Judges (Section 6), Highway Patrol (Sections 1 & 2), and Defined Contribution (Sections 9 & 10) systems by 1% each in January of 2014 and 2015. The Law Enforcement Plans (Section 8) and National Guard Plan (Section 7), increase is 1/2% for the member and employer occurring over the same period of time.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

See 2B above.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

See 2B above, the appropriation is included in the executive budget.

Name: Sparb Collins
Agency: NDPERS
Telephone: 701-328-3901
Date Prepared: 01/02/2013

FISCAL NOTE
Requested by Legislative Council
12/21/2012

Bill/Resolution No.: SB 2059

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	$0	$0	$0	$0	$0	$0
Expenditures	$0	$0	$6,183,400	$5,400,300	$12,366,800	$10,800,600
Appropriations	$0	$0	$6,183,400	$5,400,300	$12,366,800	$10,800,600

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	$0	$3,201,100	$6,402,200
Cities	$0	$1,624,600	$3,249,200
School Districts	$0	$3,040,000	$6,080,000
Townships	$0	$0	$0

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill adjusts the employer and employee contributions to the state retirement plans to implement the last two years of the four year recovery plan. The first two years were approved in the last legislative session.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The bill increases member and employer contributions for the NDPERS Main (Section 3,4,5), Judges (Section 6), Highway Patrol (Sections 1 & 2), and Defined Contribution (Sections 9 & 10) systems by 1% each in January of 2014 and 2015. The Law Enforcement Plans (Section 8) and National Guard Plan (Section 7), increase is 1/2% for the member and employer occurring over the same period of time.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

See 2B above.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

See 2B above, the appropriation is included in the executive budget.

Name: Sparb Collins
Agency: NDPERS
Telephone: 701-328-3901
Date Prepared: 01/02/2013

Date: 3-22-13
Roll Call Vote #: ______

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2059

House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ______

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rohr Seconded By Boehning

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Bill Amerman		X
Vice Chairman Randy Boehning	X		Rep. Gail Mooney	X	
Rep. Jason Dockter	X		Rep. Marie Strinden		X
Rep. Karen Karls	X		Rep. Steven Zaiser		X
Rep. Ben Koppelman	X				
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Gary Paur	X				
Rep. Karen Rohr	X				
Rep. Vicky Steiner	X				

Total (Yes) 11 No 3

Absent 0

Floor Assignment ~~Steiner~~ Kasper

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2059, as engrossed: Government and Veterans Affairs Committee (Rep. Kasper, Chairman) recommends **DO NOT PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2059 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

SB 2059

Attachment #1

TESTIMONY OF SPARB COLLINS

SENATE BILL 2059

Good morning, my name is Sparb Collins. I am the Executive Director of the North Dakota Public Employees Retirement System (NDPERS). I appear before you today concerning the retirement plans we administer and in support of SB 2059. Our agency provides services to the state and participating political subdivisions. The following table provides some statistical information on the retirement plans we administer:

January 1, 2013

RETIREMENT PROGRAMS
MANAGED AND ADMINISTERED BY NDPERS

	TOTAL RETIREMENT	*Main System*	*D.C. 401(a)*	*Highway Patrol*	*Judges*	*Guard*	*Law Enforcement*	*Job Service*	*DEFERRED COMP*	*HEALTH CREDIT*
PARTICIPATION										
AGENCY										
State	93	93	32	1	1	1	1	1	89	93
Counties	49	48					11		35	49
School Dist	114	114							18	114
Cities	81	75					6		34	81
Others	73	73							29	73
	410								*205*	*410*
EMPLOYEES										
State	10,512	10,014	219	141	47	36	37	18	4,561	10,512
Counties	3,583	3,388					129		580	3,583
School Dist	4,988	4,988							75	4,988
Cities	1,475	1,431					44		225	1,475
Others	557	457							189	557
Retirees	7,816	7,214	49	109	22	12	11	120		4,442
	28,931	*27,492*	*268*	*250*	*69*	*48*	*221*	*138*	*5,630*	*25,557*

As you will note, our agency is responsible for the administration of approximately 10 different retirement plans. The Law Enforcement Plan is divided into two plans, those with past service and those without. Several of the above plans were assigned to our agency by the 2001 and 2003 legislative session. Those were the Job Service Retirement Plan and the Law Enforcement Plans for political subdivisions. The Law Enforcement Plan has since been expanded to certain state employees. The 401(a) plan or optional defined contribution plan for non-classified state employees was assigned to our agency in 1999. The other retirement programs have been a part of PERS since the 1980's. You will note the largest retirement plan we administer is the Main/Hybrid retirement system which provides services to not only the state, but also to political subdivisions. In this plan about 50% of the active members are state employees and 50% are political subdivision employees. School districts are our second largest group followed by counties and cities.

The proposed legislation before you today is the second part of a four year recovery plan for the PERS Retirement Plans. The first two years were approved last session. The second two years are in this bill and would increase both the employer contribution rates and the member contribution rates that are in statute for the Highway Patrol Retirement Plan, the PERS Hybrid Plan (Main/hybrid and Judges only) and the PERS Defined Contribution Plan by 1% for the employer and member's rate beginning January 2014, plus an additional 1% increase in both employer and member contribution rates for calendar year January 2015. The bill also would increase the member contribution rates for the following three groups:

- Peace officers and correctional officers in the Hybrid Plan that are employed by political subdivisions, for which the member contribution rate would increase by 0.5% annually, instead of 1%, over the same time period;

- National Guard members in the National Guard Retirement Plan would increase .05% annually; and

- Temporary employees in the Hybrid Plan and Defined Contribution Plan, for which the member contribution rate would increase by 2% annually, instead of 1%, over the same period.

The following details the above changes in the Bill:

Retirement Fund	SB 2059 *Increase employee and employee contributions equally**

Highway Patrol	• 2% employee increase and a 2% employer increase (beginning with a 1% increase for both the employer and employee in Jan of 2014)
	  o ***Section 1*** increases the employee contribution
	  o ***Section 2*** increases the employer contribution

Main	• 2% employee increase and a 2% employer increase (beginning with a 1% increase for both the employer and employee in Jan of 2014)
	  o ***Section 3*** increases the temporary employee contribution*
	  o ***Section 4*** increases the employee contribution
	  o ***Section 5*** increases the employer contribution

Judges	• 2% employee increase and a 2% employer increase (beginning with a 1% increase for both the employer and employee in Jan of 2014) o ***Section 6*** increases the employer and employee contribution
National Guard	• .5% employee increase (beginning in Jan of 2014) o ***Section 7*** increases the employee contribution
Law Enf	• .5% employee increase (beginning in Jan of 2014) o ***Section 8*** increases the employee contribution

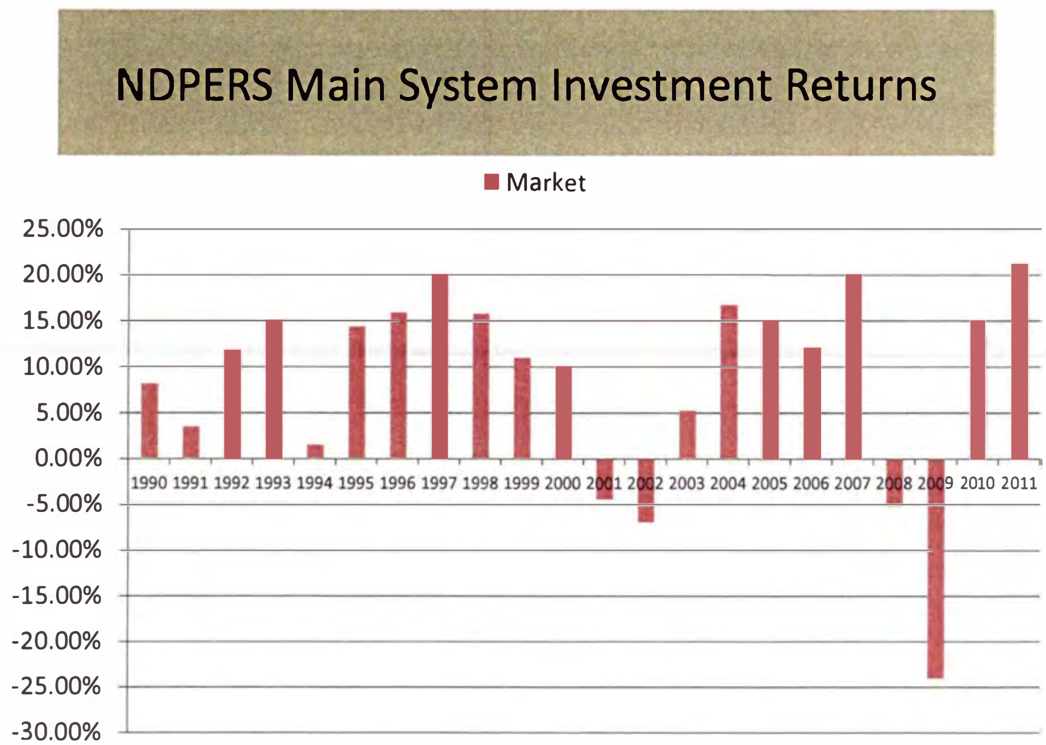
DC Plan	• 2% employee increase and a 2% employer increase (beginning with a 1% increase for both the employer and employee in Jan of 2014)
	  o ***Section 9*** increases temporary employees contribution
	  o ***Section 10*** increases employer and employee contributions

**Temporary employee contributions increase by 2% each year beginning in January of 2014.*

This bill addresses the funding shortfall that has occurred in both the PERS defined contribution plan and the PERS defined benefit/hybrid plans as a result of the downturn in the financial markets. Let me start by providing you some background and a summary of the actions taken to date.

Background

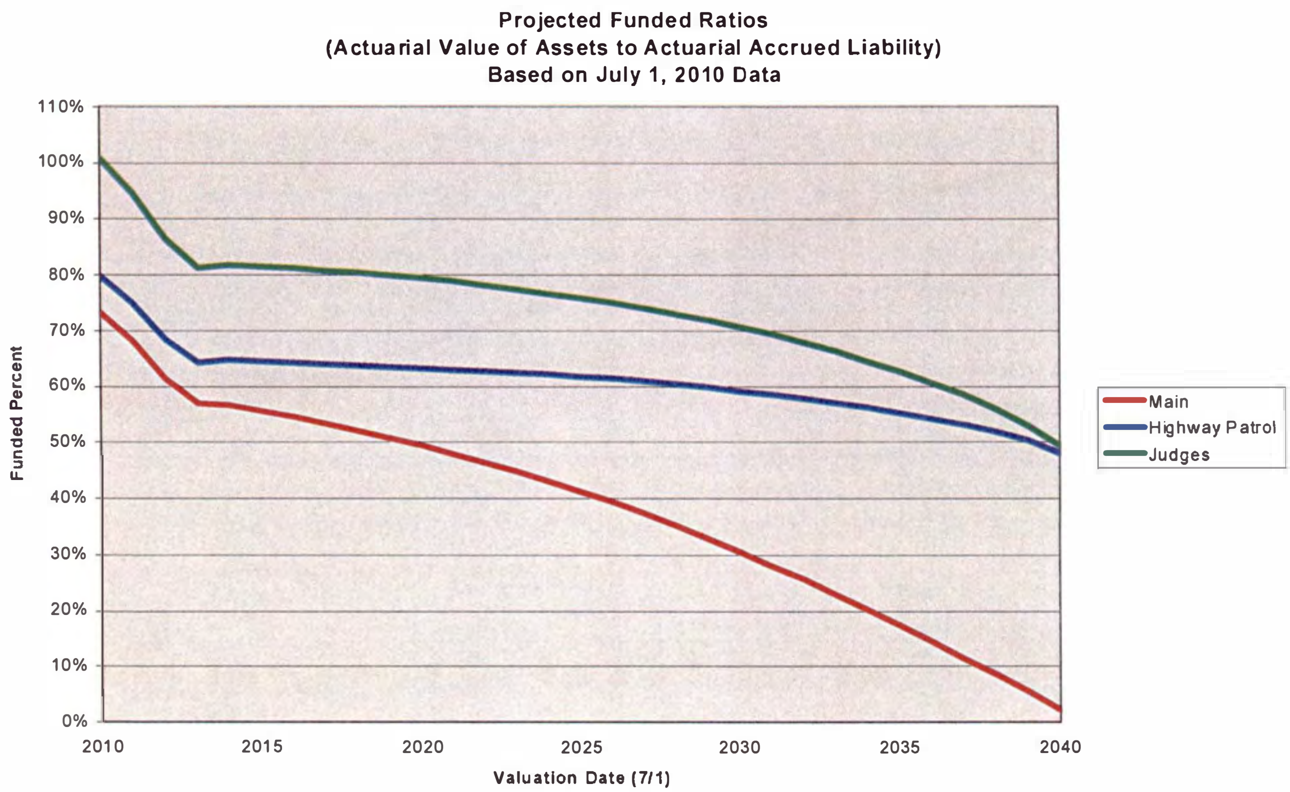
In the 2008/2009 fiscal year the financial market had a major correction that was preceded by the tech market collapse in 2001-2002. However the most significant effect was the 2008/2009 year in which the PERS plan lost about 24.5%. The following table shows the history of returns and the returns in that year.



The financial consultant to the State Investment Board, which manages the PERS assets reported that out of 224 years of US stock performance only 4 years were worse than the returns in 2008. What the plan experienced was truly a unique and significant event.

This event created a long term challenge for the funding status of the plans. Based upon the July 2010 actuarial review the following projection of the long term funded status of the Main Hybrid Plan, the Highway Patrol Plan and Judges plan was developed by the actuarial consultant.

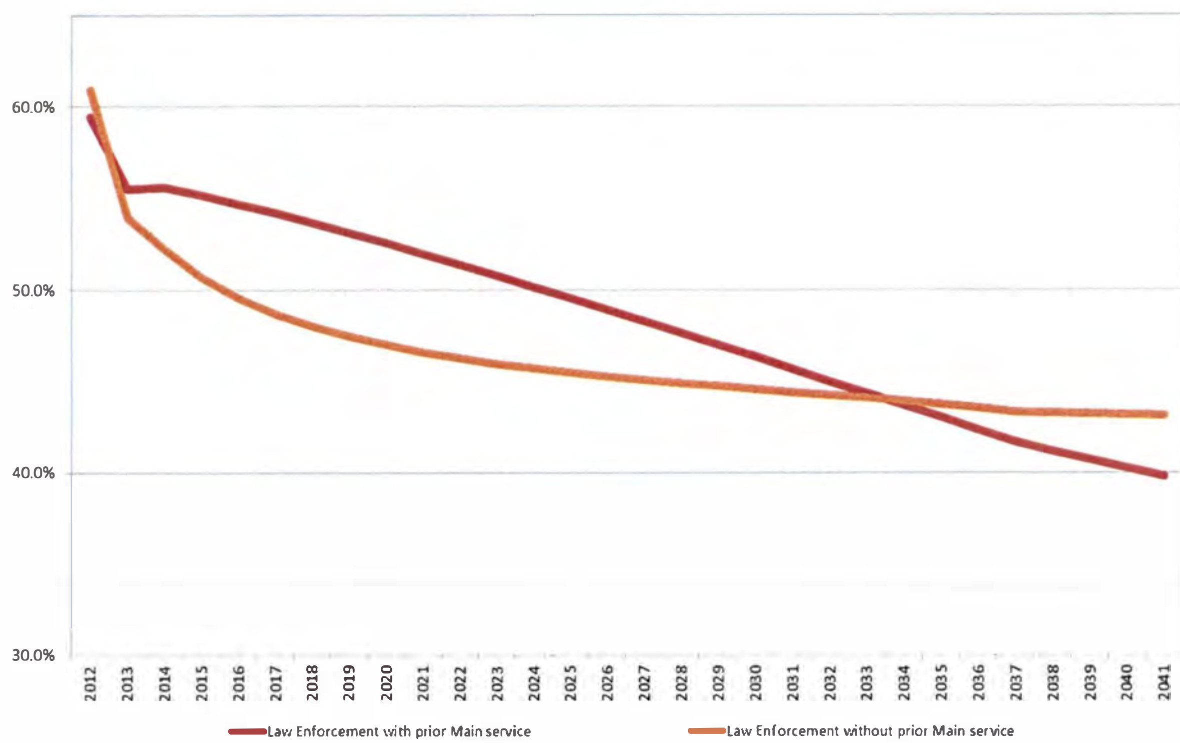
Graph 1



Projections of the future funded status at that time indicated the Main plan could become insolvent in approximately 2040 (as noted in the above graph). It also projected a decline in the funded status of the other plans (the Judges and HP).

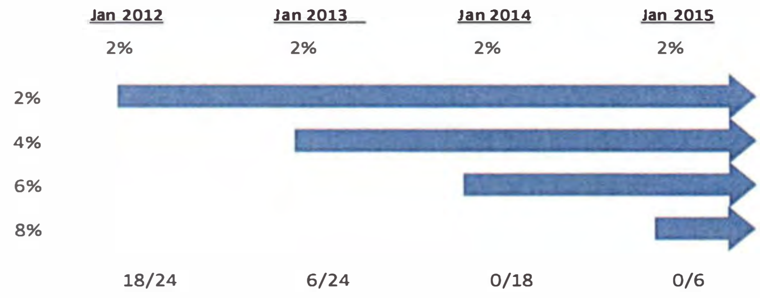
The projections for the Law Enforcement Plan at that time was:

Graph 2



After a significant amount of study, a proposal was brought forward to increase the contributions by 8% over the period from January 2012 to January 2015 which was projected to close this funding deficit for the Main, Judges and HP plans. It became known as the 4 year recovery plan and was based upon the concept that the recovery should be shared between the employer and employee. The thought was that neither party should be responsible for the full cost of the recovery. It was spread over 4 years to reduce the effect of the increase in any given year on either party.

This proposal also increased the employee contributions for the Law Enforcement plans by 4%. The employer contributions are set by the PERS Board and they have indicated that those contributions would rise as well based upon the legislative action for the other systems.



Months increase effective for 2011-2013/ Months effective for 2013-2015

2015 and beyond 100% effective

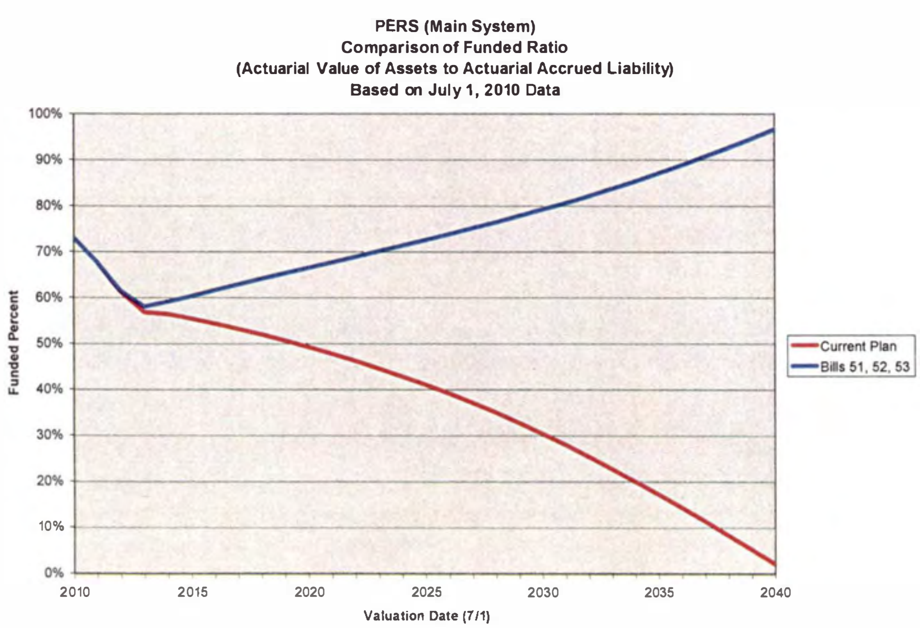
2

This proposal came together in SB 2108 that was considered last session. This proposal accomplished three objectives:

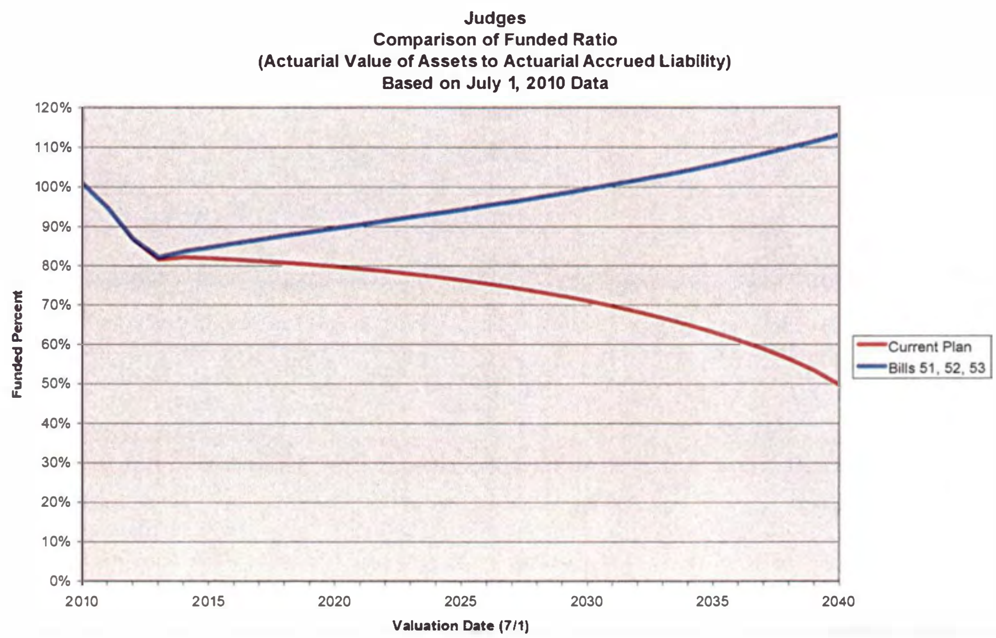
1. To stop the downward trend in the funded status of the plans
2. To stabilize the plans
3. To put the plans on a course back to 100% funded status

The following graphs were reviewed showing the projected status of the funds without the increase and the projected status with the increases proposed in the recovery plan.

Graph 3

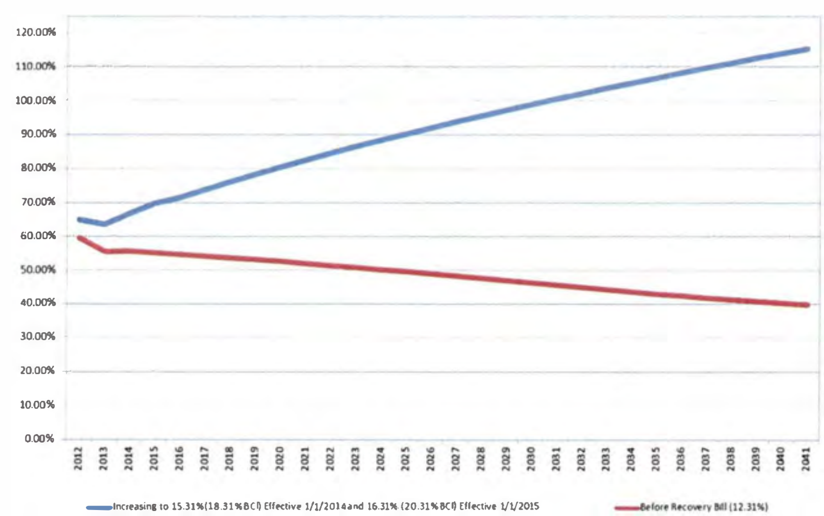


Graph 4



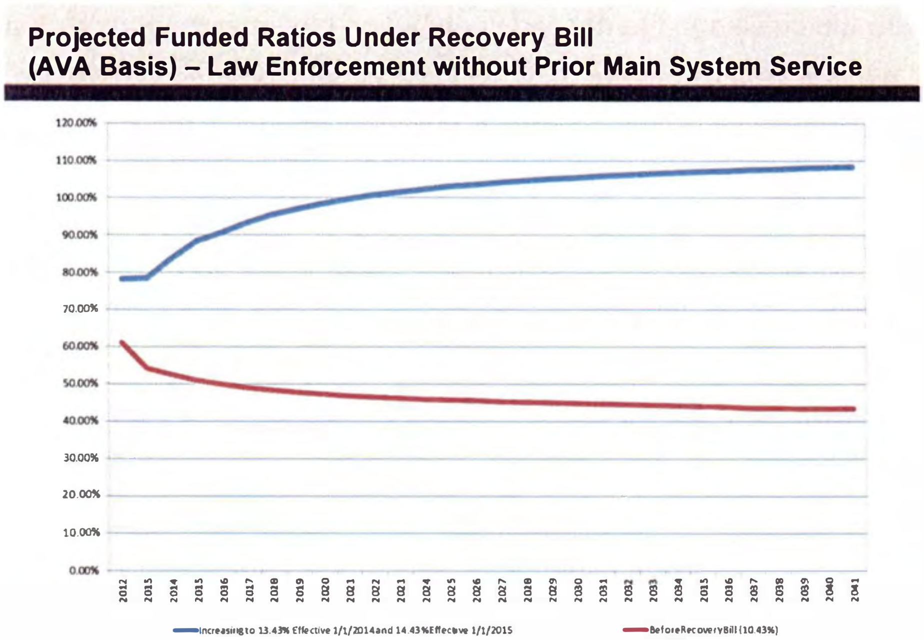
Graph 5

Projected Funded Ratios Under Recovery Bill (AVA Basis) – Law Enforcement with Prior Main System Service



SEGAL

Graph 6

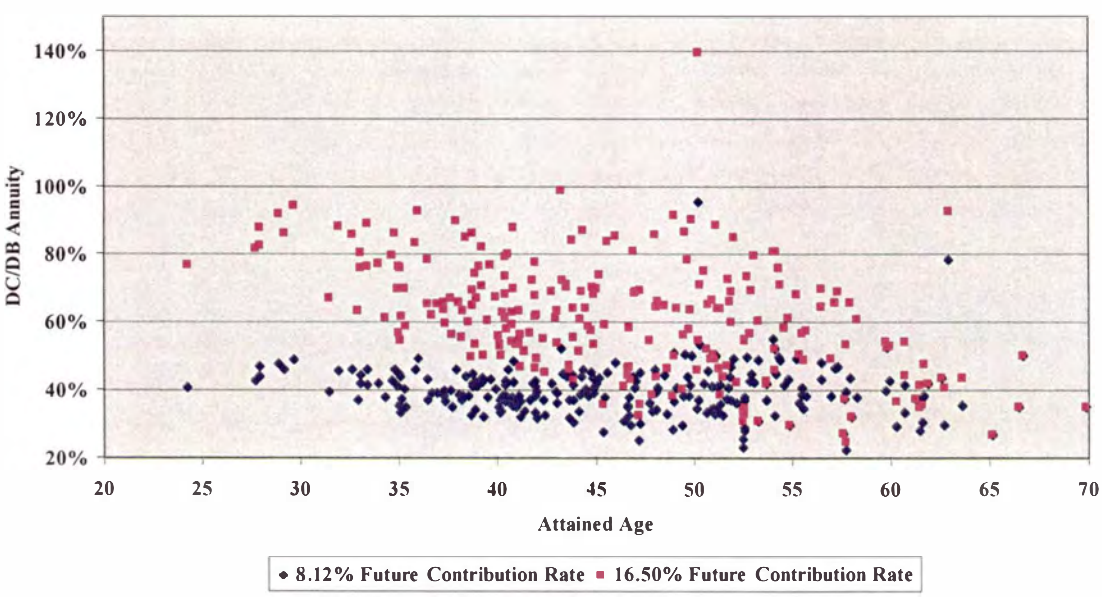


SEGAL

For the defined contribution plan, the following table shows the challenge faced by that plan in 2010:

Graph 7

Exhibit IV
Ratio of Projected DC Account (Converted to an Annuity) to DB Benefit
by Attained Age as of July 1, 2010



The blue diamonds show the challenge the defined contribution plan members face as a result of the downturn in the financial markets. The squares show the benefit of the increase in contributions to 16.5%.

The proposed recovery plan outlined above for the retirement plans including the DC plan accomplished all three goals. That is, the downward trend in funding is stopped. The plans are stabilized and they are put on a course to 100% funded status. However, for the DC plan we note that while the proposal does much to help the members they are not returned to a 100% level.

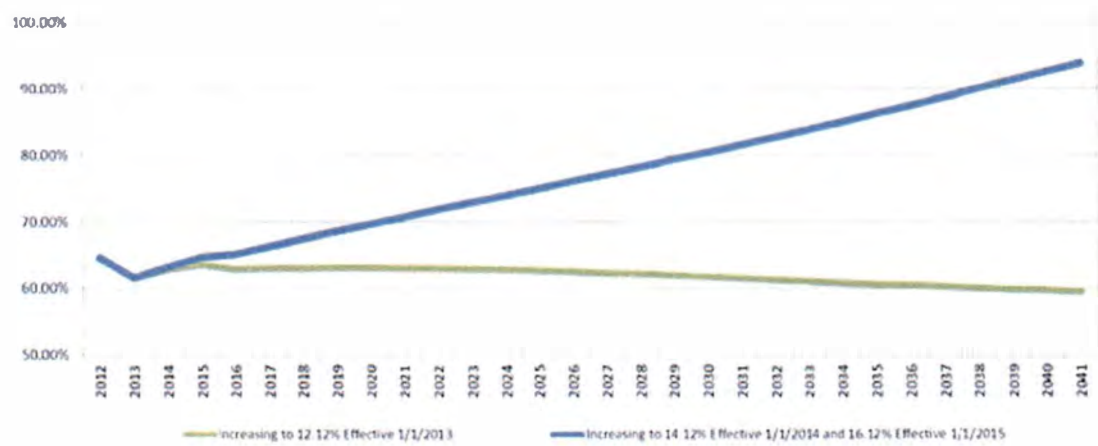
Last session the legislature approved the first two years of the recovery plan which included the 2012 and 2013 increases. It was decided to consider the 2014 and 2015 increase this session.

Accomplishments and Final Two years of Recovery Plan

New projections have been completed for each plan this year as part of the planning and consideration process for the last two years of the recovery plan. The following graphs show what was accomplished by the action of adopting the first two years of the recovery plan and the effect of adopting the last two years of the recovery plan.

This table is for the Hybrid/Main Plan:

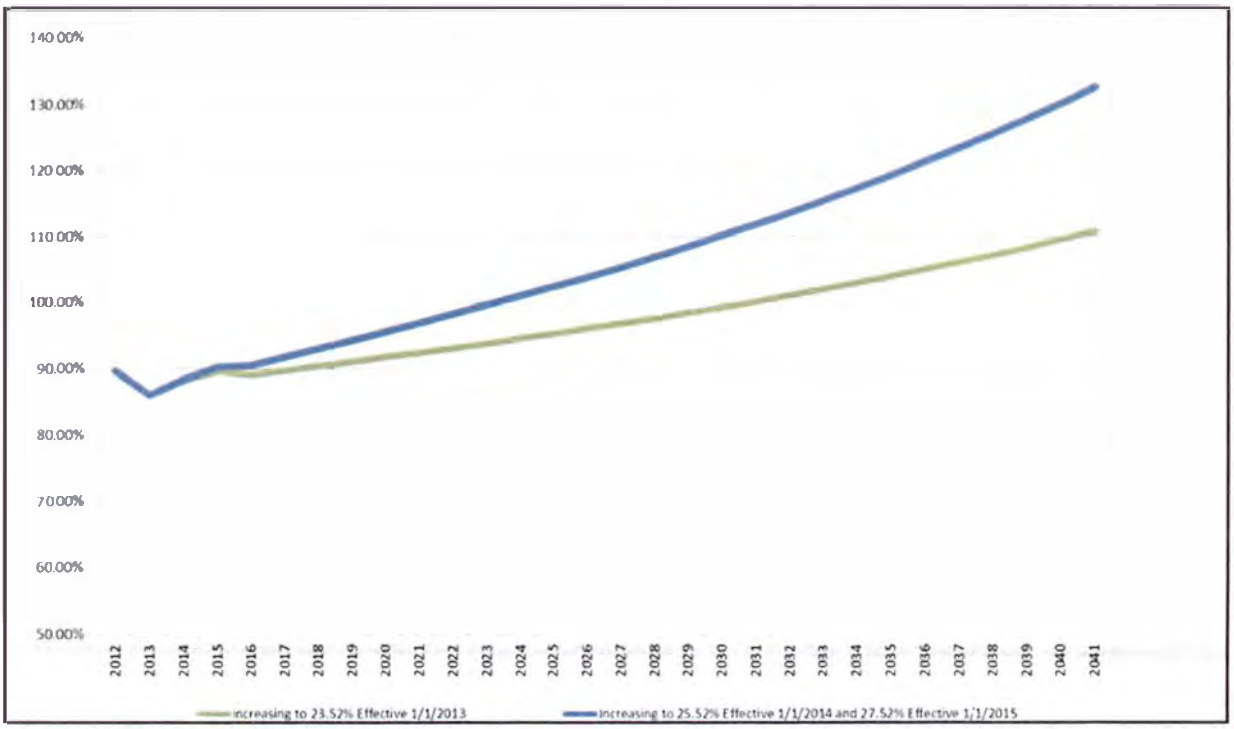
<u>Graph 8</u>



As the above shows, the action of adopting the first two years (green line) of the recovery plan stopped the downward trend in the funding status and stabilized the plan at around 60% funded status for the next 30 years or so. Adopting the last two years of the recovery plan will put this plan on a course back to 100% by about 2044 as shown by the blue line above.

This table is for the Judges retirement plan:

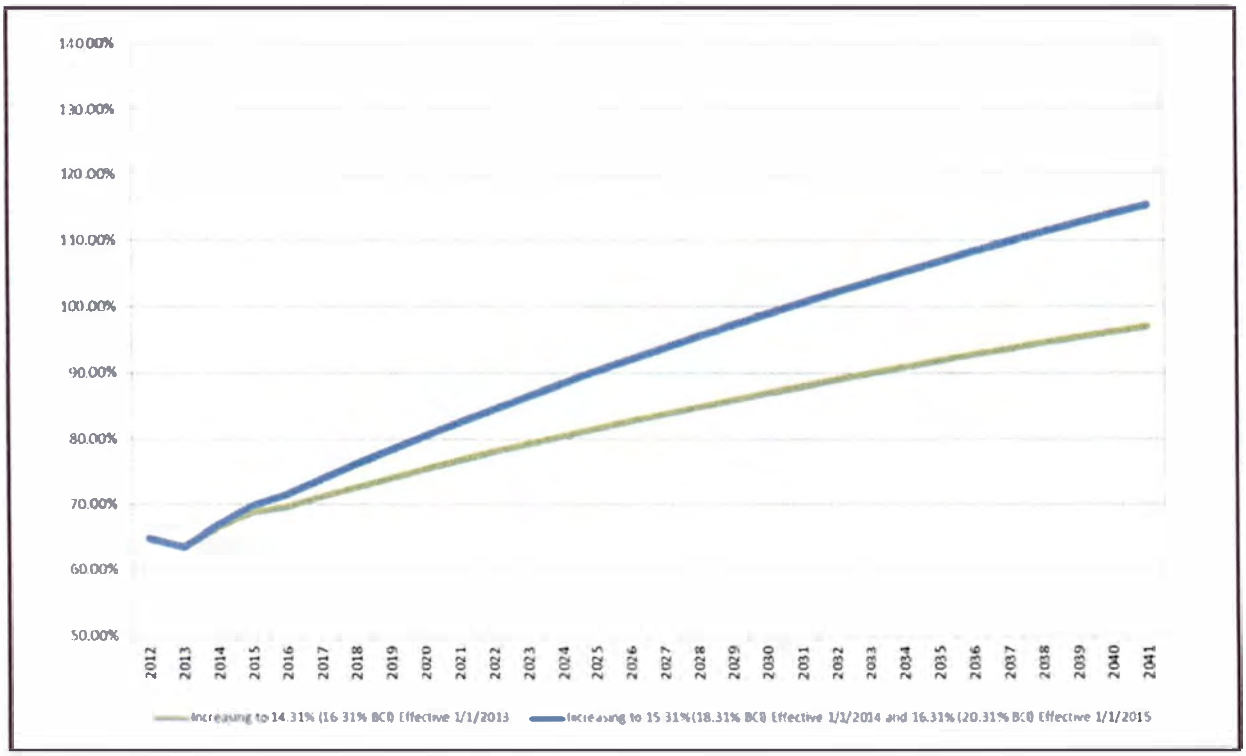
Graph 9



For this plan the first two years of the recovery plan and the returns for the last two years have put this plan on a track to 100% funded status (green line) around 2035. The approval of the remaining two years of the recovery plan will get this plan back to 100% by around 2023.

This table is for the Law Enforcement Plan With Prior Service.

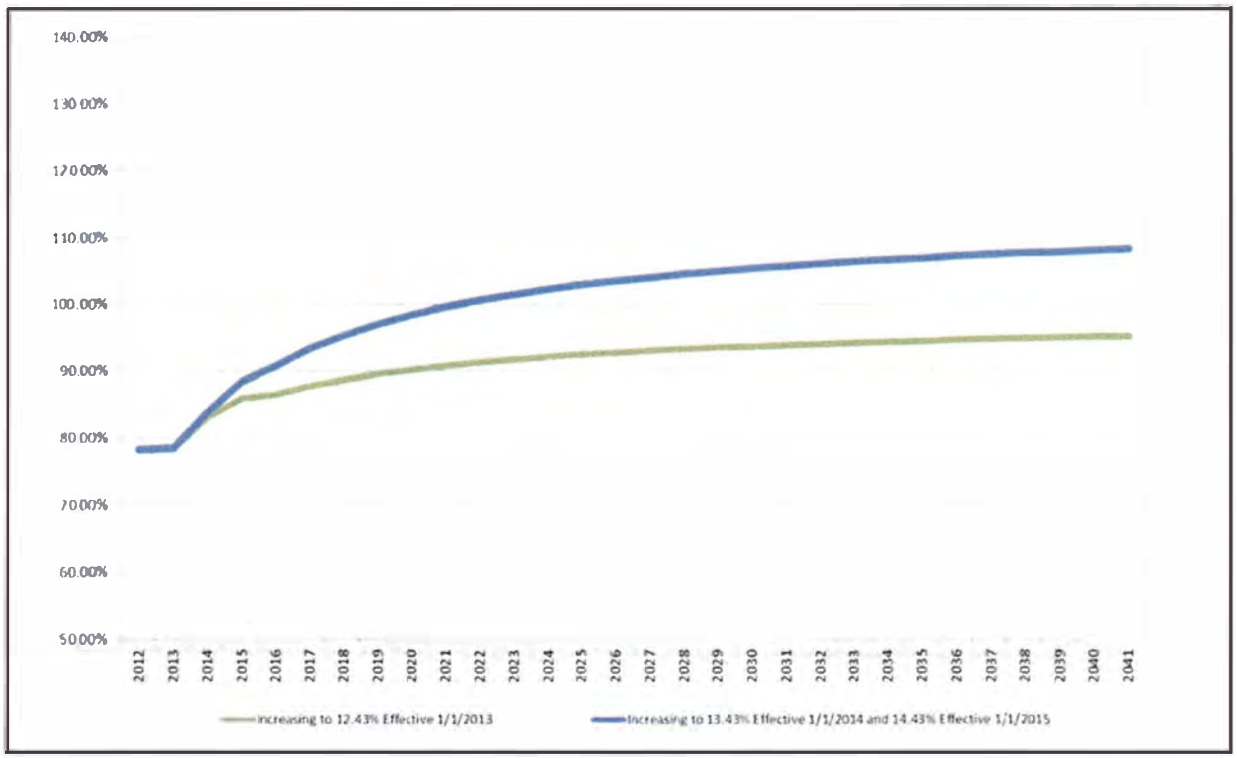
Graph 10



For this plan the first two years of the recovery plan and the last two years of returns have put this plan on a positive course and a return to 100% by around 2043 (green line). The adoption of the last two years of the recovery plan will get this plan to 100% funded status by around 2031 (blue line).

The table is for the Law Enforcement Plan Without Prior Service.

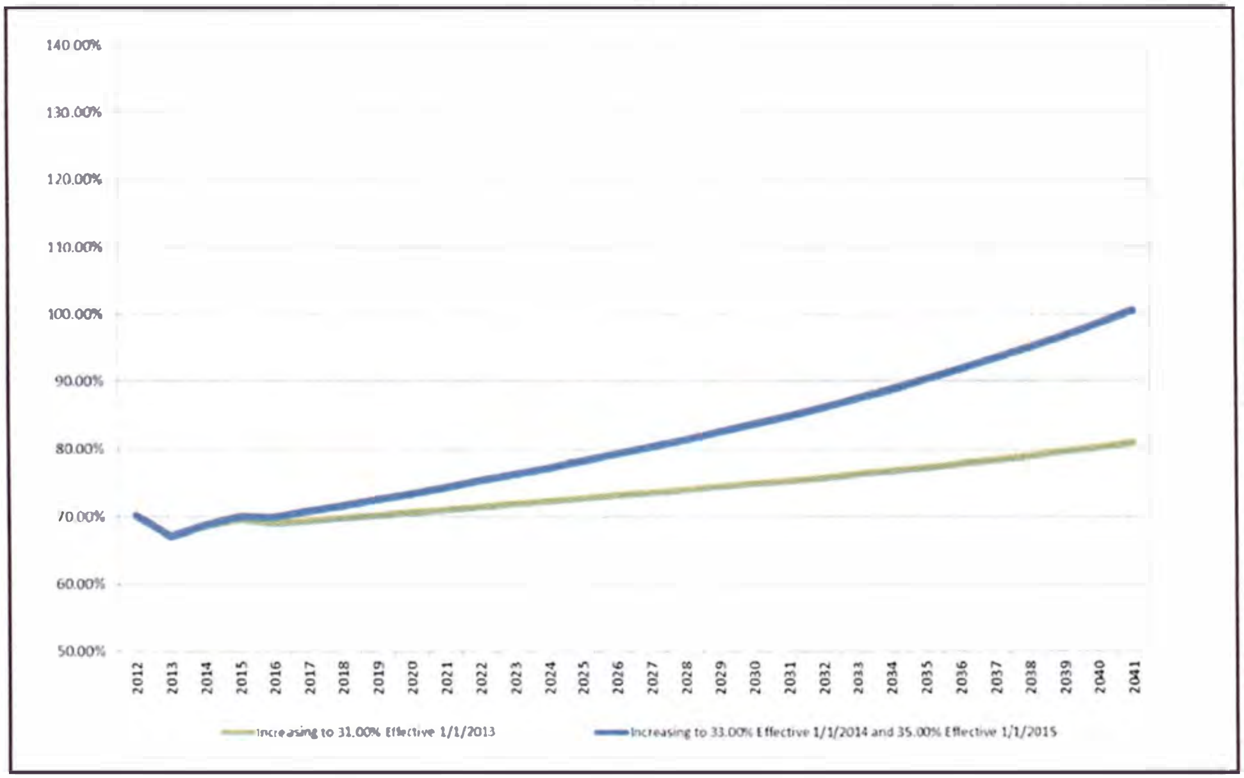
Graph 11



The adoption of the first two years of the recovery plan has stabilized this plan at about 95% funded status over the planning period (green line). The approval of the last two years of the recovery plan will get this plan back to 100% by about 2022 (blue line).

The table is for the Highway Patrol plan.

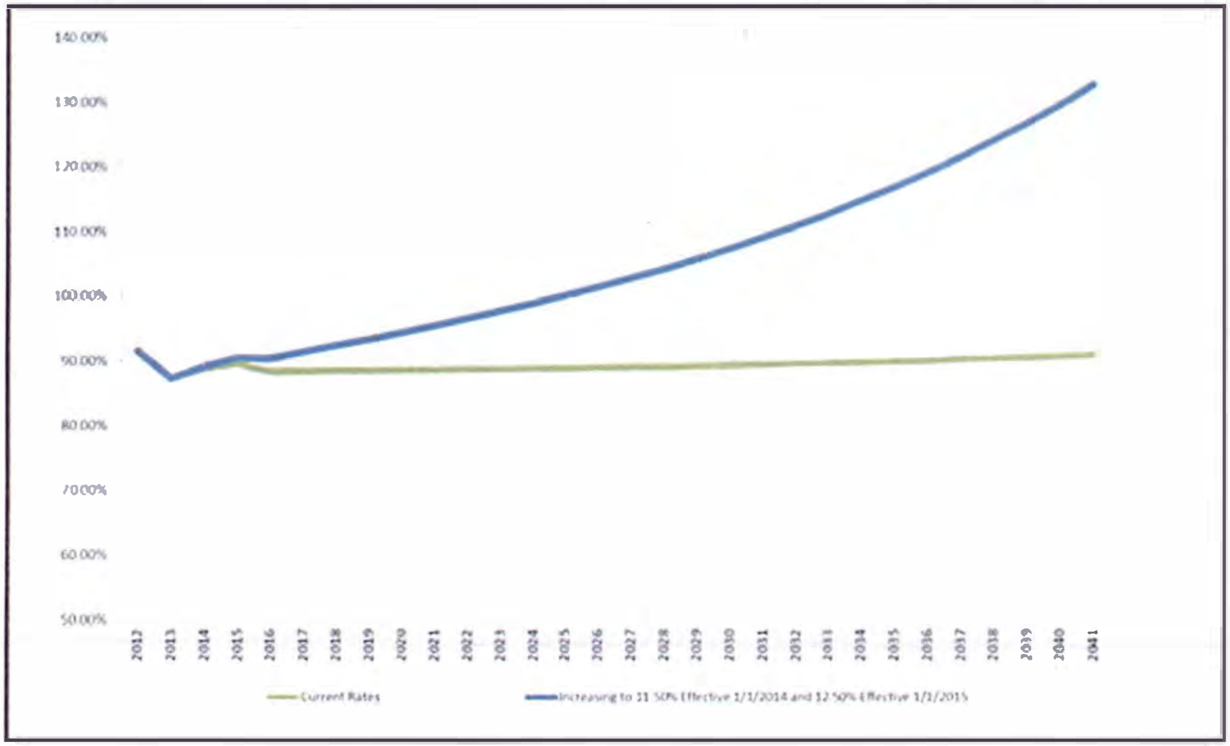
Graph 12



The adoption of the first two years of the recovery plan and the last two years of returns has stabilized this plan over the planning period and will increase the funded status over time (green line). The adoption of the last two years of the recovery plan will get this plan back to 100% by 2041 (blue line)

The table is for the National Guard plan.

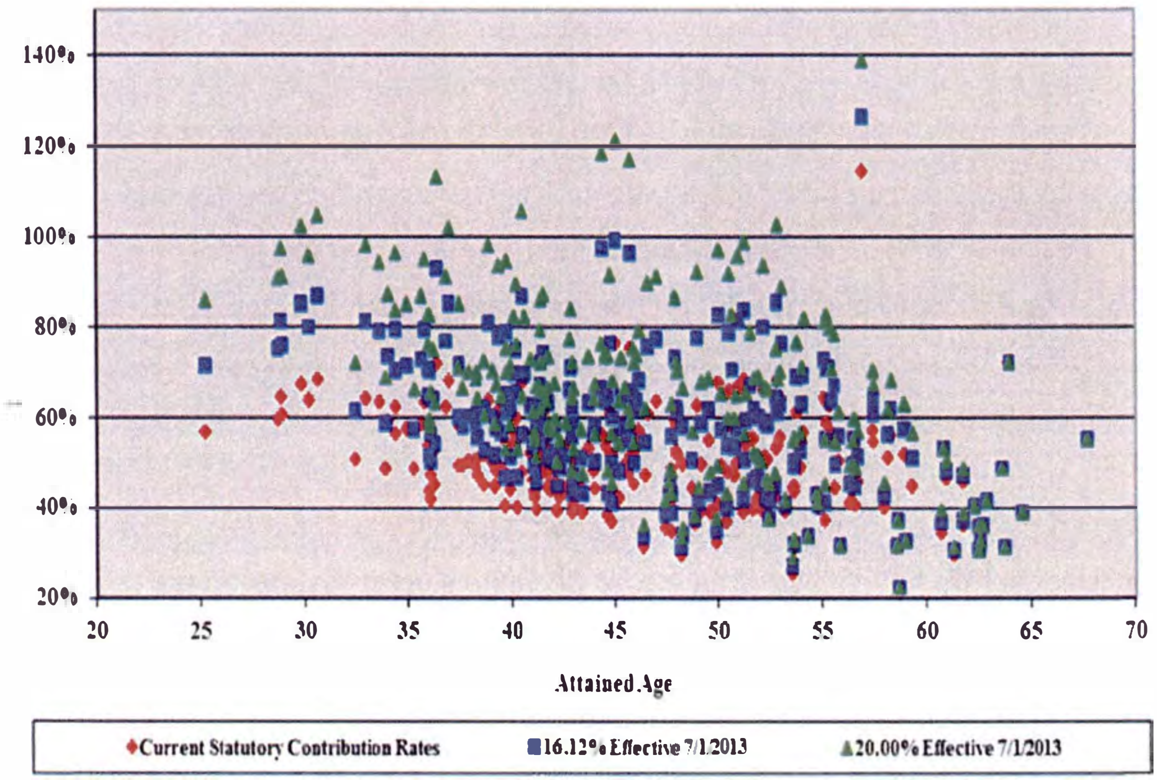
Graph 13



This plan is stable over the planning period at about 90% (green line); however, the adoption of the increase for the next two years will get this plan back to 100% by 2016 (blue line).

The table is for the defined contribution plan.

Graph 14



The red diamonds show how the adoption of the first two years of the recovery plan has helped this plan's members. The adoption of the second two years is shown by the blue squares and clearly improves their position. The last set is the green triangles and shows the benefit of a 20% contribution level to this plan.

Summary

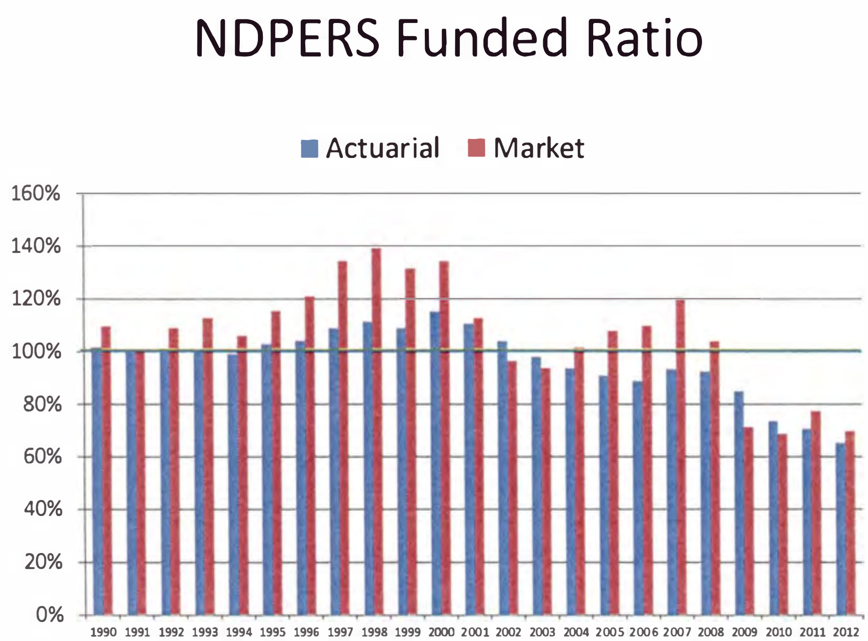
This recovery plan has had considerable study over the years including:

1. The PERS Board's work with our members in developing this proposal. The significant part of this effort is the development of a shared recovery plan with both the member and employer sharing the contribution increase. This is supported by the employee groups.

2. The Legislative Employee Benefits Committee studied the 4 year recovery proposal in the 2010 interim. They had several hearings on the proposal and reviewed detailed actuarial information over a 5 month period. That committee gave the 4 year recovery plan a favorable recommendation. During the 2012 interim, the Legislative Employee Benefits Committee reviewed the proposal for the last 2 years of the recovery plan. They held hearings and reviewed updated actuarial information and again gave it a favorable recommendation
3. The Executive budget for 2011-13 recommended the 2012 and 2013 increases and the Executive budget for 2013 to 2015 recommends the 2014 and 2015 increase to complete the recovery plan.

Attached is the fiscal note for this Bill. We appreciate the cost of the recovery is significant but we are confident that based upon the studies to date, this will put all plans back on track to 100% funded status.

Mr. Chairman, members of the committee, I wish I did not have to appear before you today with this bill. PERS has never had to request an increase since its inception in 1977 except for this recovery plan. I wish I did not have to today. However, as a result of the tech market collapse and in particular the 2008/2009 downturn, we face the challenge we do today. As noted at the beginning the investment consultant to the State Investment Board stated that the year we had the large loss that created this situation was truly unique. Out of 224 years of returns in this country, there were only 4 that were worse. And to have this event preceded by the tech market collapse is truly a significant combination of events and hopefully we will not experience such an event again in our lifetimes. Thankfully, as result of your leadership and others the plans went into this situation in a strong funded position. The following shows the funded status of the PERS plan on both an actuarial and a market basis.



If we are going to meet our future challenges as effectively as our past leaders have prepared us for this one, we need to regain the same funded basis that they gave us. Consequently, I stand before you today to request your positive consideration of this bill, the last half of the recovery plan which will put us on a course back to 100% funded status and make sure we have a strong future.

Thank you and this concludes my testimony. If we can assist you with your considerations, please let me know.

Attachment #1

FEBRUARY 8, 2013

PROPOSED AMENDMENT TO SENATE BILL NO 2059

Page 10, after line 26, insert:

"**SECTION 11. LEGISLATIVE MANAGEMENT STUDY.** The legislative management shall consider studying the feasibility of North Dakota retirement plans, specifically defined benefit plan as compared to a defined contribution plan and the implications of and options for transitioning into a defined contribution plan. The legislative management study ~~may~~ shall be conducted by a committee other than the employee benefits committee. "

Renumber accordingly

Sparb Collins
SB2059
2-14-13
#1

TESTIMONY OF SPARB COLLINS

SENATE BILL 2059

Good morning, my name is Sparb Collins. I am the Executive Director of the North Dakota Public Employees Retirement System (NDPERS). I appear before you today concerning the retirement plans we administer and in support of SB 2059. Our agency provides services to the state and participating political subdivisions. The following table provides some statistical information on the retirement plans we administer:

January 1, 2013

RETIREMENT PROGRAMS
MANAGED AND ADMINISTERED BY NDPERS

	TOTAL RETIREMENT	*Main System*	*D.C. 401(a)*	*Highway Patrol*	*Judges*	*Guard*	*Law Enforcement*	*Job Service*	*DEFERRED COMP*	*HEALTH CREDIT*
PARTICIPATION										
AGENCY										
State	93	93	32	1	1	1	1	1	89	93
Counties	49	48					11		35	49
School Dist	114	114							18	114
Cities	81	75					6		34	81
Others	73	73							29	73
	410								*205*	*410*
EMPLOYEES										
State	10,512	10,014	219	141	47	36	37	18	4,561	10,512
Counties	3,583	3,388					129		580	3,583
School Dist	4,988	4,988							75	4,988
Cities	1,475	1,431					44		225	1,475
Others	557	457							189	557
Retirees	7,816	7,214	49	109	22	12	11	120		4,442
	28,931	*27,492*	*268*	*250*	*69*	*48*	*221*	*138*	*5,630*	*25,557*

As you will note, our agency is responsible for the administration of approximately 10 different retirement plans.

The proposed legislation before you today is the second part of a four year recovery plan for the PERS Retirement Plans. The first two years were approved last session. The second two years are in this bill and would increase both the employer contribution rates and the member contribution rates that are in statute for the Highway Patrol Retirement Plan, the PERS Hybrid Plan (Main/hybrid and Judges only) and the PERS Defined Contribution Plan by 1% for the employer and member's rate beginning January 2014, plus an additional 1% increase in both employer and member contribution rates for calendar year January 2015. The bill would also increase the member contribution rates for the following three groups:

- Peace officers and correctional officers in the Hybrid Plan that are employed by political subdivisions, for which the member contribution rate would increase by 0.5% annually, instead of 1%, over the same time period;

- National Guard members in the National Guard Retirement Plan would increase .05% annually; and

- Temporary employees in the Hybrid Plan and Defined Contribution Plan, for which the member contribution rate would increase by 2% annually, instead of 1%, over the same period.

The following details the above changes in the Bill:

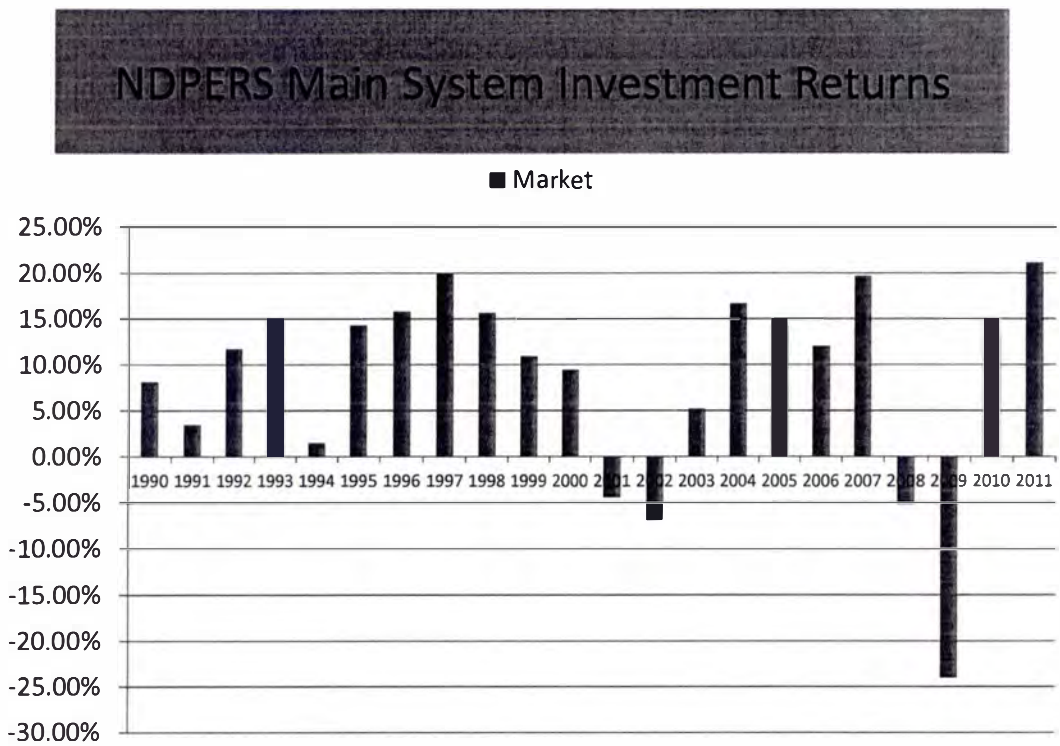
Retirement Fund	SB 2059 *Increase employee and employee contributions equally**
Highway Patrol	• 2% employee increase and a 2% employer increase (beginning with a 1% increase for both the employer and employee in Jan of 2014) o ***Section 1*** increases the employee contribution o ***Section 2*** increases the employer contribution
Main	• 2% employee increase and a 2% employer increase (beginning with a 1% increase for both the employer and employee in Jan of 2014) o ***Section 3*** increases the temporary employee contribution* o ***Section 4*** increases the employee contribution o ***Section 5*** increases the employer contribution
Judges	• 2% employee increase and a 2% employer increase (beginning with a 1% increase for both the employer and employee in Jan of 2014) o ***Section 6*** increases the employer and employee contribution
National Guard	• .5% employee increase (beginning in Jan of 2014) o ***Section 7*** increases the employee contribution
Law Enf	• .5% employee increase (beginning in Jan of 2014) o ***Section 8*** increases the employee contribution
DC Plan	• 2% employee increase and a 2% employer increase (beginning with a 1% increase for both the employer and employee in Jan of 2014) o ***Section 9*** increases temporary employees contribution o ***Section 10*** increases employer and employee contributions

**Temporary employee contributions increase by 2% each year beginning in January of 2014.*

This bill addresses the funding shortfall that has occurred in both the PERS defined contribution plan and the PERS defined benefit/hybrid plans as a result of the downturn in the financial markets. Let me start by providing you some background and a summary of the actions taken to date.

Background

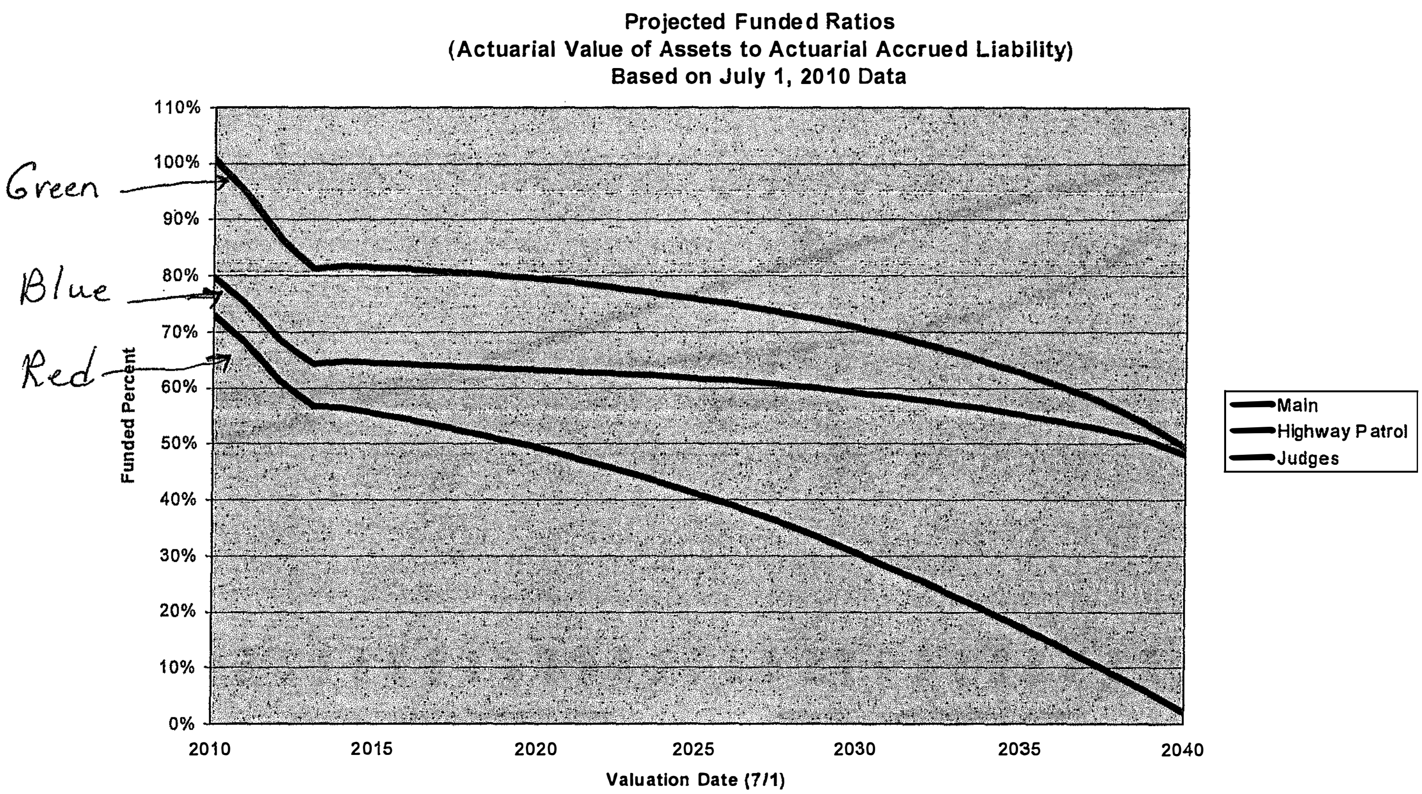
In the 2008/2009 fiscal year the financial market had a major correction that was preceded by the tech market collapse in 2001-2002. However, the most significant effect was the 2008/2009 year in which the PERS plan lost about 24.5%. The following table shows the history of returns and the returns in that year.



The financial consultant to the State Investment Board, which manages the PERS assets reported that out of 224 years of US stock performance only 4 years were worse than the returns in 2008. What the plan experienced was truly a unique and significant event.

This event created a long term challenge for the funding status of the plans. Based upon the July 2010 actuarial review the following projection of the long term funded status of the Main Hybrid Plan, the Highway Patrol Plan and Judges plan was developed by the actuarial consultant.

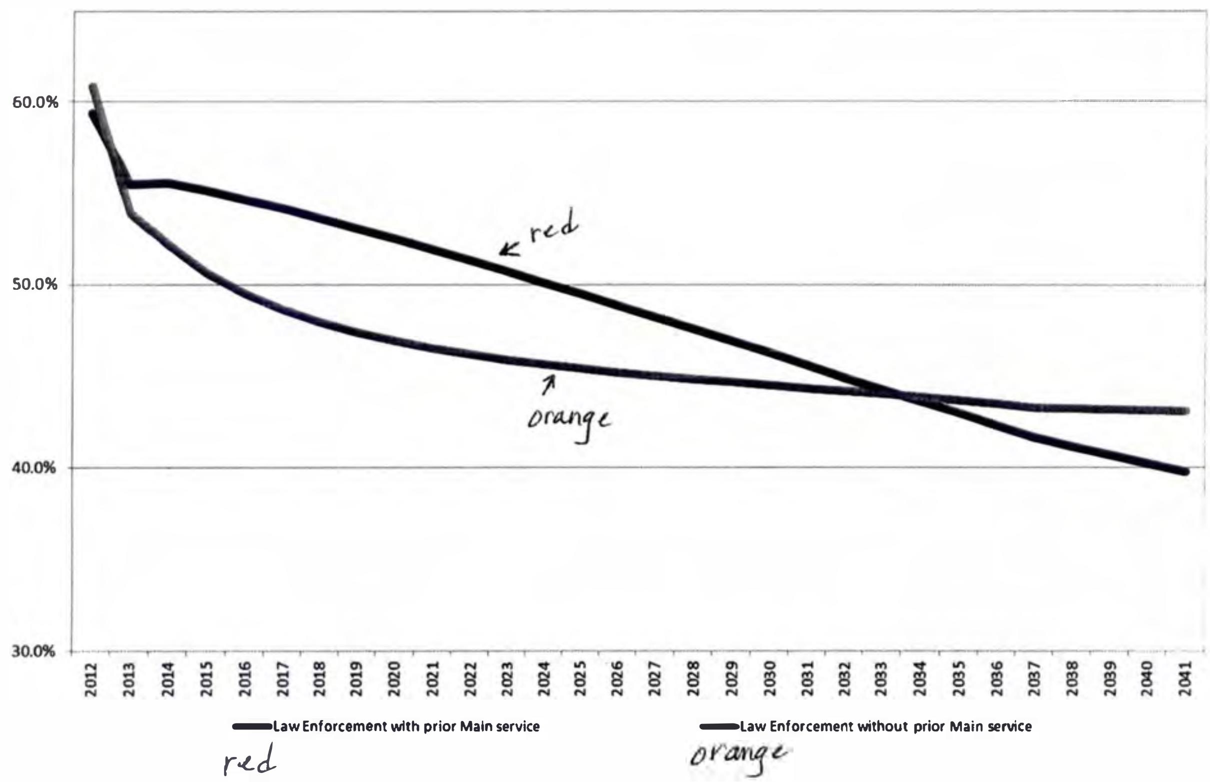
Graph 1



Projections of the future funded status at that time indicated the Main plan could become insolvent in approximately 2040 (as noted in the above graph). It also projected a decline in the funded status of the other plans (the Judges and HP).

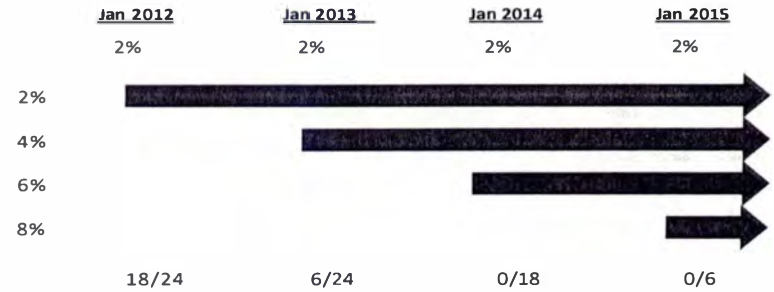
The projections for the Law Enforcement Plan at that time was:

Graph 2



After a significant amount of study, a proposal was brought forward to increase the contributions by 8% over the period from January 2012 to January 2015 which was projected to close this funding deficit for the Main, Judges and HP plans. It became known as the 4 year recovery plan and was based upon the concept that the recovery should be shared between the employer and employee. The thought was that neither party should be responsible for the full cost of the recovery. It was spread over 4 years to reduce the effect of the increase in any given year on either party.

This proposal also increased the employee contributions for the Law Enforcement plans. The employer contributions are set by the PERS Board and they have indicated that those contributions would rise as well based upon the legislative action for the other systems.



Months increase effective for 2011-2013/ Months effective for 2013-2015

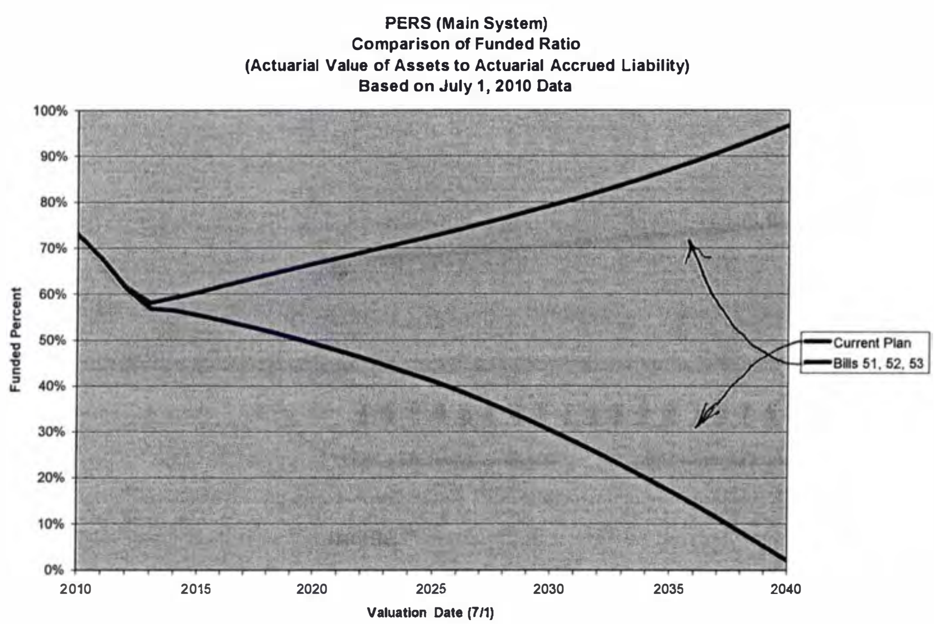
2015 and beyond 100% effective

This proposal came together in Senate Bill 2108 that was considered last session. This proposal accomplished three objectives:

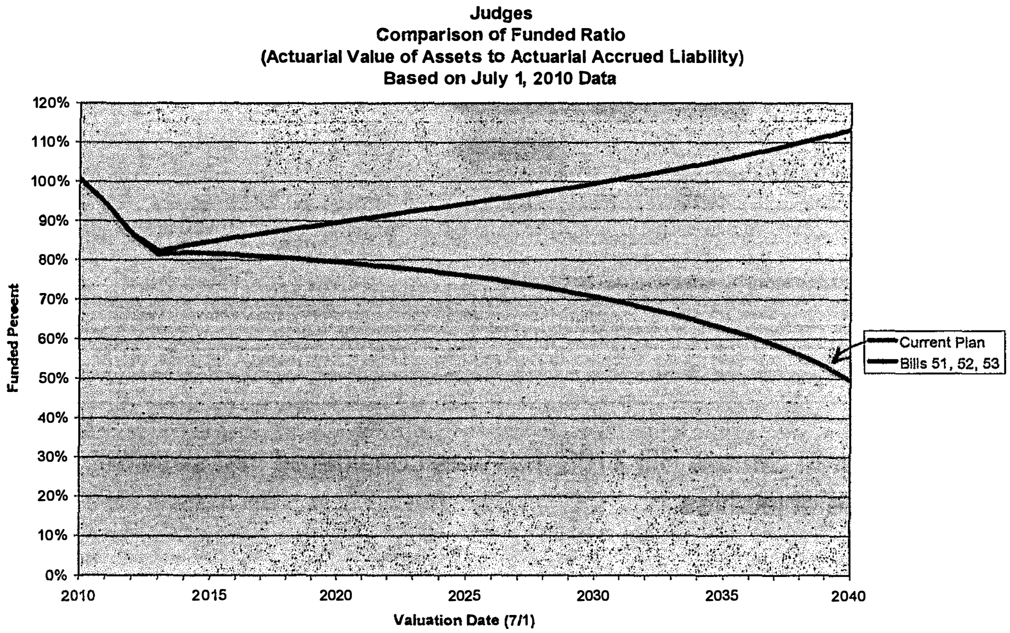
1. To stop the downward trend in the funded status of the plans
2. To stabilize the plans
3. To put the plans on a course back to 100% funded status

The following graphs were reviewed showing the projected status of the funds without the increase and the projected status with the increases proposed in the recovery plan.

Graph 3

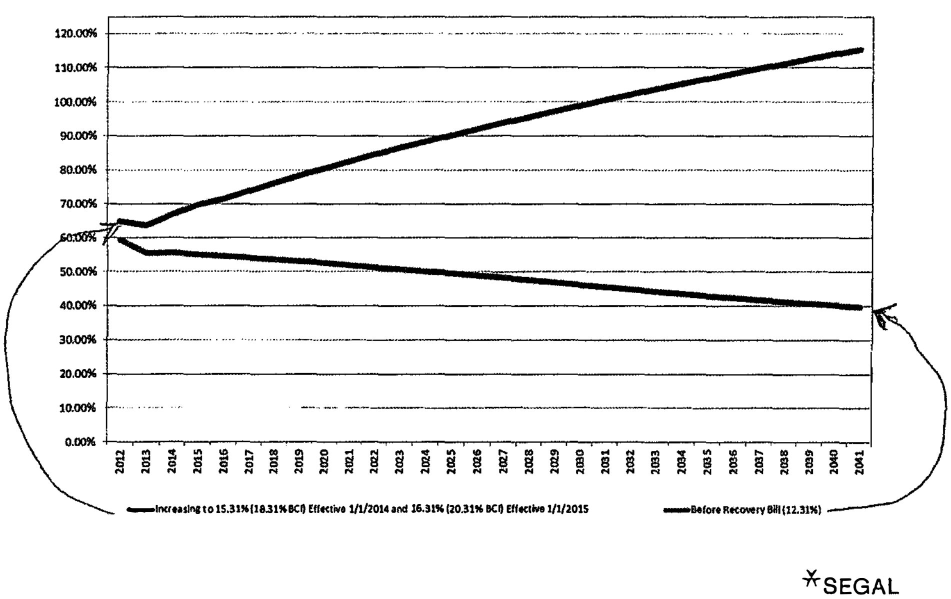


Graph 4

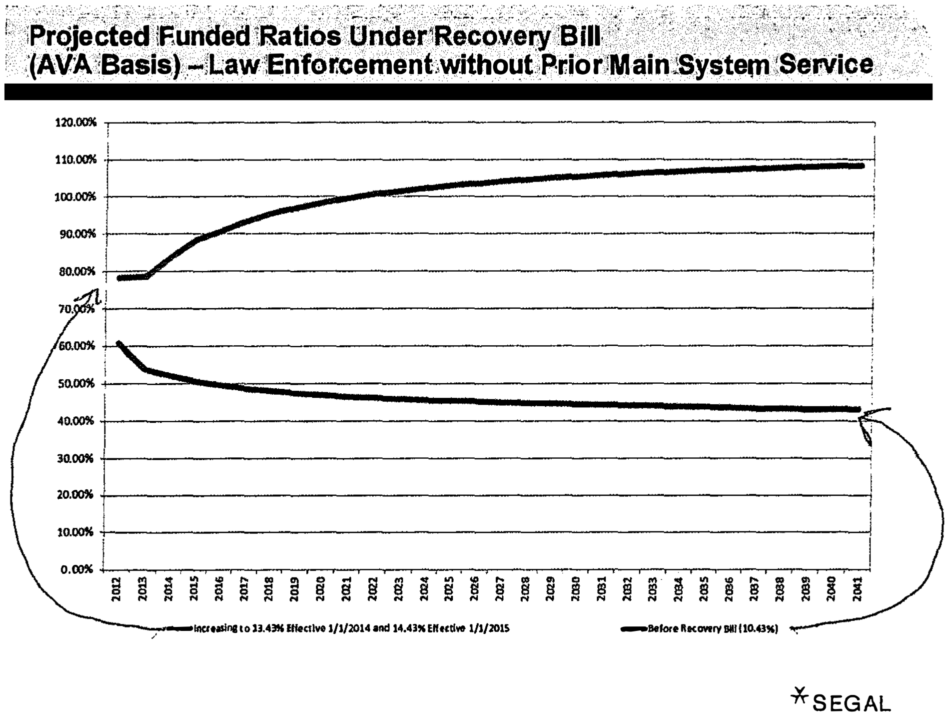


Graph 5

Projected Funded Ratios Under Recovery Bill (AVA Basis) – Law Enforcement with Prior Main System Service

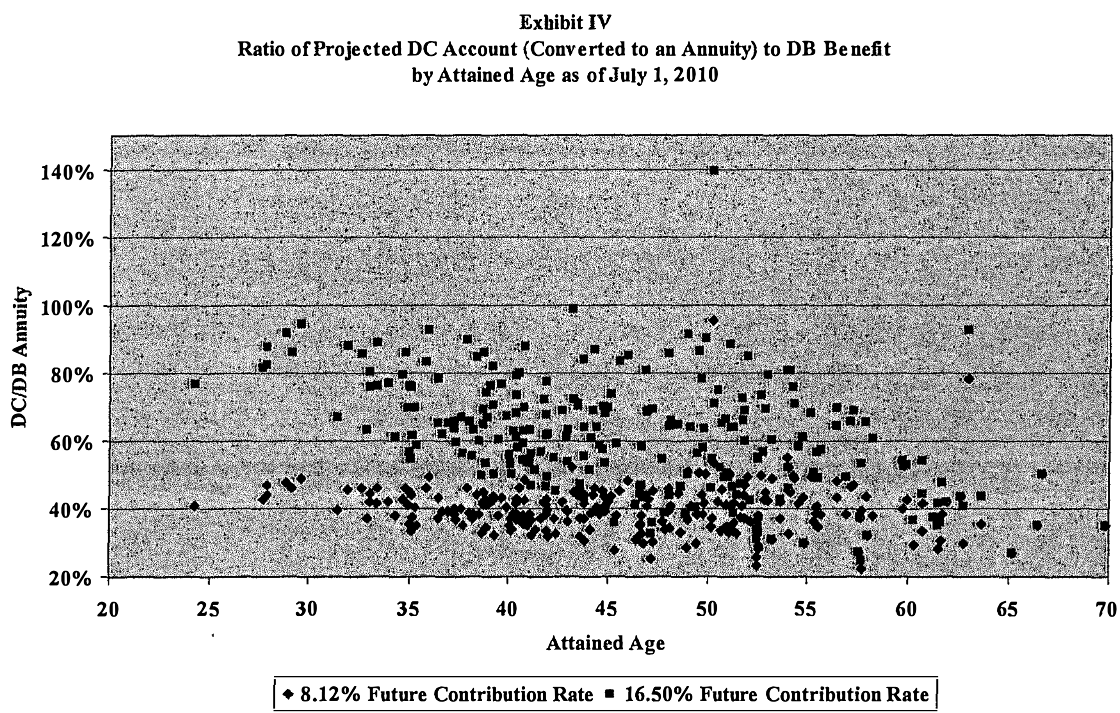


Graph 6



For the defined contribution plan, the following table shows the challenge faced by that plan in 2010:

Graph 7



The blue diamonds show the challenge the defined contribution plan members face as a result of the downturn in the financial markets. The squares show the benefit of the increase in contributions to 16.5%.

The proposed recovery plan outlined above for the retirement plans including the DC plan accomplished all three goals. That is, the downward trend in funding is stopped. The plans are stabilized and they are put on a course to 100% funded status. However, for the DC plan we note that while the proposal does much to help the members they are not returned to a 100% level.

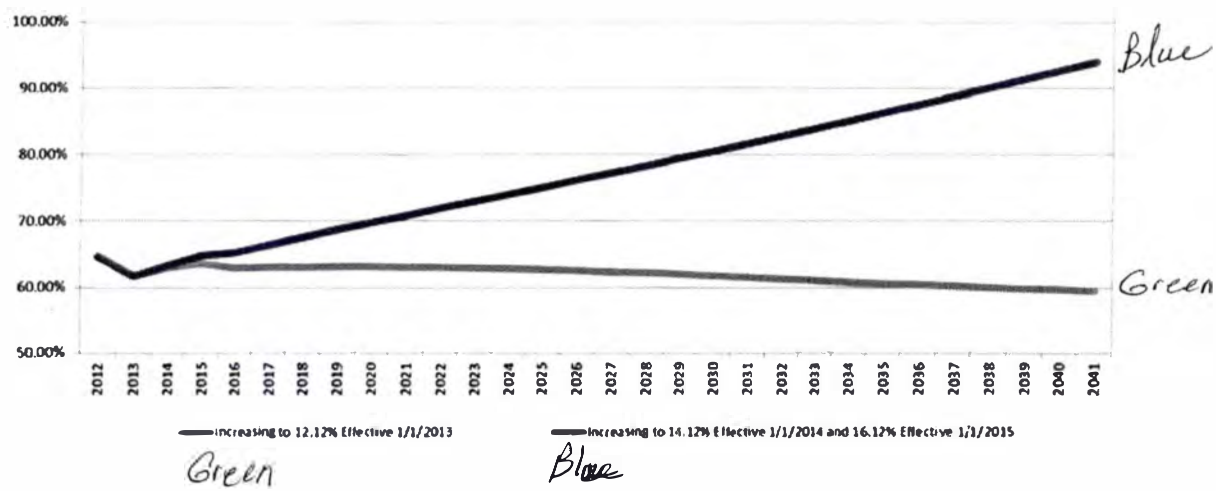
Last session the legislature approved the first two years of the recovery plan which included the 2012 and 2013 increases. It was decided to consider the 2014 and 2015 increase this session.

Accomplishments and Final Two years of Recovery Plan

New projections have been completed for each plan this year as part of the planning and consideration process for the last two years of the recovery plan. The following graphs show what was accomplished by the action of adopting the first two years of the recovery plan and the effect of adopting the last two years of the recovery plan.

This table is for the Hybrid/Main Plan:

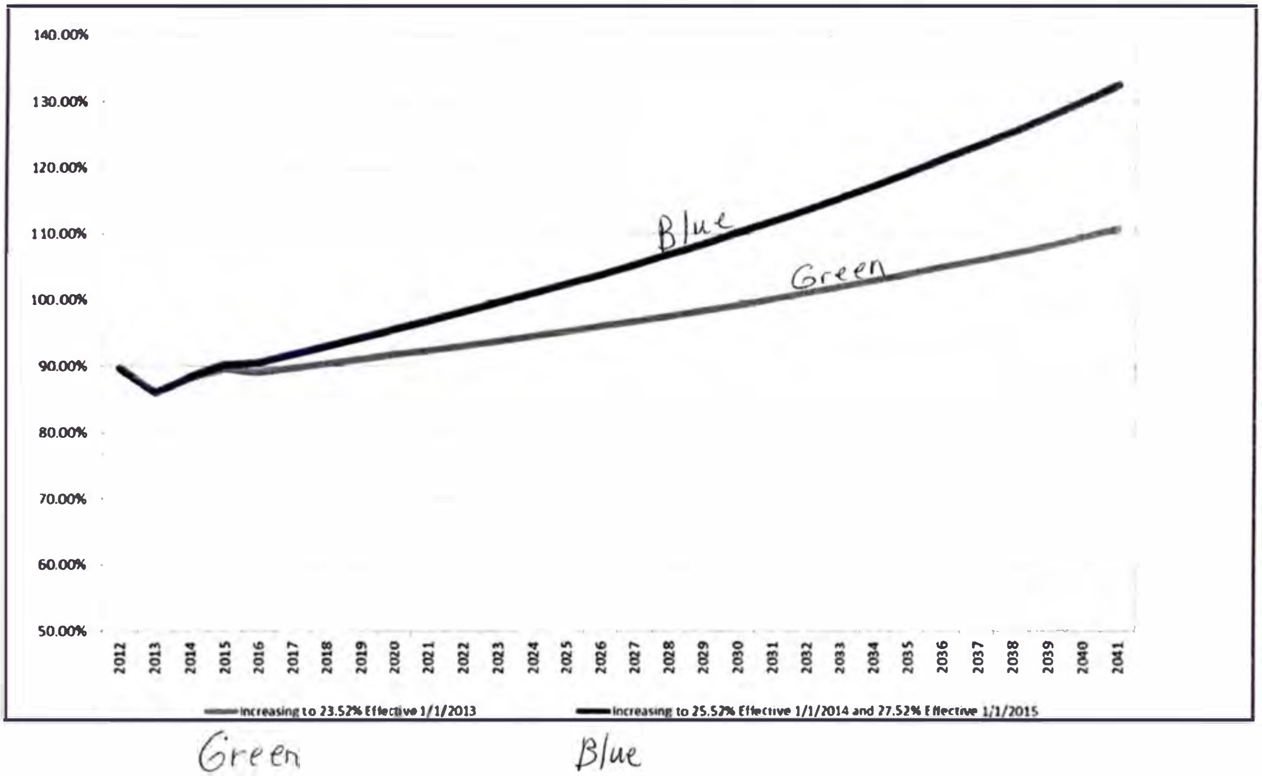
Graph 8



As the above shows, the action of adopting the first two years (green line) of the recovery plan stopped the downward trend in the funding status and stabilized the plan at around 60% funded status for the next 30 years or so. Adopting the last two years of the recovery plan will put this plan on a course back to 100% by about 2044 as shown by the blue line above.

This table is for the Judges retirement plan:

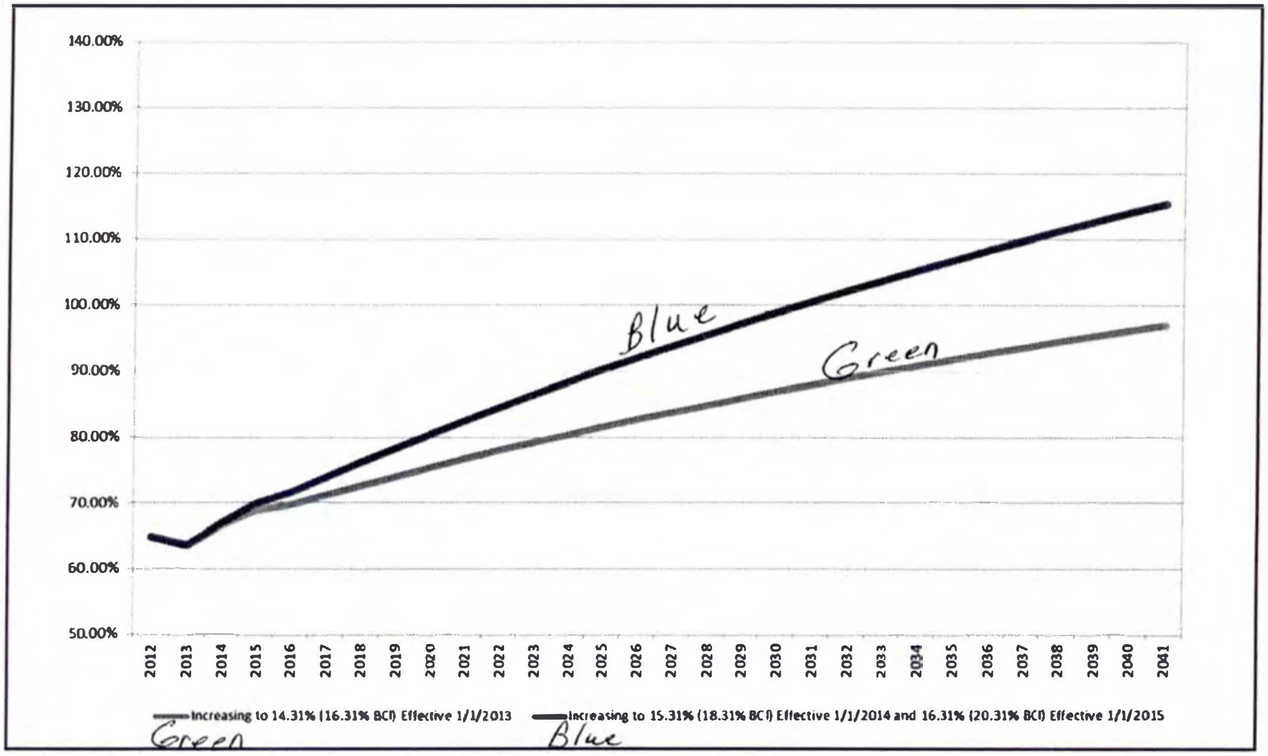
Graph 9



For this plan the first two years of the recovery plan and the returns for the last two years have put this plan on a track to 100% funded status (green line) around 2035. The approval of the remaining two years of the recovery plan will get this plan back to 100% by around 2023.

This table is for the Law Enforcement Plan With Prior Service.

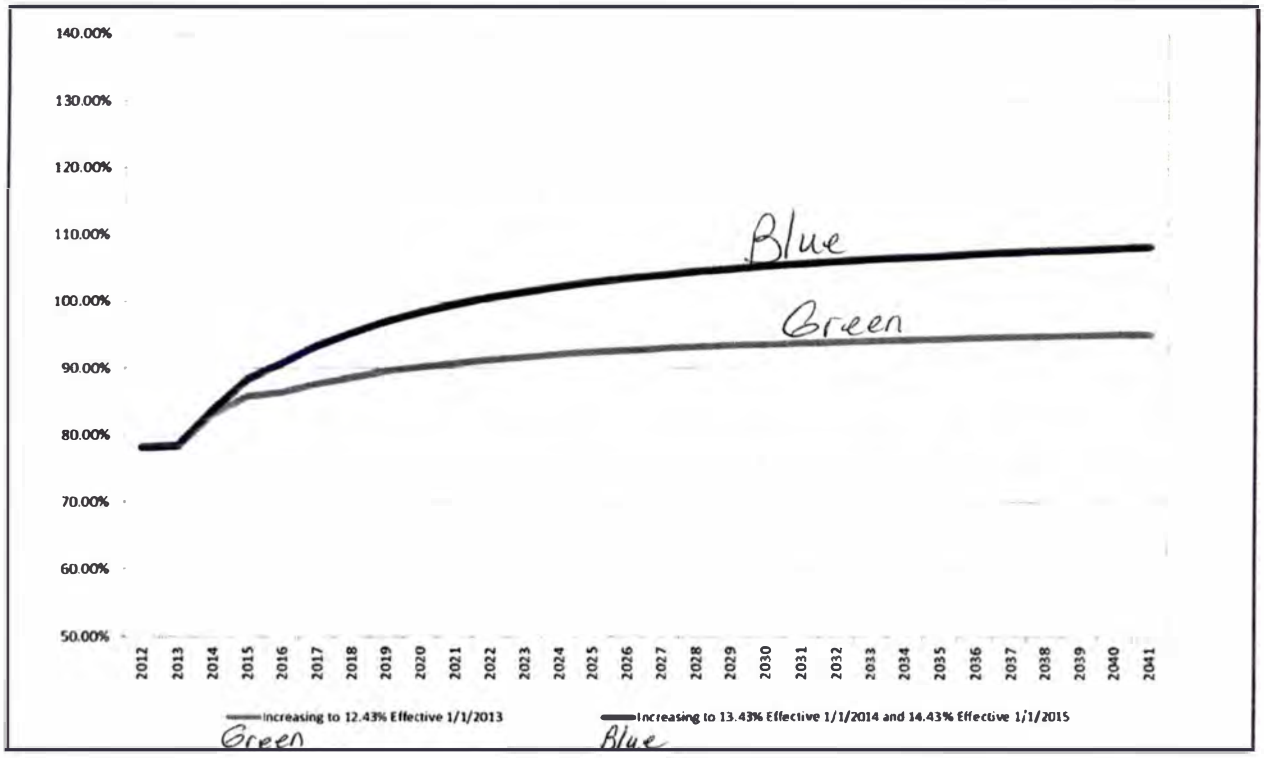
Graph 10



For this plan the first two years of the recovery plan and the last two years of returns have put this plan on a positive course and a return to 100% by around 2043 (green line). The adoption of the last two years of the recovery plan will get this plan to 100% funded status by around 2031 (blue line).

The table is for the Law Enforcement Plan Without Prior Service.

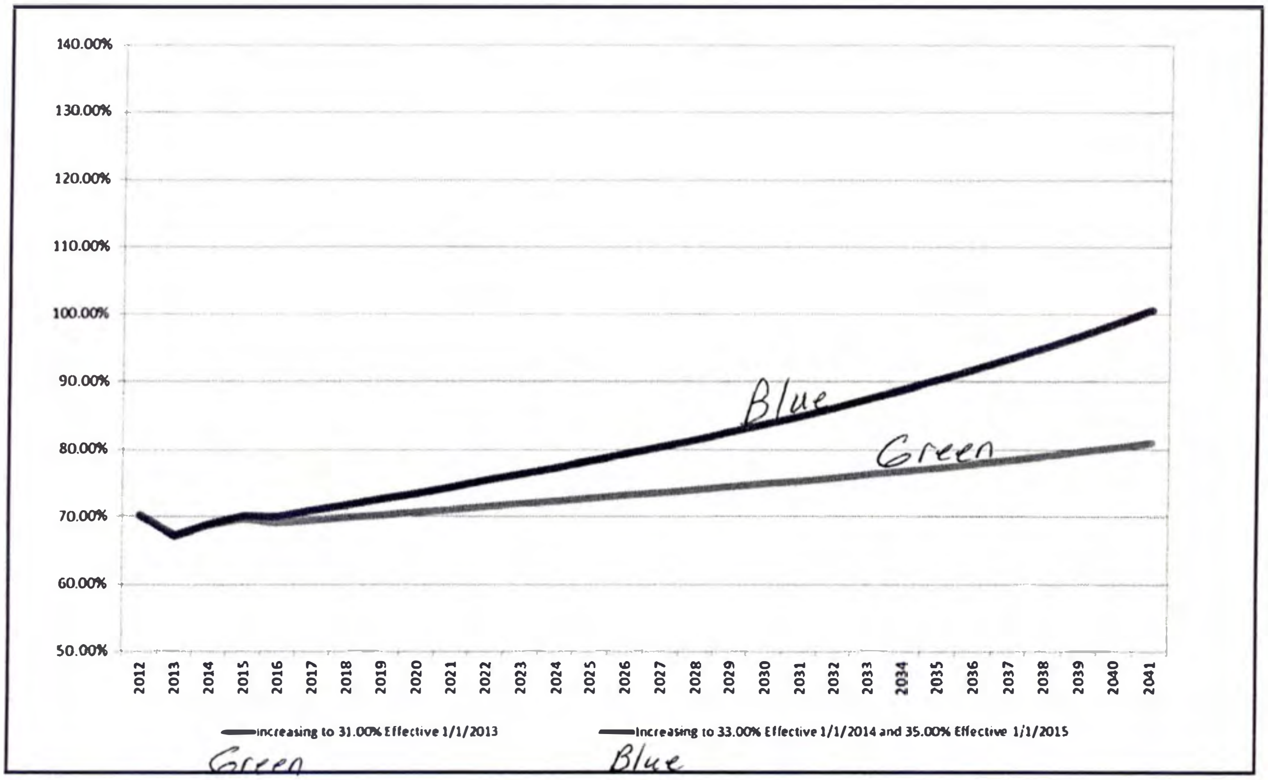
Graph 11



The adoption of the first two years of the recovery plan has stabilized this plan at about 95% funded status over the planning period (green line). The approval of the last two years of the recovery plan will get this plan back to 100% by about 2022 (blue line).

The table is for the Highway Patrol plan.

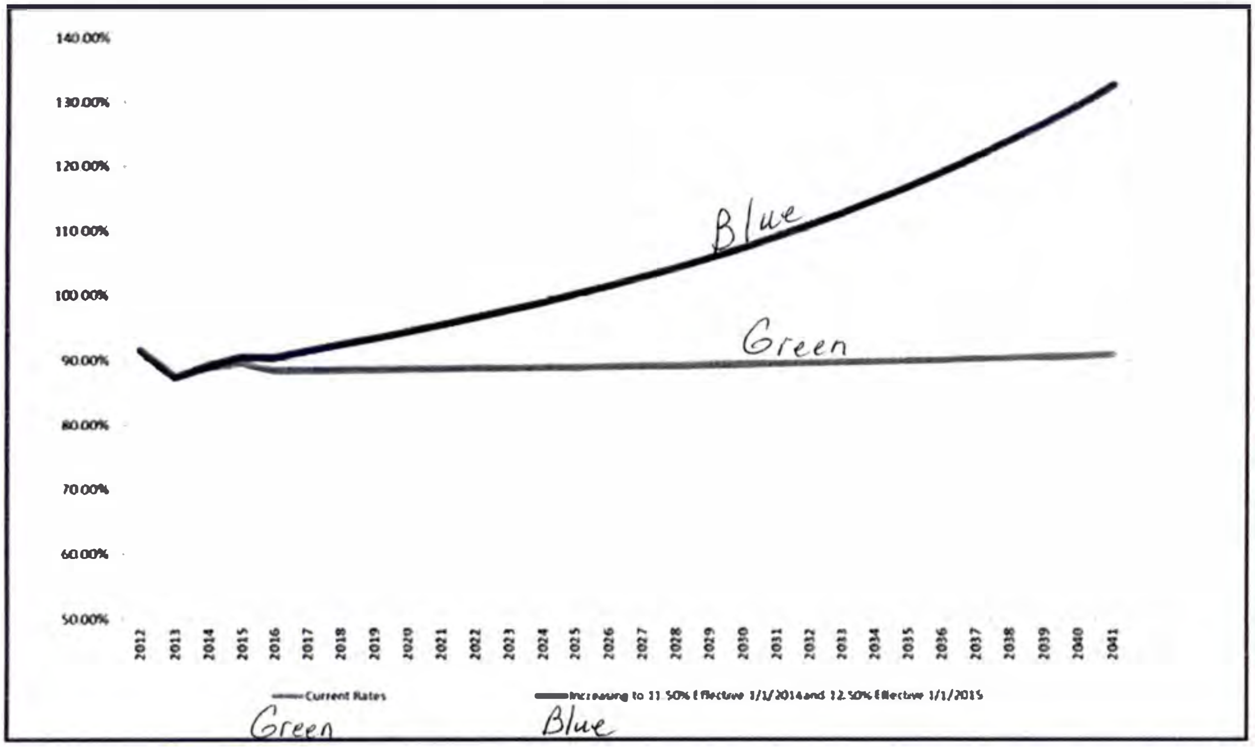
Graph 12



The adoption of the first two years of the recovery plan and the last two years of returns has stabilized this plan over the planning period and will increase the funded status over time (green line). The adoption of the last two years of the recovery plan will get this plan back to 100% by 2041 (blue line)

The table is for the National Guard plan.

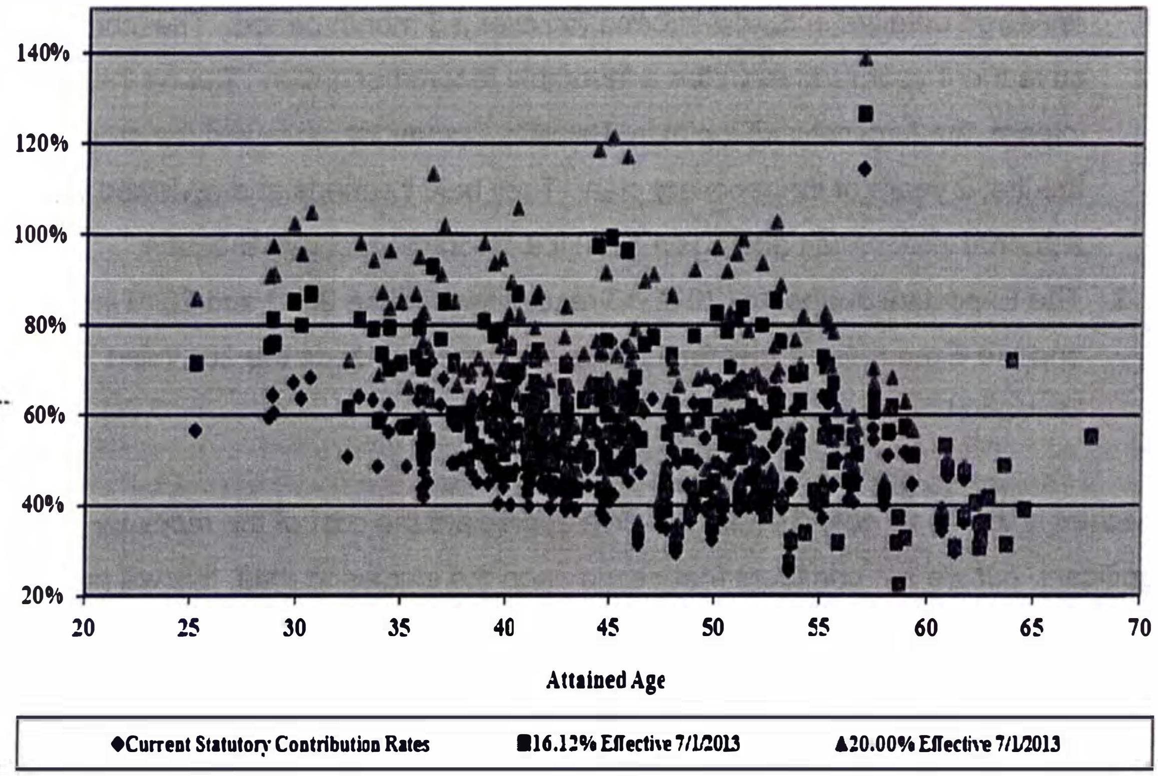
Graph 13



This plan is stable over the planning period at about 90% (green line); however, the adoption of the increase for the next two years will get this plan back to 100% by 2016 (blue line).

The table is for the defined contribution plan.

Graph 14



The red diamonds show how the adoption of the first two years of the recovery plan has helped this plan's members. The adoption of the second two years is shown by the blue squares and clearly improves their position. The last set is the green triangles and shows the benefit of a 20% contribution level to this plan.

Summary

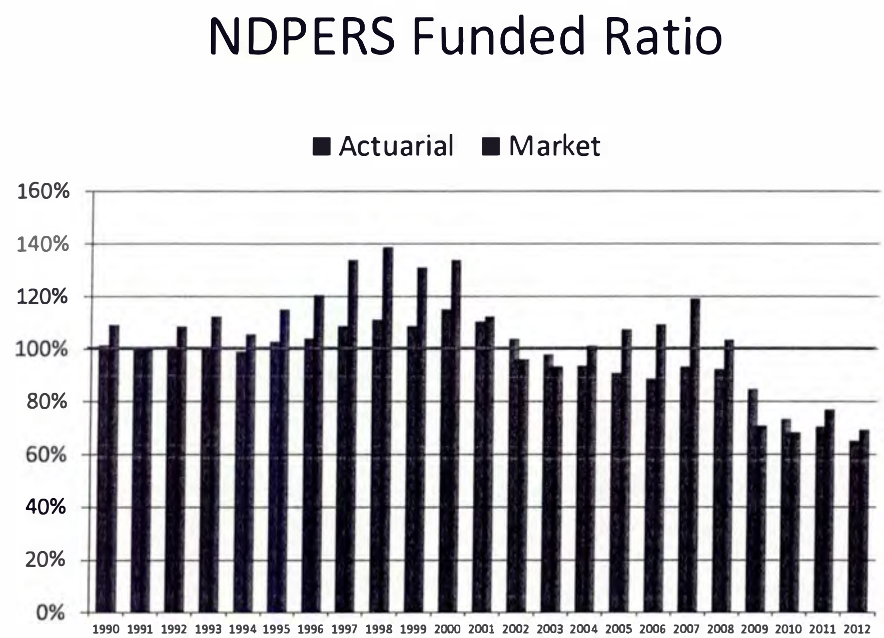
This recovery plan has had considerable study over the years including:

1. The PERS Board's work with our members in developing this proposal. The significant part of this effort is the development of a shared recovery plan with both the member and employer sharing the contribution increase. This is supported by the employee groups.

2. The Legislative Employee Benefits Committee studied the 4 year recovery proposal in the 2010 interim. They had several hearings on the proposal and reviewed detailed actuarial information over a 5 month period. That committee gave the 4 year recovery plan a favorable recommendation. During the 2012 interim, the Legislative Employee Benefits Committee reviewed the proposal for the last 2 years of the recovery plan. They held hearings and reviewed updated actuarial information and again gave it a favorable recommendation
3. The Executive budget for 2011-13 recommended the 2012 and 2013 increases and the Executive budget for 2013 to 2015 recommends the 2014 and 2015 increase to complete the recovery plan.

Attached is the fiscal note for this Bill. We appreciate the cost of the recovery is significant, but we are confident that based upon the studies to date, this will put all plans back on track to 100% funded status.

Mr. Chairman, members of the committee, I wish I did not have to appear before you today with this bill. PERS has never had to request an increase since its inception in 1977 except for this recovery plan. I wish I did not have to today. However, as a result of the tech market collapse and in particular the 2008/2009 downturn, we face the challenge we do today. As noted at the beginning, the investment consultant to the State Investment Board stated that the year we had the large loss that created this situation was truly unique. Out of 224 years of returns in this country, there were only 4 that were worse. And to have this event preceded by the tech market collapse is truly a significant combination of events and hopefully we will not experience such an event again in our lifetimes. Thankfully, as result of your leadership and others, the plans went into this situation in a strong funded position. The following shows the funded status of the PERS plan on both an actuarial and a market basis.



If we are going to meet our future challenges as effectively as our past leaders have prepared us for this one, we need to regain the same funded basis that they gave us. Consequently, I stand before you today to request your positive consideration of this bill, the last half of the recovery plan which will put us on a course back to 100% funded status and make sure we have a strong future.

Thank you and this concludes my testimony. If we can assist you with your considerations, please let me know.

#
2

May 7, 2012

Sheila Peterson SB2059 #2

North Dakota Building Authority North Dakota; Appropriations; General Obligation; Moral Obligation

2-14-13

Primary Credit Analyst:
Henry W Henderson, Boston (1) 617-530-8314; henry_henderson@standardandpoors.com

Secondary Contact:
Robin Prunty, New York (1) 212-438-2081; robin_prunty@standardandpoors.com

Table Of Contents

North Dakota Building Authority North Dakota; Appropriations; General Obligation; Moral Obligation

Credit Profile		
US$19.625 mil facs imp rfdg bnds 2012 (North Dakota) ser A due 12/01/2021		
Long Term Rating	AA/Positive	New
North Dakota ICR		
Long Term Rating	AA+/Positive	Affirmed

Rationale

Standard & Poor's Ratings Services has assigned its 'AA' rating, with a positive outlook, to North Dakota's facilities improvement refunding bonds, series 2012A. At the same time, we affirmed our 'AA' rating on the state's appropriation debt outstanding and our 'AA+' issuer credit rating, with a positive outlook, on North Dakota. The ratings are based on our assessment of the following credit factors:

- Continued strong financial management;
- Strong budget performance with growing reserve levels and structurally balanced operations;
- An expanding economic base that performed well through the recent recession in terms of employment and income;
- Low debt levels coupled with rapid debt amortization; and
- A low level of liability relating to other postemployment benefits (OPEB) but weakened pension funding levels following underfunding and weak asset performance in recent years.

The new issue and the existing appropriation debt are subject to biennial appropriation. The new issue will be used to refund debt outstanding for savings taken over the life of the issue, which is one year shorter than the refunded debt, with the refunding resulting in a net present value savings of about 7.6% of refunded principal.

In our view, North Dakota's stability throughout economic cycles has long been a positive credit factor, and performance through the recent recession has been strong relative to nearly all state peers. The state's economic performance has contributed to a structurally balanced budget in recent years and the expectation of surplus operations through the current biennium based on the recently approved budget. While the state projects balanced operations in the current biennium, it has funded tax relief measures and enhanced reserves and expects to continue this through fiscal 2013.

Unemployment remains the lowest in the nation with rates at 3.4% in February 2012 (seasonally adjusted). We believe that the strong performance of two of the state's key sectors--oil production and agriculture--has contributed to these figures. Continued growth in the oil production sector has contributed to significant employment growth in the western half of the state, and the state reports that growth has been occurring around the rest of North Dakota as well.

Fiscal 2011 ended with an unaudited general fund balance of $997 million--about 30% of appropriations--after a transfer into the general fund of $670 million from the permanent oil tax trust fund, which was closed out, and a $61 million transfer to the stabilization fund. The ending balance was $337 million higher than the estimate, which officials attributed primarily to higher-than-anticipated sales, income and oil taxes, and $47 million of underspending.

Gov. Jack Dalrymple took office in December 2010 after serving as Lt. Governor for 10 years, succeeding Gov. John Hoeven, who was elected to the U.S. Senate. Gov. Dalrymple recommended a 2011-2013 executive budget that was very similar to the 2009-2011 budget but adds additional property and income tax relief, as well as an array of infrastructure projects, primarily tied to the growth of the oil-related economy in the western half of the state. North Dakota's enacted 2011-2013 general fund budget (for fiscals 2012 and 2013) contains $4.07 billion of appropriations, a $771 million increase from Gov. Dalrymple's recommended budget, although the appropriation increase was primarily due to $371 million of one-time highway and road construction expenditures that the governor had proposed be financed from the permanent oil trust fund. This fund was eliminated by the 2011 legislature and the balance was transferred into the general fund for the 2011-2013 biennium. Sales taxes are the state's largest tax source, and are projected to increase by $160 million, or 13%, from the previous biennium, to $1.38 billion. Motor vehicle excise taxes are projected to increase by $62 million, primarily due to a legislative change that earmarked 100% of these taxes to the state's general fund, up from the previous 75% level. Individual income taxes are projected to decline by $74 million – due to a legislative reduction – and corporate income taxes to decline by $57 million. The ending June 30, 2013, general fund balance is projected to be $627 million. The projected June 30, 2013, balances in other reserves include $619 million in the legacy fund, which is funded with oil and gas taxes, and $402 million in the budget stabilization fund, the maximum level under current law.

The state's revenue collections remain significantly above the most recent legislative forecast, which was done in April 2011. In March 2012, revenues were $35.2 million, or 47%, above forecast for the month, and the biennium-to-date collections were $430.0 million, or 31.4%, above the 2011-2013 biennium forecast.

A citizen initiative, known as Measure 2, will be voted on in June 2012 and if approved would eliminate local property taxes and compel the state to supplant that lost revenue, which is estimated to be about $800 million. The state has not formally identified how this additional revenue would be raised, but officials have informally begun to consider how to meet this requirement.

In our view, North Dakota's conservative practices and moderate infrastructure needs have kept its debt levels low. With the state's limited additional debt on the horizon, we believe annual debt service should remain very low as a percent of the operating budget; the carrying charge was only about 1% of expenditures in fiscal 2011.

Based on the analytical factors we evaluate for states, on a scale of '1' (strongest) to '4' (weakest), we have assigned a composite score of '1.5'.

Outlook

The positive outlook reflects what we view as North Dakota's strong government framework and management, strong budgetary performance, and enhanced reserves. If the state's recent actions to improve pension funding levels bring them more in line with 'AAA' rated peers, we could raise the rating to 'AAA'. Alternatively, if those actions do not improve pension funding to that level, we could revise the outlook on North Dakota back to stable. We will continue to monitor the outcome of the proposed voter initiative Measure 2. Additional downside risk for the rating includes the potential for significant reductions in federal funding that currently flows to the state. Standard & Poor's will continue to monitor the federal consolidation efforts stemming from the Budget Control Act. Once these are identified, we will evaluate their effect on the state's finances and officials' response to these revenue reductions.

Governmental Framework

North Dakota has a constitutional requirement that the enacted budget be balanced, and it cannot carry over a deficit. The state does allow voter initiatives, but these have not historically affected the state's operations or financial flexibility. However, we will continue to monitor Measure 2, which will be voted on in 2012 and could have a significant impact on the state's revenues and expenditures.

The state's executive branch has the ability to control the rate of expenditures through an allotment process that reduces the appropriations from particular funds. The allotment reductions can be made in specific situations, including when the estimated revenues in a fund are projected to be insufficient to meet all appropriations from that fund.

On a scale of '1' (strongest) to '4' (weakest), we have assigned a '1.1' to North Dakota's governmental framework.

Financial Management Assessment: 'Good'

North Dakota's management practices are considered "good" under Standard & Poor's Financial Management Assessment (FMA). An FMA of good indicates that practices exist in most areas, although not all may be formalized or regularly monitored by governance officials. Highlights include:

- The state uses outside sources to devise revenue and expenditure assumptions, using both a statewide advisory panel and other nationally recognized sources. To augment the findings, the state uses historical data to make future projections.
- The governor uses an allotment process to keep budgeted expenditures on track and avoid drawing down reserves. The governor can also make transfers from the budget stabilization fund as needed if there is a revenue shortfall.
- The state's long-term financial planning goes out three to four years (the current and following bienniums) and is designed to make sure future bienniums are balanced.
- The State Investment Board, which is chaired by the lieutenant governor and includes the state treasurer, oversees a formal investment policy as well as the investments. Reports on both results and holdings are made to a legislative committee regularly.
- The state's capital improvement plan encompasses a wide variety of projects, but does not follow a formal time horizon and have all future sources identified.
- We understand that the state has policies concerning savings thresholds for refundings, as well as a limitation on the amount of revenue debt that can be issued, but does not have more defined policies regarding debt.
- North Dakota has a budget stabilization fund that at the end of the 2013 biennium will be able to hold up to $402 million, but there is no more formal fund balance policy for the general fund. The state does, however, enjoy access to what we consider ample liquidity through the Bank of North Dakota, which is state owned, as well as other reserve funds.

On a scale of '1' (strongest) to '4' (weakest), we have assigned a '1.5' to North Dakota's financial management.

Economy

North Dakota's 2010 population was 673,000, and it grew by 4.7% from 2000 to 2010, which is below the nation's 9.7% growth over the same period. The state's age dependency ratio is about equal to the national level. Due in large part to the oil extraction from the Bakken Shale in the northwestern portion of the state, North Dakota's unemployment rate is the lowest in the nation. The 2011 annual rate was 3.5%, well below the nation's rate. However, the state's employment base is more concentrated than the overall U.S. economy.

North Dakota's per capita gross state product (GSP) and GSP growth over 10 years have both been stronger than the nation's. The 2010 per capita GSP was 109% of the U.S. per capita GDP and the 10-year growth was 6.6% compared with 3.9% for the U.S. over the same period. The state's per capita personal income fluctuates around the nation's level.

According to IHS Global Insight Inc., employment growth in the state will continue to outperform the county over the next few quarters. In addition to natural resources/mining, manufacturing and construction are projected to be the strongest sectors. The firm's five-year outlook for the state remains strong, and employment is projected to grow by 1.8% per year through 2016, with natural resources/mining projected to grow by over 10% per year over the period. The other sectors with strong projected growth are: durables manufacturing, with 5.4% projected annual growth; construction (5.0% growth); and professional and business services (4.2%).

The oil extraction involves hydraulic fracturing, but state officials indicate that it is deep well fracturing, and they therefore believe it is less likely to be affected by potential regulations on the practice.

On a scale of '1' (strongest) to '4' (weakest), we have assigned a '1.8' to North Dakota's economy.

Budgetary Performance

The state maintains strong reserves, in our view. In addition to the general fund, North Dakota maintains multiple other reserve funds, including:

- A budget stabilization fund, which was created in 1987. The authorizing legislation requires that any general fund amount in excess of $65 million at the end of a biennium must be transferred to the budget stabilization fund. The maximum for this fund is 9.5% of the current biennial budget, and the fund is currently at that level, which was $402 million at the end of fiscal 2013. The fund can be used either by the governor if biennial revenues are projected to decline by at least 2.5% below the most current legislative estimates, or by legislative appropriation; and
- A legacy fund, which was established when voters approved Constitutional Measure 1 in November 2010. The legacy fund will receive 30% of oil and gas production and extraction tax revenues collected after June 30, 2011, and be unavailable for use until after fiscal 2017. After fiscal 2017, the legislature may appropriate up to 15% of the principal, and all of the interest, of the fund in any biennium if the appropriation is approved by at least two-thirds of each house of legislature.

While the state has the ability to issue short-term notes to improve intrayear liquidity, the sound cash position has not required such an issuance in a number of years.

On a scale of '1' (strongest) to '4' (weakest), we have assigned a '1.2' to North Dakota's budgetary performance.

Debt And Liability Profile

North Dakota has very restricted ability to issue unlimited-tax general obligation (GO) debt, and all such debt matured in the late 1990s. Most GO-type projects are funded as appropriation debt through the North Dakota Building Authority. By statute, general fund appropriations for debt service for building authority debt cannot exceed 10% of the sales use and motor vehicle tax revenues, and the burden from building authority debt is low. We understand that all building authority debt will be repaid within 15 years. A portion of the North Dakota Public Finance Authority debt carries the state's moral obligation pledge; this debt is used to fund projects across the state. Given that the state legislature meets biennially, moral obligation-backed public finance authority issues must maintain a debt service reserve in the amount of maximum annual debt service for 24 months. The state has no variable-rate debt or swaps outstanding, although the North Dakota Housing Finance Agency, an enterprise fund, has several swaps in place. Primarily due to strong oil and gas extraction taxes, unlike many states, North Dakota has not had to increase its long-term borrowing program, restructure existing debt for savings, or borrow for cash flow purposes.

Pensions And Other Postemployment Benefits

The state's four key pension funds have a combined funded ratio of 69%--as of the 2011 valuation--with a total overall unfunded liability of about $1.63 billion. The state has not made 100% pension actuarial required contribution (ARC) payments in recent years, which we consider a weakness, but the legislature approved an increase in the state's contribution equal to 2% of payroll (along with a 2% payroll increase in the employee contribution) for the 2011-2013 biennium as part of a plan to increase the annual funding. Officials project that if similar increases are approved for the 2013-2015 biennium, annual pension funding would equal 100% of the ARC. The state's unfunded pension liability per capita is $2,400, which we consider below average, and the unfunded pension liability is 5.2% of personal income, which we consider below average.

We consider North Dakota's OPEB obligations to be low, due to relatively modest retiree benefits. For all state plans on a combined basis, North Dakota had an unfunded OPEB liability of about $113 million, a 30% funded ratio, and an actuarial annual OPEB cost of $7 million in fiscal 2010, for which the state overfunded its annual contribution at $8 million, not including the implicit health subsidy for non-Medicare eligible retirees.

On a scale of '1' (strongest) to '4' (weakest), we have assigned a '1.8' to North Dakota's debt and liability profile.

The Bank of North Dakota

The state of North Dakota owns, controls, and maintains the Bank of North Dakota (BND). By statute, BND is defined as the state of North Dakota doing business as BND. The state views the bank as serving an important role in promoting the state government's economic development and stabilization. BND has a captive customer base and operates as the agent of several state-legislated programs, a lender, a depository for state agency funds, and a correspondent bank to private financial institutions in the state. The state legislation asserts that the state guarantees all BND's deposits.

Standard & Poor's bases its ratings on BND on the state of North Dakota's ownership of the bank, and the bank's "strong" (as our criteria define it) business and risk positions, "strong" capital and earnings, "average" funding, and "adequate" liquidity. The bank's geographic concentration in North Dakota, its indirect exposure to the agriculture industry, and its limited capital flexibility constrain the ratings. The rating includes a one-notch lift from the company's 'a+' stand-alone credit profile, based on the application of our criteria for government-related entities. As an entity that the state owns, controls, and maintains, we believe that there is a high likelihood that the state of North Dakota would provide timely and sufficient extraordinary support to BND, if necessary. Moreover, the state explicitly guarantees all of BND's deposits, as codified in the North Dakota Century Code (NDCC §6-09-10). The 'AA+' rating on the bank's deposits parallels our issuer credit rating on the state of North Dakota. None of BND's other liabilities have an explicit guarantee.

Related Criteria And Research

- USPF Criteria: State Ratings Methodology, Jan. 3, 2011
- USPF Criteria: Appropriation-Backed Obligations, June 13, 2007

Ratings Detail (As Of May 7, 2012)		
North Dakota Bldg Auth, North Dakota		
North Dakota		
North Dakota Bldg Auth (North Dakota) lse ser 2010A		
Long Term Rating	AA/Positive	Affirmed
North Dakota Bldg Auth lse rev bnds ser 2002A dtd 04/01/2002 due 12/01/2003-2017 2019 2022		
Unenhanced Rating	AA(SPUR)/Positive	Affirmed
North Dakota Bldg Auth lse rev rfdg bnds 2002 ser C dtd 07/01/2002 due 08/15/2003-2014		
Unenhanced Rating	AA(SPUR)/Positive	Affirmed
North Dakota Pub Fin Auth, North Dakota		
North Dakota		
North Dakota Mun Bnd Bank		
Long Term Rating	A+/Positive	Affirmed
North Dakota Mun Bnd Bank cap fincg prog bnds ser 2004A		
Long Term Rating	A+/Positive	Affirmed
North Dakota Pub Fin Auth (North Dakota) cap fincg prog bnds		
Long Term Rating	A+/Positive	Affirmed
North Dakota Pub Fin Auth (North Dakota) moral oblig		
Long Term Rating	A+/Positive	Affirmed
North Dakota Pub Fin Auth (North Dakota) moral oblig		
Long Term Rating	A+/Positive	Affirmed
North Dakota Pub Fin Auth (North Dakota) moral oblig		
Long Term Rating	A+/Positive	Affirmed
North Dakota Pub Fin Auth (North Dakota) moral oblig		
Long Term Rating	A+/Positive	Affirmed
North Dakota Pub Fin Auth (North Dakota) moral oblig		
Long Term Rating	A+/Positive	Affirmed

Attachment 1

Testimony on SB 2059
Bill Kalanek, Association For Public Employees
House Government and Veterans Affairs Committee
March 7, 2013

Chairman Kasper and members of the House Government and Veterans Affairs Committee my name is Bill Kalanek and I represent the Association For Public Employees, an independent association of active and retired state employees.

I would like to voice support for Senate Bill 2059 which as you know provides for a small increase in the retirement contribution for both state employees and their employers. The modest increase and shared responsibility AFPE feels is the most prudent methodology to implement to aide in the continued recovery of the PERS fund from its previous investment losses. Through this incremental increase in contributions AFPE believes that over time the PERS fund can return to a more satisfactory funded status assuming modest market returns.

AFPE's board and membership have endorsed Senate Bill 2059 as the most prudent option for ensuring the health of the PERS retirement system into the future.

I would asked that you give Senate Bill 2059 a "Do Pass" recommendation and forward it to the floor of the Senate as this is an important issue for all state employees and retirees.

Thank you.

Bill Kalanek, Executive Director

Attachment 2

TESTIMONY OF SPARB COLLINS

SENATE BILL 2059

Good morning, my name is Sparb Collins. I am the Executive Director of the North Dakota Public Employees Retirement System (NDPERS). I appear before you today concerning the retirement plans we administer and in support of SB 2059. Our agency provides services to the state and participating political subdivisions. The following table provides some statistical information on the retirement plans we administer:

January 1, 2013

RETIREMENT PROGRAMS MANAGED AND ADMINISTERED BY NDPERS

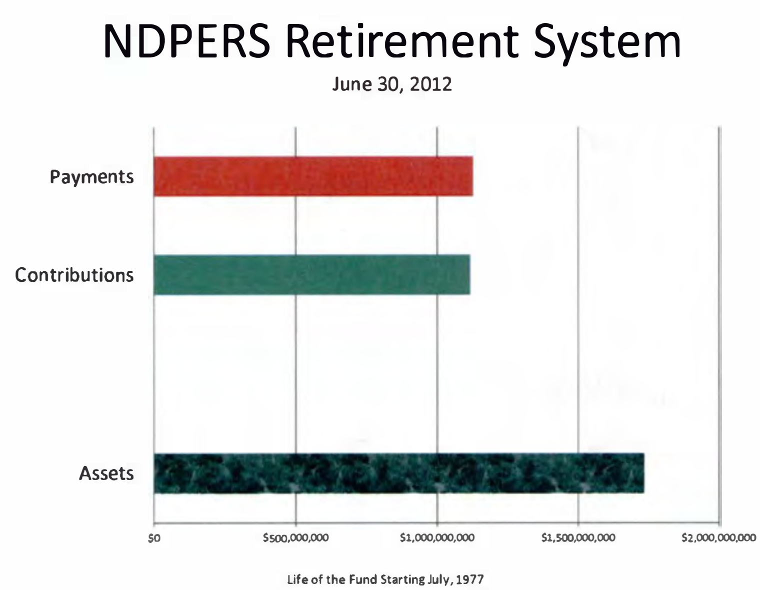
		PERS 54-52				39-03.1	
PARTICIPATION	TOTAL RETIREMENT	Main System	Judges	Guard	Law Enforcement	Highway Patrol	Job Service
AGENCY							
State	93	93	1	1	1	1	1
Counties	49	48			11		
School Dist	114	114					
Cities	81	75			6		
Others	73	73					
	410	*403*	*1*	*1*	*18*	*1*	*1*
EMPLOYEES							
State	10,512	10,014	47	36	37	141	18
Counties	3,583	3,388			129		
School Dist	4,988	4,988					
Cities	1,475	1,431			44		
Others	557	457					
RETIRESS	7,816	7,214	22	12	11	109	120
	28,931	*27,492*	*69*	*48*	*221*	*250*	*138*

As you will note, our agency is responsible for the administration of approximately 7 different defined benefit/hybrid retirement plans. The Law Enforcement Plan is divided into two plans, those with past service and those without. Several of the above plans were assigned to our agency by the 2001 and 2003 legislative session. Those were the Job Service Retirement Plan and the Law Enforcement Plans for political subdivisions. The Law Enforcement Plan has since been expanded to certain state employees.

In addition to the above we manage a 401(a) plan or optional defined contribution plan for non-classified state employees which was assigned to our agency in 1999 and a 457 supplemental savings plan that is very much like a defined contribution plan

You will note the largest retirement plan we administer is the Main/Hybrid retirement system which provides services to not only the state, but also to political subdivisions. In this plan about 50% of the active members are state employees and 50% are political subdivision employees. School districts are our second largest group followed by counties and cities.

Today we will be discussing a lot of actuarial information about the PERS plans but if look at the program just from the more traditional accounting perspective of other state programs we see the following:



As the above shows the plan still has all the employer/employee contributions it has received to date plus about $500 million. In addition the plan has paid out over 1 billion to members with over 95% of that going to mailing addresses in ND. Basically all of the payments have come from earnings the plan made from investments outside of ND. Basically we are a program that still has every dollar that has been appropriated to us and has brought about 1 billion dollars back into the state. From an accounting perspective this captures the dynamic nature of retirement savings and investments.

The proposed legislation before you today is the second part of a four year recovery plan for the PERS Retirement Plans based upon the actuarial perspective of planning for the future. The first two years were approved last session. The second two years are in this bill and would increase both the employer contribution rates and the member contribution rates that are in statute for the Highway Patrol Retirement Plan, the PERS Hybrid Plan (Main/hybrid and Judges only) and the PERS Defined Contribution Plan by 1% for the employer and member's rate beginning January 2014, plus an additional 1% increase in both employer and member contribution rates for calendar year January 2015. The bill also would increase the member contribution rates for the following three groups:

- Peace officers and correctional officers in the Hybrid Plan that are employed by political subdivisions, for which the member contribution rate would increase by 0.5% annually, instead of 1%, over the same time period;

- National Guard members in the National Guard Retirement Plan would increase .05% annually; and

- Temporary employees in the Hybrid Plan and Defined Contribution Plan, for which the member contribution rate would increase by 2% annually, instead of 1%, over the same period.

The following details the above changes in the Bill:

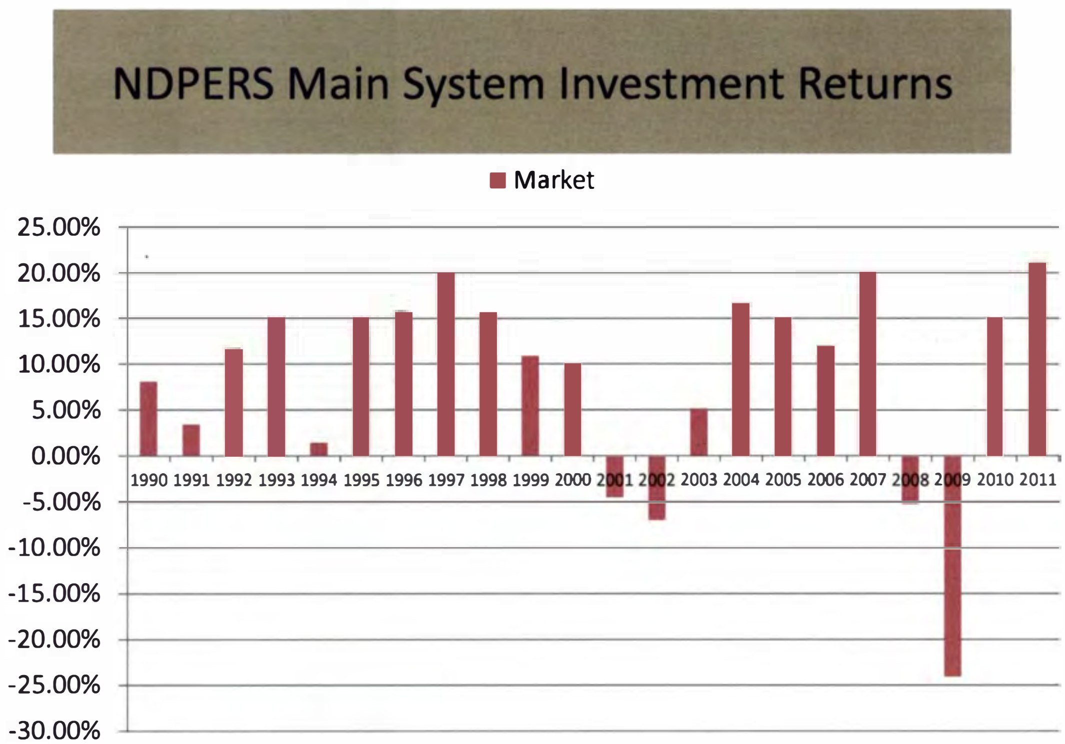
Retirement Fund	SB 2059 *Increase employee and employee contributions equally**
Highway Patrol	• 2% employee increase and a 2% employer increase (beginning with a 1% increase for both the employer and employee in Jan of 2014) o ***Section 1*** increases the employee contribution o ***Section 2*** increases the employer contribution
Main	• 2% employee increase and a 2% employer increase (beginning with a 1% increase for both the employer and employee in Jan of 2014) o ***Section 3*** increases the temporary employee contribution* o ***Section 4*** increases the employee contribution o ***Section 5*** increases the employer contribution
Judges	• 2% employee increase and a 2% employer increase (beginning with a 1% increase for both the employer and employee in Jan of 2014) o ***Section 6*** increases the employer and employee contribution
National Guard	• .5% employee increase (beginning in Jan of 2014) o ***Section 7*** increases the employee contribution
Law Enf	• .5% employee increase (beginning in Jan of 2014) o ***Section 8*** increases the employee contribution
DC Plan	• 2% employee increase and a 2% employer increase (beginning with a 1% increase for both the employer and employee in Jan of 2014) o ***Section 9*** increases temporary employees contribution o ***Section 10*** increases employer and employee contributions

**Temporary employee contributions increase by 2% each year beginning in January of 2014.*

This bill addresses the funding shortfall that has occurred in both the PERS defined contribution plan and the PERS defined benefit/hybrid plans as a result of the downturn in the financial markets. Let me start by providing you some background and a summary of the actions taken to date.

Background

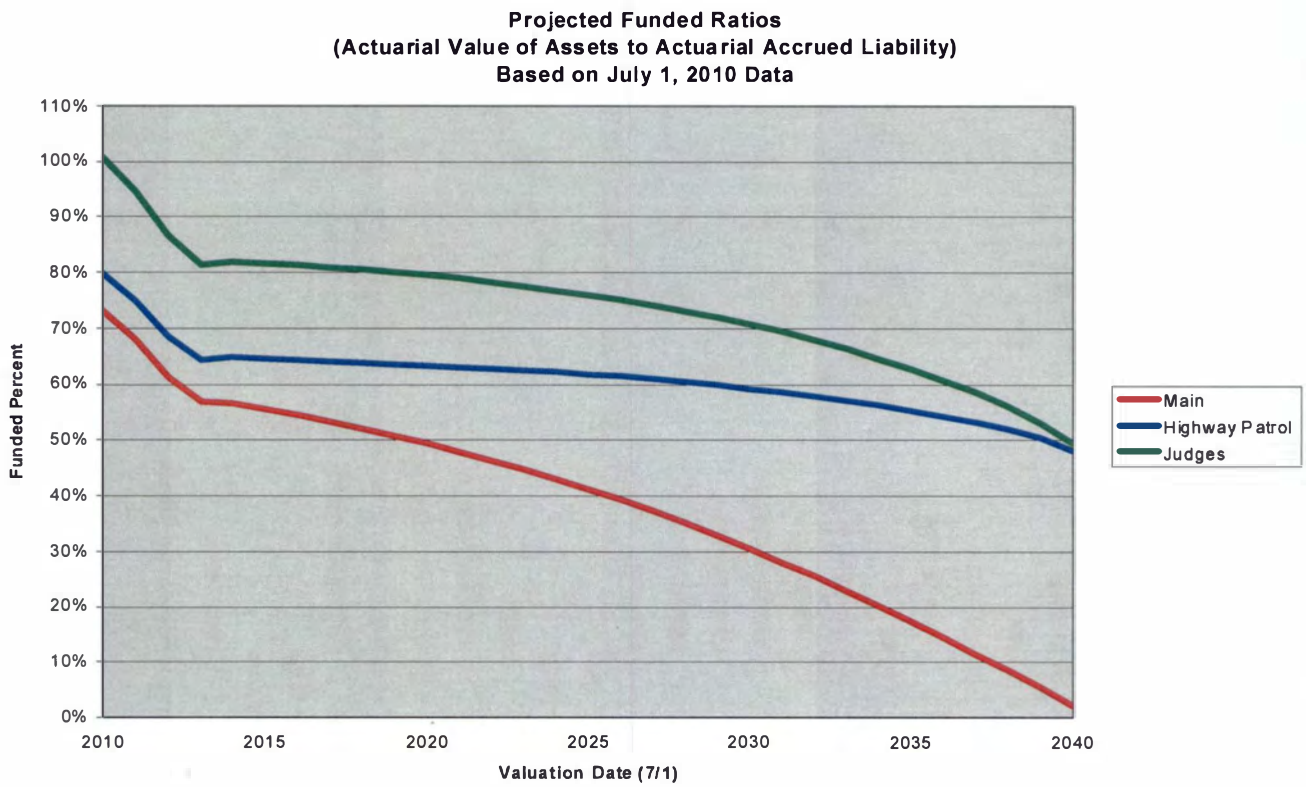
In the 2008/2009 fiscal year the financial market had a major correction that was preceded by the tech market collapse in 2001-2002. However the most significant effect was the 2008/2009 year in which the PERS plan lost about 24.5%. The following table shows the history of returns and the returns in that year.



The financial consultant to the State Investment Board, which manages the PERS assets reported that out of 224 years of US stock performance only 4 years were worse than the returns in 2008. What the plan experienced was truly a unique and significant event.

This event created a long term challenge for the funding status of the plans. Based upon the July 2010 actuarial review the following projection of the long term funded status of the Main Hybrid Plan, the Highway Patrol Plan and Judges plan was developed by the actuarial consultant.

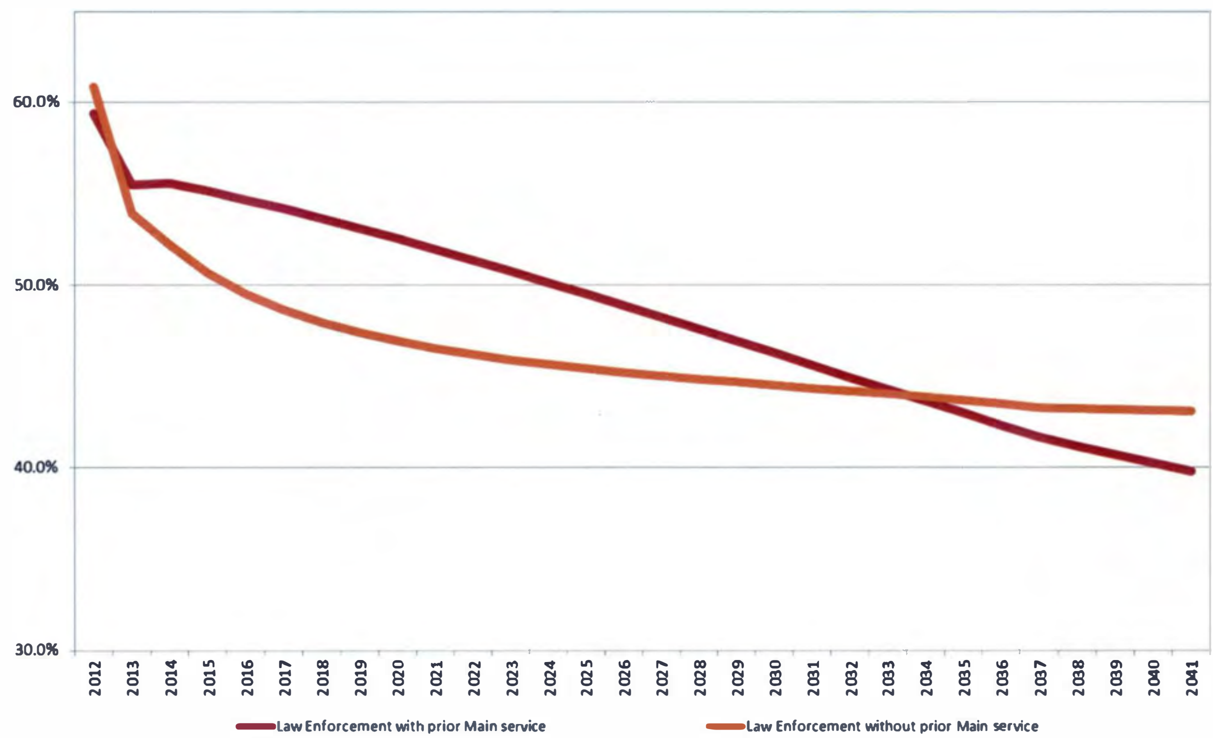
Graph 1



Projections of the future funded status at that time indicated the Main plan could become insolvent in approximately 2040 (as noted in the above graph). It also projected a decline in the funded status of the other plans (the Judges and HP).

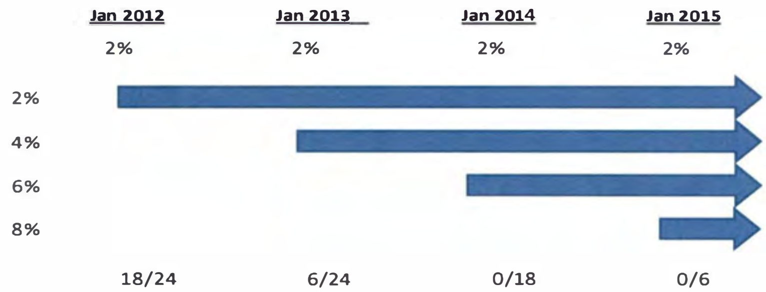
The projections for the Law Enforcement Plan at that time was:

Graph 2



After a significant amount of study, a proposal was brought forward to increase the contributions by 8% over the period from January 2012 to January 2015 which was projected to close this funding deficit for the Main, Judges and HP plans. It became known as the 4 year recovery plan and was based upon the concept that the recovery should be shared between the employer and employee. The thought was that neither party should be responsible for the full cost of the recovery. It was spread over 4 years to reduce the effect of the increase in any given year on either party.

This proposal also increased the employee contributions for the Law Enforcement plans by 4%. The employer contributions are set by the PERS Board and they have indicated that those contributions would rise as well based upon the legislative action for the other systems.



Months increase effective for 2011-2013/ Months effective for 2013-2015

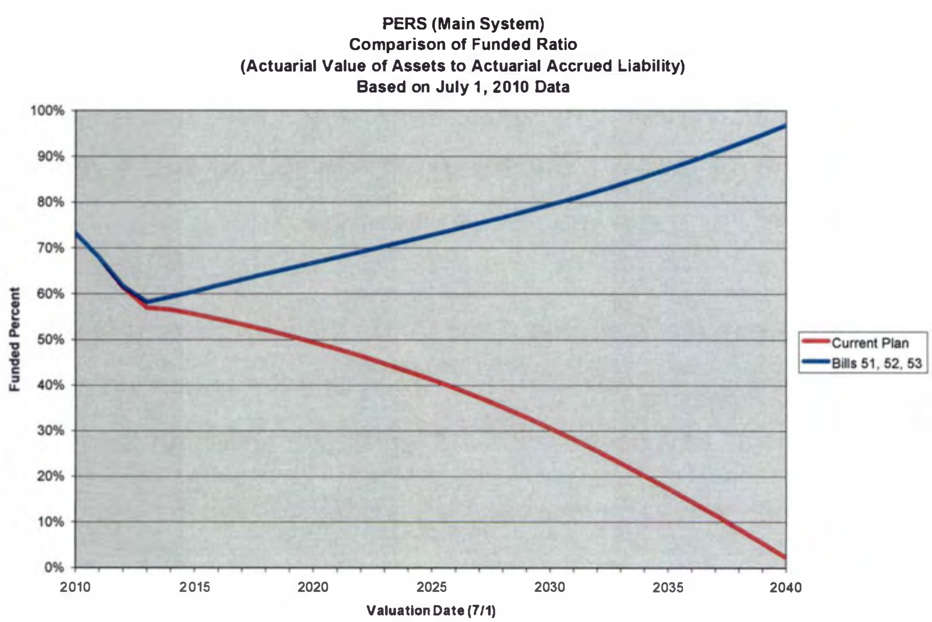
2015 and beyond 100% effective

This proposal came together in SB 2108 that was considered last session. This proposal accomplished three objectives:

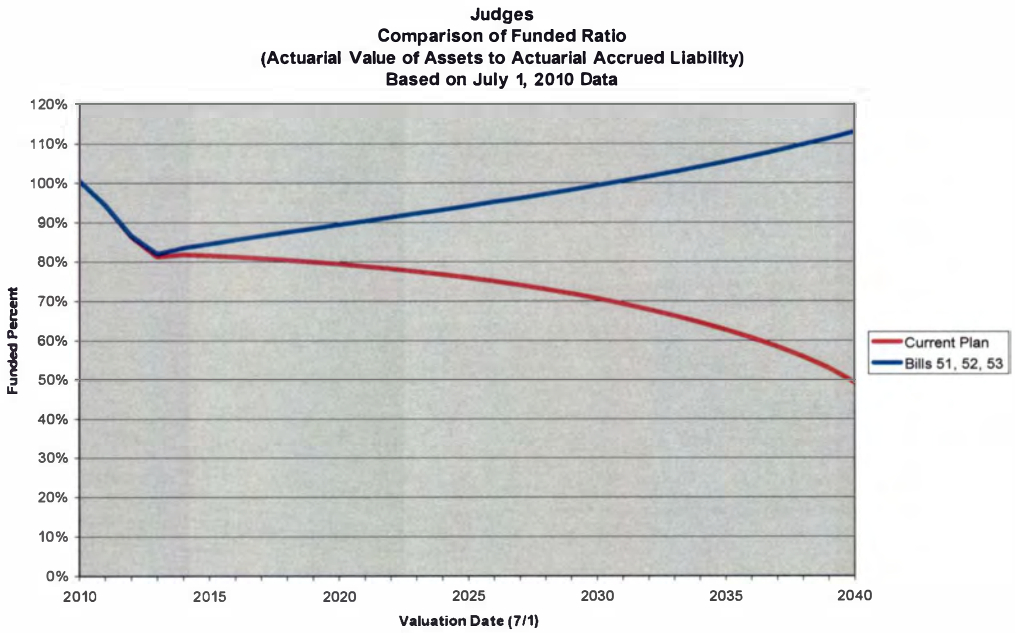
1. To stop the downward trend in the funded status of the plans
2. To stabilize the plans
3. To put the plans on a course back to 100% funded status

The following graphs were reviewed showing the projected status of the funds without the increase and the projected status with the increases proposed in the recovery plan.

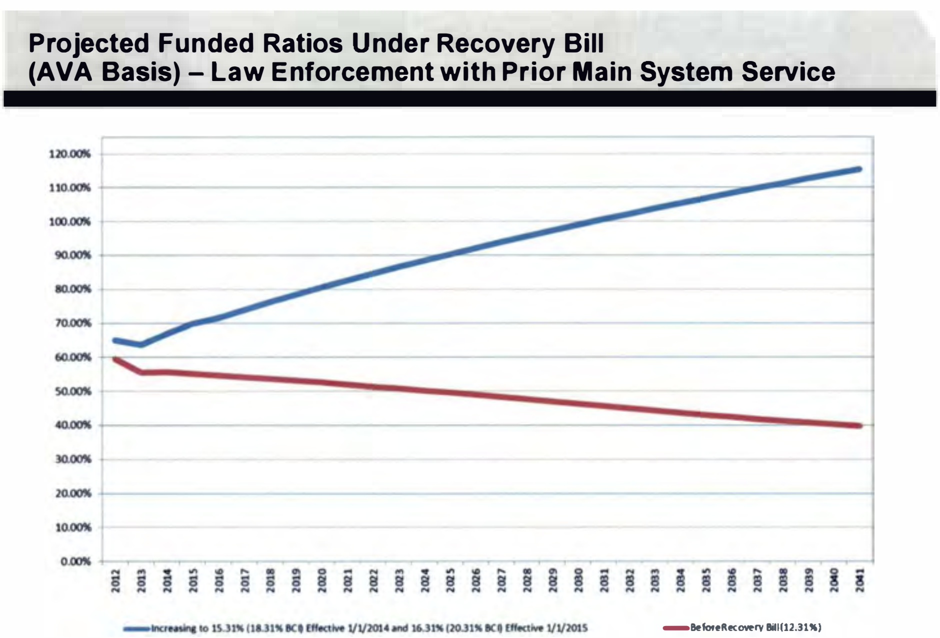
Graph 3



Graph 4

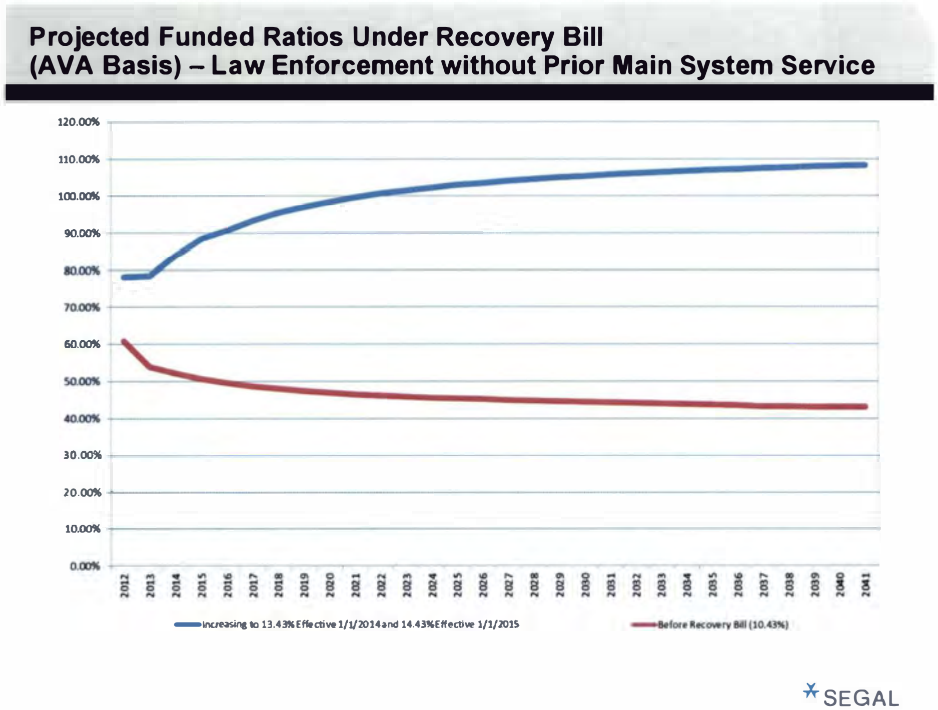


Graph 5



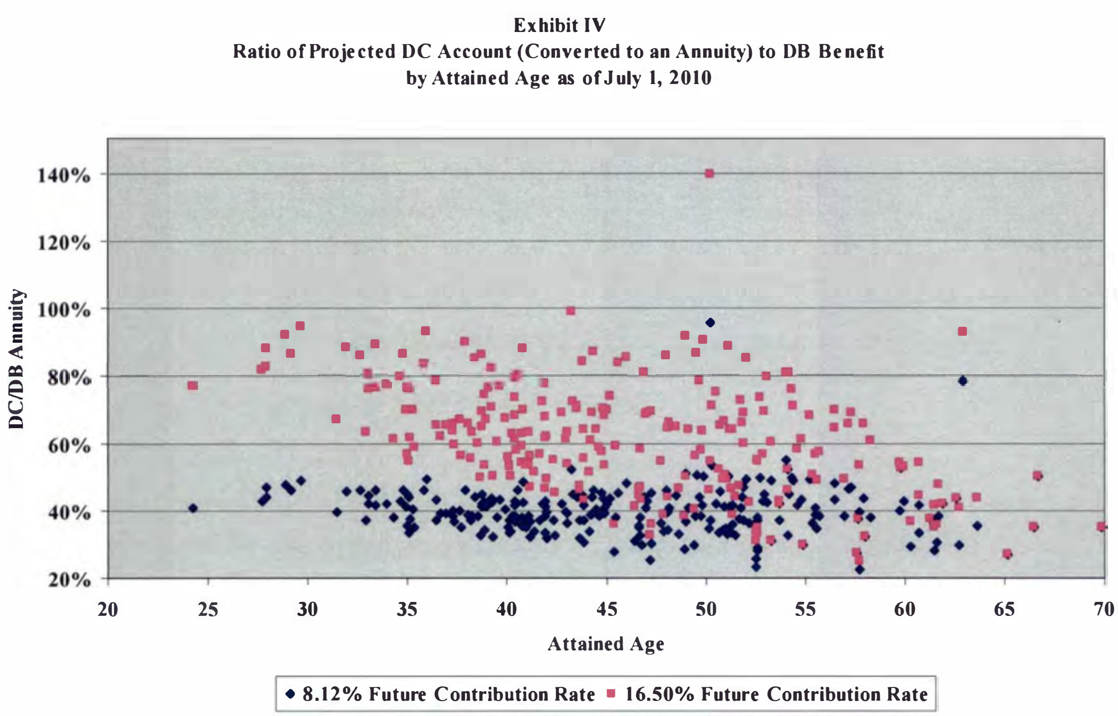
SEGAL

Graph 6



For the defined contribution plan, the following table shows the challenge faced by that plan in 2010:

Graph 7



The blue diamonds show the challenge the defined contribution plan members face as a result of the downturn in the financial markets. The squares show the benefit of the increase in contributions to 16.5%.

The proposed recovery plan outlined above for the retirement plans including the DC plan accomplished all three goals. That is, the downward trend in funding is stopped. The plans are stabilized and they are put on a course to 100% funded status. However, for the DC plan we note that while the proposal does much to help the members they are not returned to a 100% level.

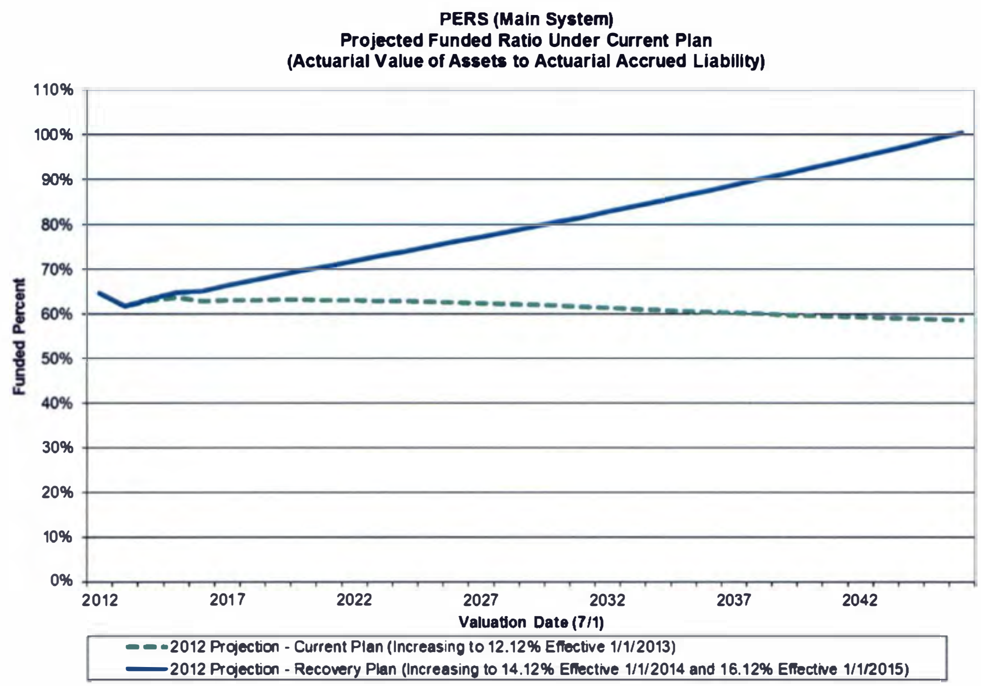
Last session the legislature approved the first two years of the recovery plan which included the 2012 and 2013 increases. It was decided to consider the 2014 and 2015 increase this session.

Accomplishments and Final Two years of Recovery Plan

New projections have been completed for each plan as part of the planning and consideration process for the last two years of the recovery plan. The following graphs show what was accomplished by the action of adopting the first two years of the recovery plan and the effect of adopting the last two years of the recovery plan.

This table is for the Hybrid/Main Plan:

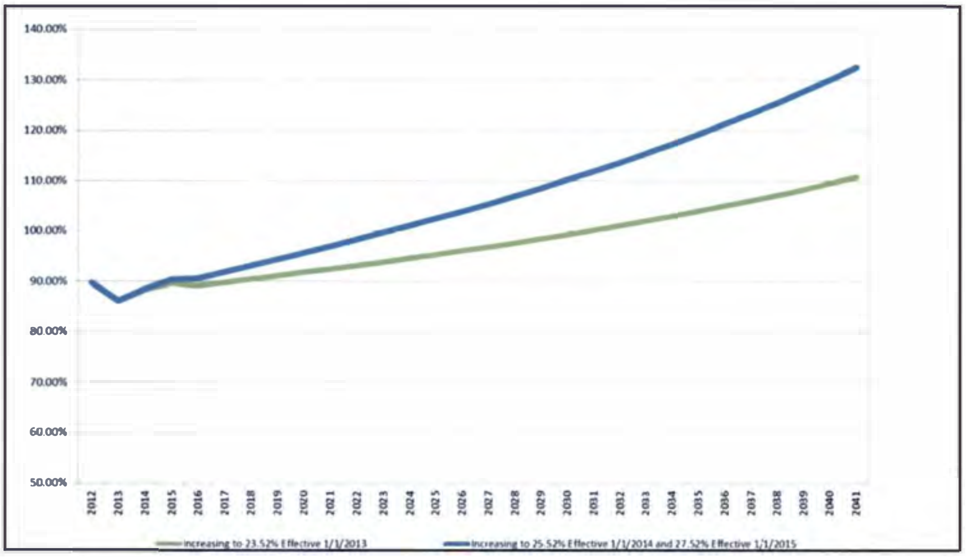
Graph 8



As the above shows, the action of adopting the first two years (green line) of the recovery plan stopped the downward trend in the funding status and stabilized the plan at around 60% funded status for the next 30 years or so. Adopting the last two years of the recovery plan will put this plan on a course back to 100% by about 2044 as shown by the blue line above.

This table is for the Judges retirement plan:

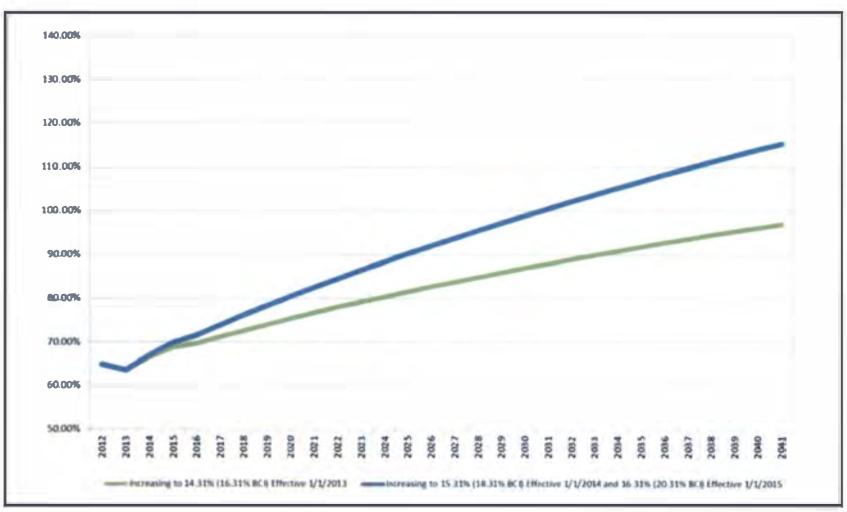
Graph 9



For this plan the first two years of the recovery plan and the returns for the last two years have put this plan on a track to 100% funded status (green line) around 2035. The approval of the remaining two years of the recovery plan will get this plan back to 100% by around 2023.

This table is for the Law Enforcement Plan With Prior Service.

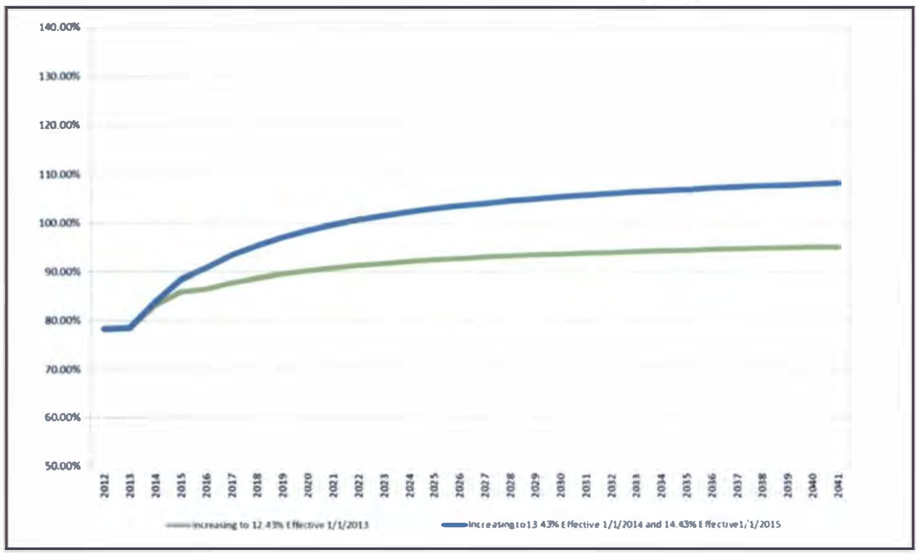
Graph 10



For this plan the first two years of the recovery plan and the last two years of returns have put this plan on a positive course and a return to 100% by around 2043 (green line). The adoption of the last two years of the recovery plan will get this plan to 100% funded status by around 2031 (blue line).

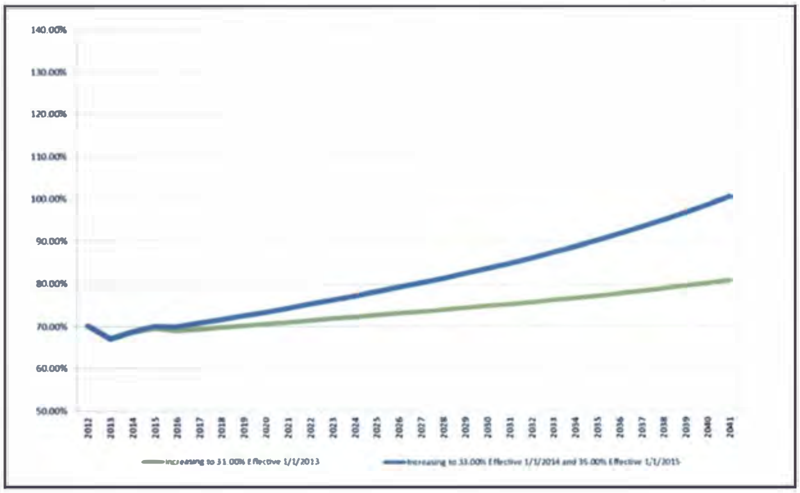
The table is for the Law Enforcement Plan Without Prior Service.

Graph 11



The adoption of the first two years of the recovery plan has stabilized this plan at about 95% funded status over the planning period (green line). The approval of the last two years of the recovery plan will get this plan back to 100% by about 2022 (blue line).
The table is for the Highway Patrol plan.

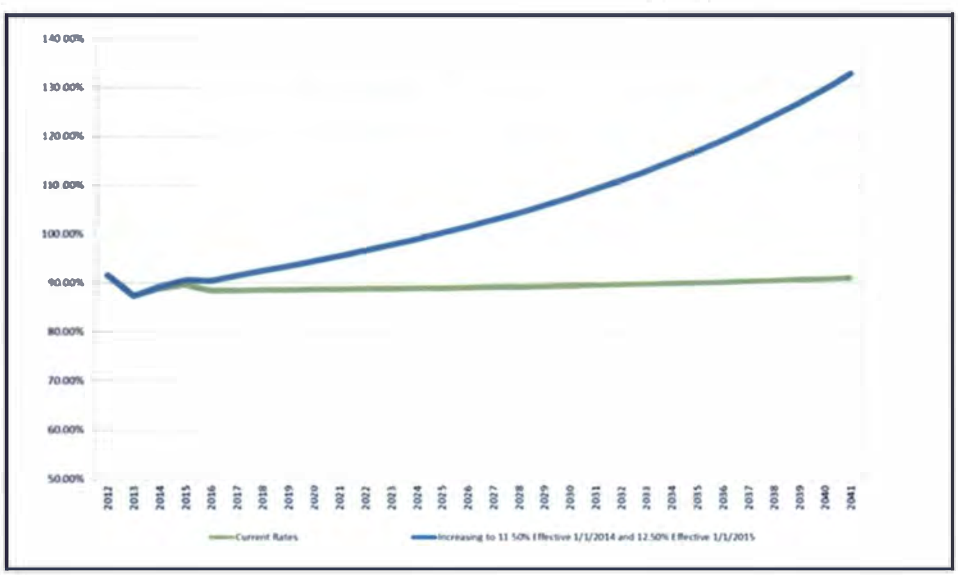
Graph 12



The adoption of the first two years of the recovery plan and the last two years of returns has stabilized this plan over the planning period and will increase the funded status over time (green line). The adoption of the last two years of the recovery plan will get this plan back to 100% by 2041 (blue line)

The table is for the National Guard plan.

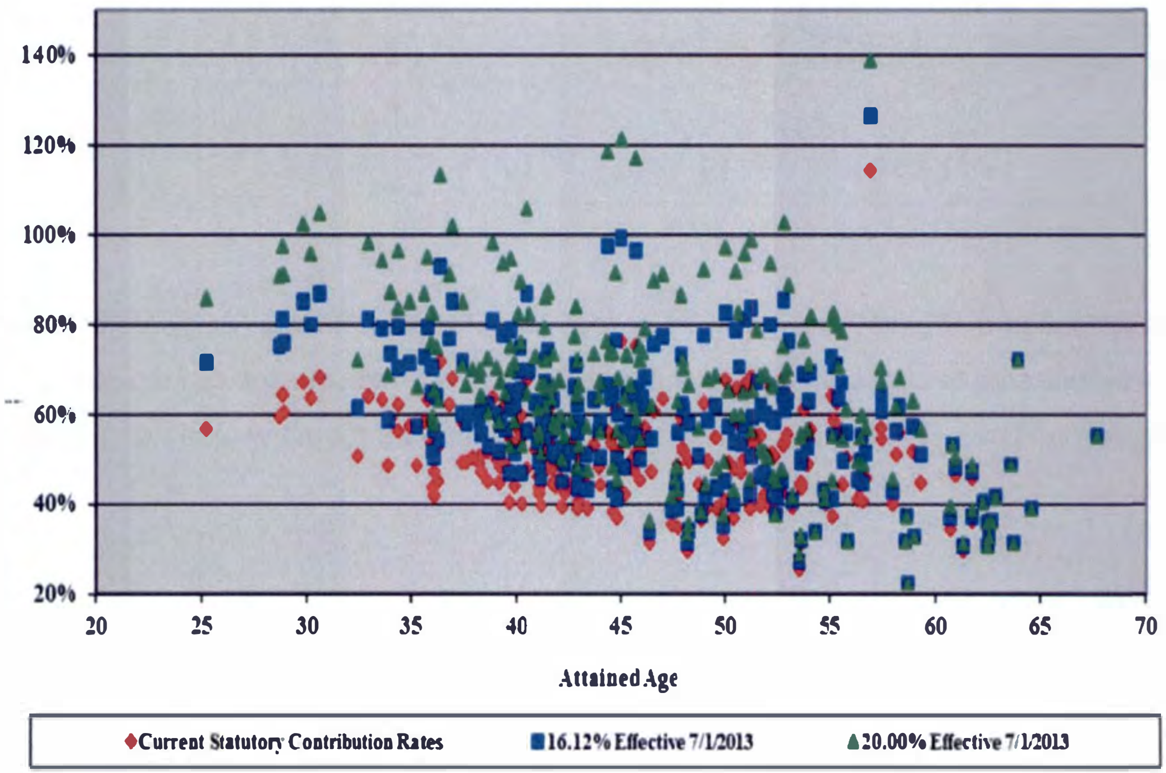
Graph 13



This plan is stable over the planning period at about 90% (green line); however, the adoption of the increase for the next two years will get this plan back to 100% by 2016 (blue line).

The following table is for the defined contribution plan.

Graph 14



The red diamonds show how the adoption of the first two years of the recovery plan has helped this plan's members. The adoption of the second two years is shown by the blue squares and clearly improves their position. The last set is the green triangles and shows the benefit of a 20% contribution level to this plan.

Summary

This recovery plan has had considerable study over the years including:

1. In 2009 as the board started to see the depth of the financial market collapse unfolding it discussed with the Legislative Employee Benefits Committee an

amendment to increase employer contributions immediately to get out in front of the then unfolding situation. It was suggested that we wait and study it during the interim when we knew more about the extent of the challenge.

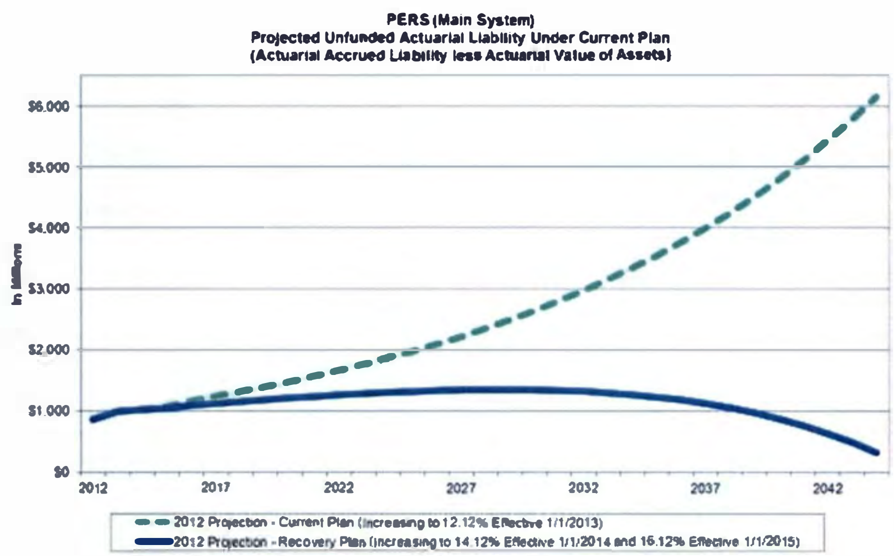
2. During the 2009-11 interim the PERS Board's worked with our members in developing this proposal. The significant part of this effort is the development of a shared recovery plan with both the member and employer sharing the contribution increase. This is supported by the employee groups.
3. The Legislative Employee Benefits Committee studied the 4 year recovery proposal in the 2009 -2010 interim. They had several hearings on the proposal and reviewed detailed actuarial information over a 5 month period. That committee gave the 4 year recovery plan a favorable recommendation. The 2011 session adopted the first two years and suggested that we study the need for the remaining the remaining two years based upon the updated information.
4. During the 2012 interim, the Legislative Employee Benefits Committee reviewed the proposal for the last 2 years of the recovery plan. They held hearings and reviewed updated actuarial information and again gave it a favorable recommendation
5. The Executive budget for 2011-13 recommended the 2012 and 2013 increases and the Executive budget for 2013 to 2015 recommends the 2014 and 2015 increase to complete the recovery plan.

What are the implications of not adopting the last two years of the recovery plan at this time is a question I have been asked and the following identifies a few:

1. ***Loss of earnings on the contributions not made***. The actuary has determined that if the 2013-15 recovery plan contributions are not made the plan could lose approximately 260 million in investment earnings at 8% for the period ending in 2040.
2. ***Could affect the bond rating for the state.*** The S&P recently stated "If the state's recent actions to improve pension funding levels bring them more in line with 'AAA' rated peers, we could raise the rating to 'AAA'. Alternately, if those actions do not improve the pension funding to that level we could revise the outlook on North Dakota back to stable."
3. ***Loss of employee contributions***. The additional contributions proposed by the four year recovery plan are shared between the employer and employee. The NDPERS Board felt an increase in employee contributions was legally acceptable due to the dramatic losses in the

financial market and the need to quickly adopt a recovery plan to address the challenge. The legislature already deemed additional contributions acceptable under such circumstances when it adopted the Teachers Fund for Retirement's full recovery plan last session for the 2011-13 and 2013-15 biennium's. Not adopting the full PERS recovery plan at this time could be interpreted to mean that even though the TFFR and NDPERS plans are facing similar difficulties for similar reasons, the legislature views the recovery needs of the PERS plans differently than that of TFFR, which could impede NDPERS recovery efforts at a later date, including justification for increasing employee contributions.

4. ***Increased investment risk.*** To rely on investment earnings to return the plan back to 100% funded status would require an average of about 9.3% return over the same planning horizon. To achieve this level of return would require a higher risk investment asset allocation.
5. ***Unfunded liability will continue to grow.*** As shown above with approval of the second two years the unfunded liability goes to "0", without the approval the unfunded liability will continue to grow to $6 billion even though the plan stays at about 60% funded status.



Attached is the fiscal note for this Bill. We appreciate the cost of the recovery is significant but we are confident that based upon the studies to date, this will put all plans back on track to 100% funded status. While the challenge we face is significant, ours is not the same as that faced by others. The following table shows the average state local government contributions to pensions as a percentage of all state and local government spending in 2009:

Table 1: State and local government contributions to pensions as a percentage of all state and local government spending, by state, 2009

Alabama	3.18	*Louisiana*	3.83	Oklahoma	3.36
Alaska	2.32	*Maine*	2.80	Oregon	2.01
Arizona	2.39	Maryland	2.86	Pennsylvania	1.73
Arkansas	3.09	*Massachusetts*	3.37	Rhode Island	5.16
California	3.54	Michigan	2.43	South Carolina	2.32
Colorado	3.21	Minnesota	1.62	South Dakota	1.63
Connecticut	3.83	Mississippi	2.86	Tennessee	2.04
Delaware	2.21	Missouri	3.21	*Texas*	2.07
District of Columbia	1.60	Montana	2.38	Utah	2.72
Florida	2.63	Nebraska	1.50	Vermont	0.90
Georgia	2.17	*Nevada* [1]	5.39	Virginia	3.68
Hawaii	3.57	New Hampshire	1.94	Washington	1.94
Idaho	2.47	New Jersey	1.86	West Virginia	3.85
Illinois	4.82	New Mexico	3.09	Wisconsin	1.26
Indiana	2.81	New York	4.09	Wyoming	1.22
Iowa	1.70	North Carolina	1.06	United States	2.90
Kansas	1.98	North Dakota	1.45		
Kentucky	2.60	*Ohio*	2.77		

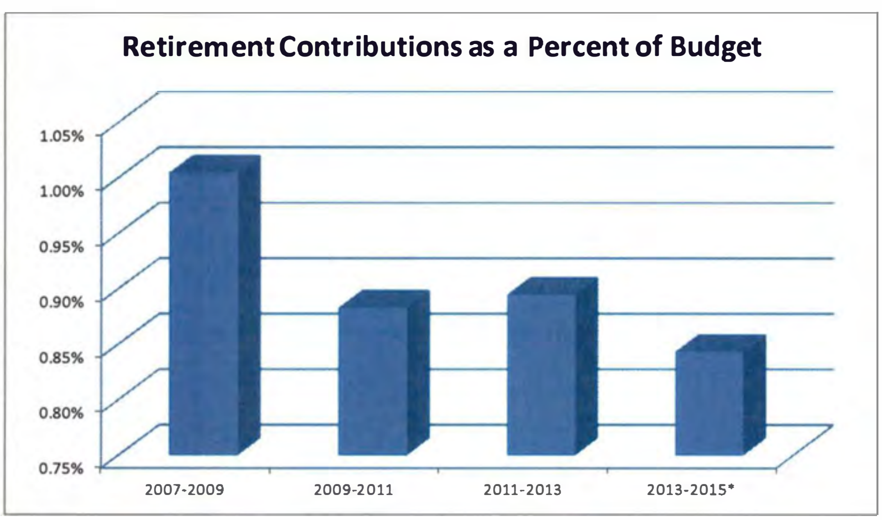
States where more than one-half of public employee payrolls are estimated to be outside of Social Security are italicized.

[1] *In addition to being a non-Social Security state, one-half of Nevada PERS employers' contribution is attributable to a non-refundable pre-tax salary reduction to fund the employees' portion of the contribution.*

Source: U.S. Census Bureau

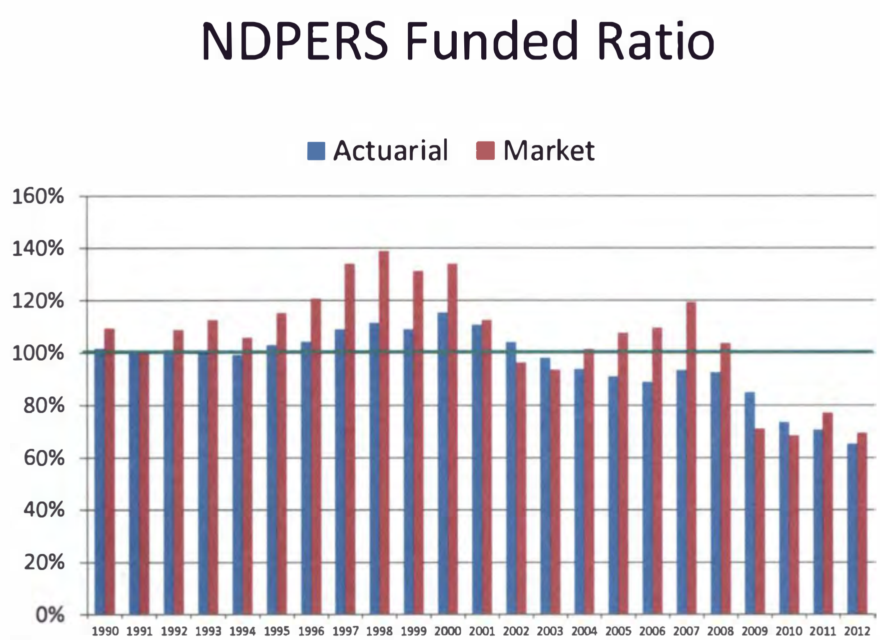
For North Dakota we looked at the percent for our proposed 2013-15 state budget (including the estimated contributions for non PERS retirement). It is about 1.6% including the provisions of this bill, well below the national average in 2009 of 2.9%

Also, if we calculate this differently and look at only PERS contributions for agencies on state payroll as a percent of total budget, we find the following (the 2013-15 includes the recovery plan increase).



Consequently the amount of our budget devoted to pension plans is not as great as may of our counterparts.

We note that our challenge is different then that faced by many other plans due to the strong leadership we had by past legislatures and your employee benefits committee. Thankfully, as result of that leadership and the leadership of others, the PERS plans went into this situation in a strong funded position. The following shows the funded status of the PERS plan on both an actuarial and a market basis.



If we are going to meet our future challenges as effectively as our past leaders have prepared us for this one, we need to regain the same funded basis that they gave us. Consequently, I stand before you today to request your positive consideration of this bill, the last half of the recovery plan which will put us on a course back to 100% funded status and make sure we have a strong future.

I have attached for your reference a shorter version of this testimony relating to the Main retirement system.

Thank you and this concludes my testimony. If we can assist you with your considerations, please let me know.

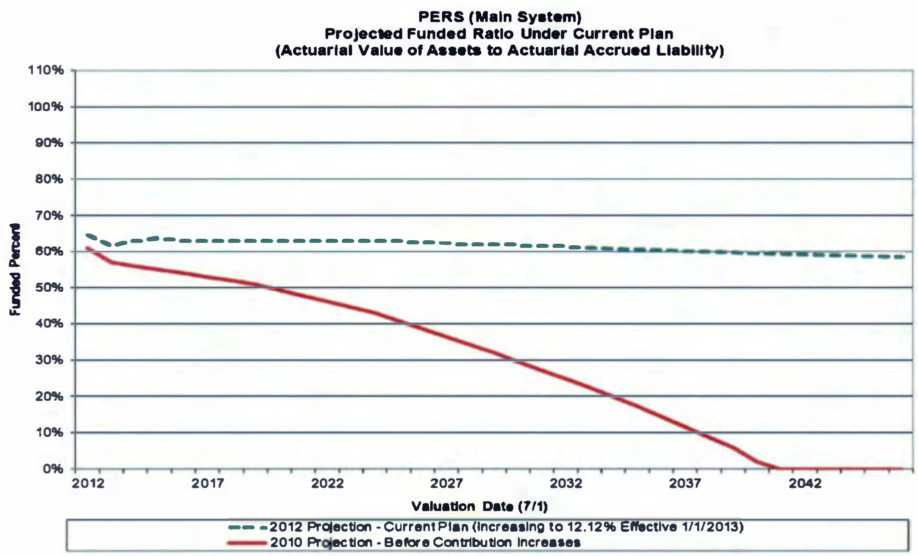
SB 2059 Highlights

PERS Retirement Recovery Plan – Main System

Summary: SB 2059 provides for the last two years of the four year recovery plan for the PERS Retirement Plans which provides for equal increases in the employee and employer contributions (a shared recovery plan). The four year recovery plan was initially presented last session in SB 2108, with the first two years of the recovery receiving approval when SB 2108 passes as amended. The recovery plan had three goals: 1) stop the decline in the funded status of the PERS retirement plans; 2) stabilize the plans and 3) to put the plans on a course back to 100% funded status.

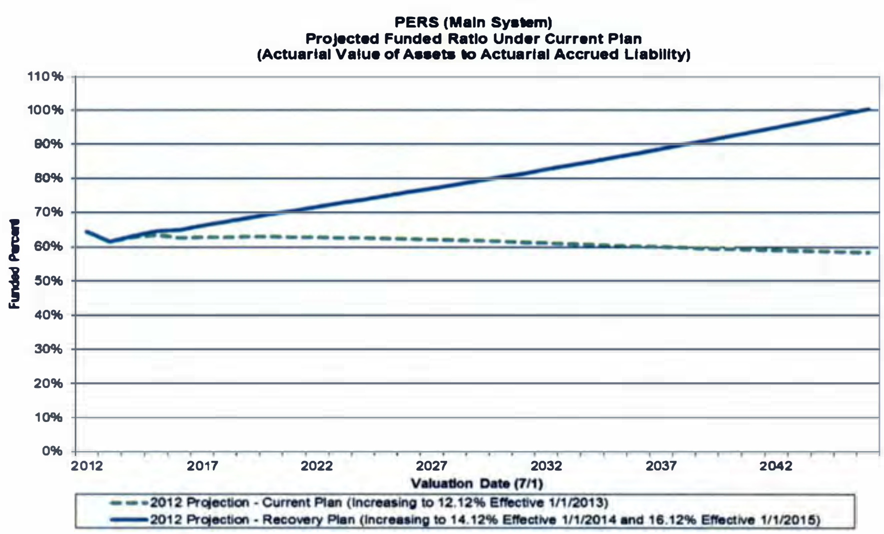
Accomplishments to date:

The following table shows the challenge the plan faced prior to last session (the solid line below) and what was accomplished with the passage of the first two years of the recovery plan. As the chart shows the challenge the plan faced as a result of the downturn in the financial markets was a declining funded status over time (solid line). The adoption of the first two years of the recovery plan (SB 2108 from last session) stopped the decline and stabilized the funded status at around 60% (the dotted line) thereby meeting the first two goals.



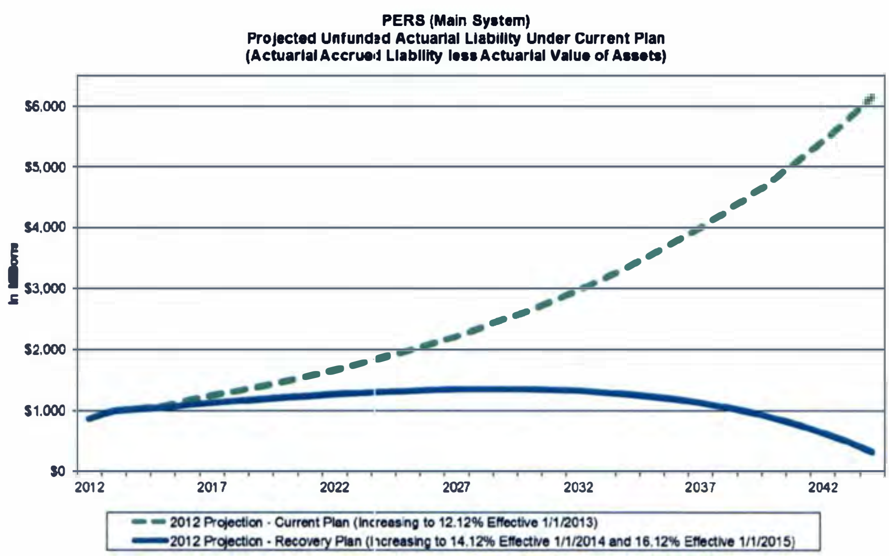
What SB 2059 Accomplishes

SB 2059 enacts the last two years of the recovery plan and puts the plan on a course back to 100% funded status (solid line) and will pay off the unfunded liability. If we do not do the last two years the unfunded liability will continue to grow even though the funded status of the plan will remain at about 60%.



Possible implications of not passing SB 2059

1. ***Loss of earnings on the contributions not made.*** The actuary has determined that if the 2013-15 recovery plan contributions are not made the plan could lose approximately 260 million in investment earnings at 8% for the period ending in 2040.
2. ***Could affect the bond rating for the state.*** The S&P recently stated "If the state's recent actions to improve pension funding levels bring them more in line with 'AAA' rated peers, we could raise the rating to 'AAA'. Alternately, if those actions do not improve the pension funding to that level we could revise the outlook on North Dakota back to stable."
3. ***Loss of employee contributions.*** The additional contributions proposed by the four year recovery plan are shared between the employer and employee. The NDPERS Board felt an increase in employee contributions was legally acceptable due to the dramatic losses in the financial market and the need to quickly adopt a recovery plan to address the challenge. The legislature already deemed additional contributions acceptable under such circumstances when it adopted the Teachers Fund for Retirement's full recovery plan last session for the 2011-13 and 2013-15 biennium's. Not adopting the full PERS recovery plan at this time could be interpreted to mean that even though the TFFR and NDPERS plans are facing similar difficulties for similar reasons, the legislature views the recovery needs of the PERS plans differently than that of TFFR, which could impede NDPERS recovery efforts at a later date, including justification for increasing employee contributions.
4. ***Increased investment risk.*** To rely on investment earnings to return the plan back to 100% funded status would require an average return of 9.3% over the recovery period. To achieve this level of return would require higher risk investments.
5. ***Unfunded liability will continue to grow.*** If the last two years of the recovery plan is not passed the unfunded liability will continue to grow to over $6 billion by 2044 instead of being paid off.



Attachment 3
2059

Level of Risk Associated with Making Member Benefit Changes

Red (clearly illegal) ⟷ Green (clearly legal)

RETIREES	ACTIVE AND INACTIVE EMPLOYEES					NEW EMPLOYEES
No Benefit Changes	Vested Retirement Eligible (Normal)	Vested Retirement Eligible (Early)	Vested Accrued Benefits	Vested Future Benefits	Nonvested Any Benefits	Any Benefits

Attachment 4

House Government and Veterans Affairs Committee
SB 2059

Adam Otteson
State Employee

I do not support Senate Bill 2059 because I believe there is a contract that is entered into between employees and the State (employer) upon employment that provides public employees' pension benefits as part of their compensation package and this bill violates that contract.

I'd like to review with you a portion of the process that takes place when a new employee is hired by the state. On the first day of employment the employee is given a packet of documents to go through and complete for various benefit and employee programs. One of these documents is the "Retirement Membership Application" you will find a copy of this form enclosed. I would like to point out a few items on this form. Under Part C – Important Notices, section 1 it states "All eligible employees of a participating employer must be immediately enrolled into the NDPERS Defined Benefit plan." If you are a classified employee you have the option to join the defined contribution plan and at the end of this section it goes on to say, "Your election is irrevocable." A little farther down on in Part D of this application/contract it says say, "I understand that my membership will become effective immediately". Upon signing this document a contract has been formed between the employer and the employee, since this contact is effective immediately as this form clearly states, anyone who was hired and completed this form before 12/31/2011 has a signed contract to enter the defined benefit plan at a time in which state employee were not required to make any contributions out of their paychecks to the defined benefit plan. Due to this contract that has been created any amounts that have subsequently been withheld from employees checks who meet this requirement should be returned to them and all future contributions to the plan should be made by the employer, in this case the State.

Before the bill relating to pension contribution changes was proposed at the last legislative session, the PERS board had an associate of the Attorney Generals office look into the legality of making changes to the pension plan. I would like to review a few items from this presentation with you. If you will please turn to the first slide from this presentation titled "What does this mean for the Board?". In the first paragraph it states if the "Board does not make changes modifying existing benefit structures to the member's detriment (increases to the contribution levels of active members or reductions to member benefits) - No constitutional challenge (Most defensible position)." In the second paragraph it then goes on to say that any changes to the employees detriment result in a court challenge. The presentation then took the next logical step and asked if there was a challenge, how would the courts rule. This is presented in the second slide in your packet titled "Where would the Court come out on the issue of employee rights today?". They felt that if the "Courts distinguishes Lepire/Rilling line of reasoning based upon interpretation of current

North Dakota law and or policy, and adopts a modified contract approach, providing that public employees pension benefits are considered earned compensation contracted for at the time of employment (or soon after), the terms of which can only be modified under limited circumstances. " I interpret this to mean that as soon as the employee signs their application/contract to enter the defined benefit plan, which according to the application/contract says is effective immediately, the employee it locked into the plan, to which changes can be made to under limited circumstances. So when can changes be made? The associate from the Attorney General's Office felt that the "Court would adopt a formal test for determining whether specific State changes would violate employee's constitutionally protected rights" Courts in 13 states have followed what is known as the California Rule. The California Rule states that plans can be modified if "(1) bears material relation to operation of pension system and (2) any alteration resulting in a disadvantage to the employee must be accompanied by a corresponding new advantage." SB 2059 and the law passed in the prior legislative session only provide disadvantages to the employees and clearly doesn't meet this criteria.

So if that's the case what can be changed? The next three slides in your packet show how courts have ruled in other states. Under a modified contract approach changes have only been allowed to the plan for future employees, unless the employees agree to the changes or an offsetting advantage was given to the employees. Clearly SB 2059 and the bill passed in the last legislative session don't appear to meet these criteria.

Due to these information that was presented here and the contract that has clearly been entered into between the State and its employees I feel SB 2059 should be amended to reflect that any additional contributions made to the DB plan for employees hired before 12/31/2011 should be paid by the State. In addition to this I would encourage you to look into making an additional large contribution to the plan to expedite the recovery of the plan. Under this proposed "recovery plan" it will take over 30 years for the plan to be fully funded. I don't know about you but to me 30 years doesn't sound like much of a recover plan.

For a state that has money to pay for daycare centers, studies on dust and tax breaks to everyone under the sun, shouldn't we also take care of the promises we made to our employees?

Thanks for allowing me to speak to you today.

RETIREMENT MEMBERSHIP APPLICATION

NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM
SFN 2561 (Rev. 03-2011)

NDPERS • PO Box 1657 • Bismarck, • North Dakota 58502-1657
(701) 328- 3900 • 1-800-803-7377 • Fax 701-328-3920

PART A MEMBER INFORMATION

Name (Last, First, Middle)	NDPERS Member ID
Last 4 Digits of Social Security Number	Date of Birth (MO/DAY/YR)
Organization Name	NDPERS Organization ID

PART B DUAL RETIREMENT MEMBERSHIP

Are you a member of the following retirement plans?

☐ North Dakota Teachers Fund for Retirement (NDTFFR):

Employer ______________________ From ________________ To ________________

☐ Teachers Insurance & Annuity Association College Retirement Equities Fund (TIAA-CREF)-coverage through the ND University System:

Employer ______________________ From ________________ To ________________

PART C IMPORTANT NOTICES

Section 1:

All eligible employees of a participating employer must be immediately enrolled in the NDPERS Defined Benefit plan. If you are a **non-classified state employee** you have 6 months from taking your new position to switch from the Defined Benefit Plan to the Defined Contribution Plan. If you elect to participate in the Defined Contribution Plan, you do not have the option to switch back to the Defined Benefit Plan. If you wish to elect to participate in the Defined Contribution Plan, you will be provided a "DEFINED CONTRIBUTION RETIREMENT PROGRAM ELECTION SFN 52170". Your election is irrevocable.

Section 2

In accordance with the North Dakota Century Code Chapter 15-39.01-09(3), if you are certified to teach in the state by the Education Standards and Practices Board and first employed and entered upon the payroll of the **Department of Career and Technical Education** after July 1, 2007, you may elect within 90 days from date of hire to become a member of the Public Employees Retirement System or the Teachers' Fund for Retirement. If an election in NOT made within 90 days from the date of hire, you will be transferred to the Teacher's Fund for Retirement. Additional funds will also be required to make up the employee contribution rates. Complete an "NDPERS/TFFR MEMBERSHIP ELECTION SFN 52727". Your election is irrevocable.

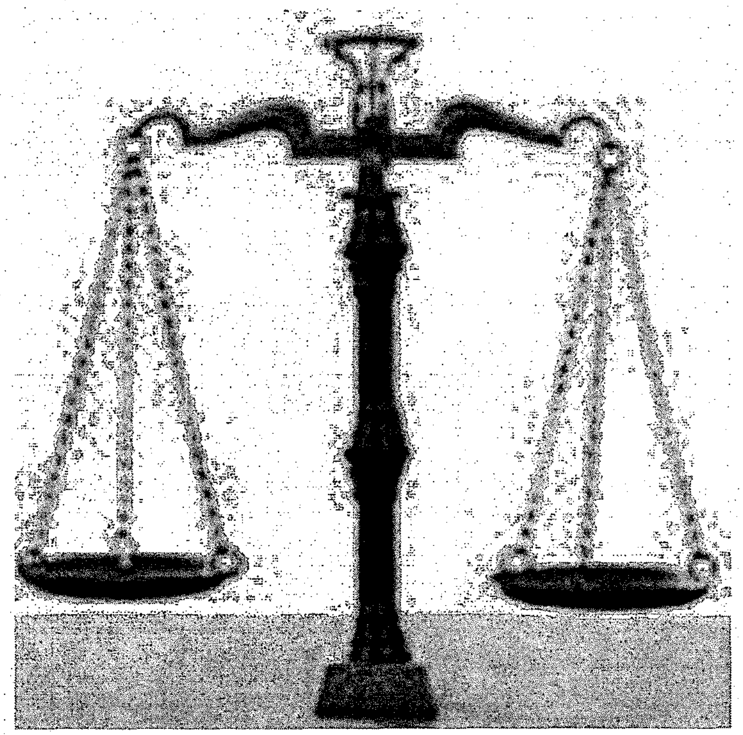
Section 3

In accordance with the North Dakota Century Code Chapter 15-39.01-09(3), if you are certified to teach in the state by the Education Standards and Practices Board and first employed and entered upon the payroll of the **Department of Public Instruction** after January 6, 2001, you may elect within 90 days from date of hire to become a member of the Public Employees Retirement System or the Teachers' Fund for Retirement. An election made under North Dakota Century Code Chapter 15-39-1-09(3) is irrevocable. If an election in NOT made within 90 days from the date of hire, you will be transferred to the Teacher's Fund for Retirement. Additional funds will also be required to make up the employee contribution rates. Complete an "NDPERS/TFFR MEMBERSHIP ELECTION SFN 52727". Your election is irrevocable.

PART D MEMBER AUTHORIZATION

In accordance with the requirements of the North Dakota Public Employees Retirement System, I make application for retirement enrollment. I understand that my membership will become effective immediately or at the attainment of age 18. I declare that the foregoing statements are full, true, and correct to the best of my knowledge and belief, and are subject to the laws and penalties governing any misrepresentation and fraud. Submit a "Designation of Beneficiary SFN 2560" along with this form.

______________________________ ______________________
Member's Signature Date of Signature



Legality of Benefit Structure Changes

What this means for the Board?

CHOICES

- Board does not make changes modifying existing benefit structures to the member's detriment (increases to the contribution levels of active members or reductions to member benefits) - No constitutional challenge (Most defensible position)
- Board makes a decision to modify existing benefit structures to the member's detriment, depending on the level of change, this could trigger a constitutional challenge, whereby the Court would need to make a decision based on modern law.

<u>Where would the Court come out on the issue of employee rights today?</u>

- Court distinguishes <u>LePire/Rilling</u> line of reasoning based on interpretation of current N.D. law and/or policy, and adopts a modified contracts approach, providing that public employees pension benefits are considered earned compensation contracted for at the time of employment (or soon thereafter), the terms of which are only subject to modification under limited circumstances. (Position explained in Miller Memo)
  - **Even though a constitutionally protected right, legislature can still make changes under specific circumstances…**
    - » Court would adopt a formal test for determining whether specific State changes would violate employee's constitutionally protected rights
    - » eg. California Rule (majority)– modification if (1) bears material relation to operation of pension system and (2) any alteration resulting in a disadvantage to the employee must be accompanied by a corresponding new advantage.
    - » Other tests – see chart

- - - - - - - - - - -> Less protection for public employee I Less I Defensible I For I State V	Strict Contracts Approach (Arizona Rule) States: AR, GA, PN. Under Constitution – NY, IL	Modified Contracts Approach (Based on old Pennsylvania Rule) – States: TN	Modified Contracts Approach (California Rule) States: CO, ID, KA, MD, MA, MISS, NEB, NEV, OKL, OR, VT, WASH.	Qualification Approach (vested upon date of minimum service credit) States: ARK & DEL	Qualification Approach (vested upon actual retirement or becoming an actual beneficiary under the plan) States: KY, LA, OH, UT, MO (SD?)	Gratuity Approach States: Indiana & Texas
No changes to any class of employee	OK	OK	OK	OK	OK	OK
Changes to future employees (not yet employed)	OK – No protection	OK – No protection	OK – No protection	OK – No protection	OK – No protection	OK – No protection
Changes to plan non-vested	No changes – fully vested benefits and permission of the employee would be required.	OK – as long as modifications are reasonable and "necessary to protect or enhance actuarial soundness of the plan"	OK – as long changes are reasonable – "To be sustained as reasonable, alterations of employees pension benefits must bear some material relation to the theory of a pension system and its successful operation and changes that which result in disadvantage to employees should be accompanied by comparable new advantages.	OK – No protection	OK – No protection	OK – No protection

	Strict Contracts Approach	Modified Contracts Approach (Based on old Pennsylvania Rule)	Modified Contracts Approach (California Rule)	Qualification Approach (vested upon date of minimum service credit)	Qualification Approach (vested upon actual retirement or becoming an actual beneficiary under the plan)	Gratuity Approach
Changes to plan vested (future benefit structures)	No changes – fully vested benefits and permission of the employee would be required.	No changes – fully vested benefits and permission of the employee would be required.	OK – as long changes are reasonable – "To be sustained as reasonable, alterations of employees pension benefits must bear some material relation to the theory of a pension system and its successful operation and changes that which result in disadvantage to employees should be accompanied by comparable new advantages.	ARK – No protection Del - unclear	OK – No protection	OK – No protection
Changes to plan vested (on accrued benefits)	No changes – fully vested benefits and permission of the employee would be required.	No changes – fully vested benefits and permission of the employee would be required.	OK – as long changes are reasonable – "To be sustained as reasonable, alterations of employees pension benefits must bear some material relation to the theory of a pension system and its successful operation and changes that which result in disadvantage to employees should be accompanied by comparable new advantages. Not OK for OK!	No changes – fully vested benefits and permission of the employee would be required.	OK – No protection	OK – No protection

	Strict Contracts Approach	Modified Contracts Approach (Based on old Pennsylvania Rule)	Modified Contracts Approach (California Rule)	Qualification Approach (vested upon date of minimum service credit)	Qualification Approach (vested upon actual retirement or becoming an actual beneficiary under the plan)	Gratuity Approach
Changes to Vested upon reaching retirement age	No changes – fully vested benefits and permission of the employee would be required.	No changes – fully vested benefits and permission of the employee would be required.	OK – as long changes are reasonable – "To be sustained as reasonable, alterations of employees pension benefits must bear some material relation to the theory of a pension system and its successful operation and changes that which result in disadvantage to employees should be accompanied by comparable new advantages. Not OK for OKL.	No changes – fully vested benefits and permission of the employee would be required.	Depends on whether state requires actual retirement (being a beneficiary under plan) or merely reaching retirement age	OK – No protection
Changes to retirees	No changes – fully vested benefits and permission of the employee would be required.	No changes – fully vested benefits and permission of the employee would be required.	No changes – fully vested and permission of the employee would be required.	No changes – fully vested benefits and permission of the employee would be required.	No changes – fully vested benefits and permission of the employee would be required.	OK – No protection

TABLE 1. LEGAL BASIS FOR PROTECTION OF PUBLIC PENSION RIGHTS UNDER STATE LAWS

Legal basis	Accruals protected			
	Past and future	Past and maybe future	Past only	None
State constitution	AK, IL, NY	AZ	HI, LA, MI	
Contract	AL, CA, GA, KS, MA, NE, NV, NH, ND, OR, PA, TN, VT, WA, WV	CO, ID, MD, MS, NJ, RI, SC	AR, DE, FL, IA, KY, MO, MT, NC, OK, SD, UT, VA	
Property	ME, WY	CT, NM, OH	WI	
Promissory estoppel[a]	MN			
Gratuity				IN, TX[b]

[a] Promissory estoppel is the protection of a promise even where no contract has been explicitly stated.
[b] This gratuity approach applies only to state-administered plans. Accruals in many locally-administered plans are protected under the Texas constitution.
Sources: Cloud (2011); Monahan (2010); National Conference on Public Employee Retirement Systems (2007); Mumford and Pareja (1997); Reinke (2011); Staman (2011); Simko (1996); and consultations with plan legal counsels when accompanied by a decisive court ruling.

This chart was taken from the August 2012 issue of Center for Retirement Research at Boston College from an article titled LEGAL CONSTRAINTS ON CHANGES IN STATE AND LOCAL PENSIONS By Alicia H. Munnell and Laura Quinby

Senate Bill # 2059 Attachment 5

STANDARD & POOR'S

Global Credit Portal®
RatingsDirect®

May 7, 2012

North Dakota Building Authority North Dakota; Appropriations; General Obligation; Moral Obligation

Primary Credit Analyst:
Henry W Henderson, Boston (1) 617-530-8314; henry_henderson@standardandpoors.com

Secondary Contact:
Robin Prunty, New York (1) 212-438-2081; robin_prunty@standardandpoors.com

Table Of Contents

North Dakota Building Authority North Dakota; Appropriations; General Obligation; Moral Obligation

Credit Profile		
US$19.625 mil facs imp rfdg bnds 2012 (North Dakota) ser A due 12/01/2021		
Long Term Rating	AA/Positive	New
North Dakota ICR		
Long Term Rating	AA+/Positive	Affirmed

Rationale

Standard & Poor's Ratings Services has assigned its 'AA' rating, with a positive outlook, to North Dakota's facilities improvement refunding bonds, series 2012A. At the same time, we affirmed our 'AA' rating on the state's appropriation debt outstanding and our 'AA+' issuer credit rating, with a positive outlook, on North Dakota. The ratings are based on our assessment of the following credit factors:

- Continued strong financial management;
- Strong budget performance with growing reserve levels and structurally balanced operations;
- An expanding economic base that performed well through the recent recession in terms of employment and income;
- Low debt levels coupled with rapid debt amortization; and
- A low level of liability relating to other postemployment benefits (OPEB) but weakened pension funding levels following underfunding and weak asset performance in recent years.

The new issue and the existing appropriation debt are subject to biennial appropriation. The new issue will be used to refund debt outstanding for savings taken over the life of the issue, which is one year shorter than the refunded debt, with the refunding resulting in a net present value savings of about 7.6% of refunded principal.

In our view, North Dakota's stability throughout economic cycles has long been a positive credit factor, and performance through the recent recession has been strong relative to nearly all state peers. The state's economic performance has contributed to a structurally balanced budget in recent years and the expectation of surplus operations through the current biennium based on the recently approved budget. While the state projects balanced operations in the current biennium, it has funded tax relief measures and enhanced reserves and expects to continue this through fiscal 2013.

Unemployment remains the lowest in the nation with rates at 3.4% in February 2012 (seasonally adjusted). We believe that the strong performance of two of the state's key sectors--oil production and agriculture--has contributed to these figures. Continued growth in the oil production sector has contributed to significant employment growth in the western half of the state, and the state reports that growth has been occurring around the rest of North Dakota as well.

Fiscal 2011 ended with an unaudited general fund balance of $997 million--about 30% of appropriations--after a transfer into the general fund of $670 million from the permanent oil tax trust fund, which was closed out, and a $61 million transfer to the stabilization fund. The ending balance was $337 million higher than the estimate, which officials attributed primarily to higher-than-anticipated sales, income and oil taxes, and $47 million of underspending.

Gov. Jack Dalrymple took office in December 2010 after serving as Lt. Governor for 10 years, succeeding Gov. John Hoeven, who was elected to the U.S. Senate. Gov. Dalrymple recommended a 2011-2013 executive budget that was very similar to the 2009-2011 budget but adds additional property and income tax relief, as well as an array of infrastructure projects, primarily tied to the growth of the oil-related economy in the western half of the state. North Dakota's enacted 2011-2013 general fund budget (for fiscals 2012 and 2013) contains $4.07 billion of appropriations, a $771 million increase from Gov. Dalrymple's recommended budget, although the appropriation increase was primarily due to $371 million of one-time highway and road construction expenditures that the governor had proposed be financed from the permanent oil trust fund. This fund was eliminated by the 2011 legislature and the balance was transferred into the general fund for the 2011-2013 biennium. Sales taxes are the state's largest tax source, and are projected to increase by $160 million, or 13%, from the previous biennium, to $1.38 billion. Motor vehicle excise taxes are projected to increase by $62 million, primarily due to a legislative change that earmarked 100% of these taxes to the state's general fund, up from the previous 75% level. Individual income taxes are projected to decline by $74 million – due to a legislative reduction – and corporate income taxes to decline by $57 million. The ending June 30, 2013, general fund balance is projected to be $627 million. The projected June 30, 2013, balances in other reserves include $619 million in the legacy fund, which is funded with oil and gas taxes, and $402 million in the budget stabilization fund, the maximum level under current law.

The state's revenue collections remain significantly above the most recent legislative forecast, which was done in April 2011. In March 2012, revenues were $35.2 million, or 47%, above forecast for the month, and the biennium-to-date collections were $430.0 million, or 31.4%, above the 2011-2013 biennium forecast.

A citizen initiative, known as Measure 2, will be voted on in June 2012 and if approved would eliminate local property taxes and compel the state to supplant that lost revenue, which is estimated to be about $800 million. The state has not formally identified how this additional revenue would be raised, but officials have informally begun to consider how to meet this requirement.

In our view, North Dakota's conservative practices and moderate infrastructure needs have kept its debt levels low. With the state's limited additional debt on the horizon, we believe annual debt service should remain very low as a percent of the operating budget; the carrying charge was only about 1% of expenditures in fiscal 2011.

Based on the analytical factors we evaluate for states, on a scale of '1' (strongest) to '4' (weakest), we have assigned a composite score of '1.5'.

Outlook

The positive outlook reflects what we view as North Dakota's strong government framework and management, strong budgetary performance, and enhanced reserves. If the state's recent actions to improve pension funding levels bring them more in line with 'AAA' rated peers, we could raise the rating to 'AAA'. Alternatively, if those actions do not improve pension funding to that level, we could revise the outlook on North Dakota back to stable. We will continue to monitor the outcome of the proposed voter initiative Measure 2. Additional downside risk for the rating includes the potential for significant reductions in federal funding that currently flows to the state. Standard & Poor's will continue to monitor the federal consolidation efforts stemming from the Budget Control Act. Once these are identified, we will evaluate their effect on the state's finances and officials' response to these revenue reductions.

Governmental Framework

North Dakota has a constitutional requirement that the enacted budget be balanced, and it cannot carry over a deficit. The state does allow voter initiatives, but these have not historically affected the state's operations or financial flexibility. However, we will continue to monitor Measure 2, which will be voted on in 2012 and could have a significant impact on the state's revenues and expenditures.

The state's executive branch has the ability to control the rate of expenditures through an allotment process that reduces the appropriations from particular funds. The allotment reductions can be made in specific situations, including when the estimated revenues in a fund are projected to be insufficient to meet all appropriations from that fund.

On a scale of '1' (strongest) to '4' (weakest), we have assigned a '1.1' to North Dakota's governmental framework.

Financial Management Assessment: 'Good'

North Dakota's management practices are considered "good" under Standard & Poor's Financial Management Assessment (FMA). An FMA of good indicates that practices exist in most areas, although not all may be formalized or regularly monitored by governance officials. Highlights include:

- The state uses outside sources to devise revenue and expenditure assumptions, using both a statewide advisory panel and other nationally recognized sources. To augment the findings, the state uses historical data to make future projections.
- The governor uses an allotment process to keep budgeted expenditures on track and avoid drawing down reserves. The governor can also make transfers from the budget stabilization fund as needed if there is a revenue shortfall.
- The state's long-term financial planning goes out three to four years (the current and following bienniums) and is designed to make sure future bienniums are balanced.
- The State Investment Board, which is chaired by the lieutenant governor and includes the state treasurer, oversees a formal investment policy as well as the investments. Reports on both results and holdings are made to a legislative committee regularly.
- The state's capital improvement plan encompasses a wide variety of projects, but does not follow a formal time horizon and have all future sources identified.
- We understand that the state has policies concerning savings thresholds for refundings, as well as a limitation on the amount of revenue debt that can be issued, but does not have more defined policies regarding debt.
- North Dakota has a budget stabilization fund that at the end of the 2013 biennium will be able to hold up to $402 million, but there is no more formal fund balance policy for the general fund. The state does, however, enjoy access to what we consider ample liquidity through the Bank of North Dakota, which is state owned, as well as other reserve funds.

On a scale of '1' (strongest) to '4' (weakest), we have assigned a '1.5' to North Dakota's financial management.

Economy

North Dakota's 2010 population was 673,000, and it grew by 4.7% from 2000 to 2010, which is below the nation's 9.7% growth over the same period. The state's age dependency ratio is about equal to the national level. Due in large part to the oil extraction from the Bakken Shale in the northwestern portion of the state, North Dakota's unemployment rate is the lowest in the nation. The 2011 annual rate was 3.5%, well below the nation's rate. However, the state's employment base is more concentrated than the overall U.S. economy.

North Dakota's per capita gross state product (GSP) and GSP growth over 10 years have both been stronger than the nation's. The 2010 per capita GSP was 109% of the U.S. per capita GDP and the 10-year growth was 6.6% compared with 3.9% for the U.S. over the same period. The state's per capita personal income fluctuates around the nation's level.

According to IHS Global Insight Inc., employment growth in the state will continue to outperform the county over the next few quarters. In addition to natural resources/mining, manufacturing and construction are projected to be the strongest sectors. The firm's five-year outlook for the state remains strong, and employment is projected to grow by 1.8% per year through 2016, with natural resources/mining projected to grow by over 10% per year over the period. The other sectors with strong projected growth are: durables manufacturing, with 5.4% projected annual growth; construction (5.0% growth); and professional and business services (4.2%).

The oil extraction involves hydraulic fracturing, but state officials indicate that it is deep well fracturing, and they therefore believe it is less likely to be affected by potential regulations on the practice.

On a scale of '1' (strongest) to '4' (weakest), we have assigned a '1.8' to North Dakota's economy.

Budgetary Performance

The state maintains strong reserves, in our view. In addition to the general fund, North Dakota maintains multiple other reserve funds, including:

- A budget stabilization fund, which was created in 1987. The authorizing legislation requires that any general fund amount in excess of $65 million at the end of a biennium must be transferred to the budget stabilization fund. The maximum for this fund is 9.5% of the current biennial budget, and the fund is currently at that level, which was $402 million at the end of fiscal 2013. The fund can be used either by the governor if biennial revenues are projected to decline by at least 2.5% below the most current legislative estimates, or by legislative appropriation; and
- A legacy fund, which was established when voters approved Constitutional Measure 1 in November 2010. The legacy fund will receive 30% of oil and gas production and extraction tax revenues collected after June 30, 2011, and be unavailable for use until after fiscal 2017. After fiscal 2017, the legislature may appropriate up to 15% of the principal, and all of the interest, of the fund in any biennium if the appropriation is approved by at least two-thirds of each house of legislature.

While the state has the ability to issue short-term notes to improve intrayear liquidity, the sound cash position has not required such an issuance in a number of years.

On a scale of '1' (strongest) to '4' (weakest), we have assigned a '1.2' to North Dakota's budgetary performance.

Debt And Liability Profile

North Dakota has very restricted ability to issue unlimited-tax general obligation (GO) debt, and all such debt matured in the late 1990s. Most GO-type projects are funded as appropriation debt through the North Dakota Building Authority. By statute, general fund appropriations for debt service for building authority debt cannot exceed 10% of the sales use and motor vehicle tax revenues, and the burden from building authority debt is low. We understand that all building authority debt will be repaid within 15 years. A portion of the North Dakota Public Finance Authority debt carries the state's moral obligation pledge; this debt is used to fund projects across the state. Given that the state legislature meets biennially, moral obligation-backed public finance authority issues must maintain a debt service reserve in the amount of maximum annual debt service for 24 months. The state has no variable-rate debt or swaps outstanding, although the North Dakota Housing Finance Agency, an enterprise fund, has several swaps in place. Primarily due to strong oil and gas extraction taxes, unlike many states, North Dakota has not had to increase its long-term borrowing program, restructure existing debt for savings, or borrow for cash flow purposes.

Pensions And Other Postemployment Benefits

The state's four key pension funds have a combined funded ratio of 69%--as of the 2011 valuation--with a total overall unfunded liability of about $1.63 billion. The state has not made 100% pension actuarial required contribution (ARC) payments in recent years, which we consider a weakness, but the legislature approved an increase in the state's contribution equal to 2% of payroll (along with a 2% payroll increase in the employee contribution) for the 2011-2013 biennium as part of a plan to increase the annual funding. Officials project that if similar increases are approved for the 2013-2015 biennium, annual pension funding would equal 100% of the ARC. The state's unfunded pension liability per capita is $2,400, which we consider below average, and the unfunded pension liability is 5.2% of personal income, which we consider below average.

We consider North Dakota's OPEB obligations to be low, due to relatively modest retiree benefits. For all state plans on a combined basis, North Dakota had an unfunded OPEB liability of about $113 million, a 30% funded ratio, and an actuarial annual OPEB cost of $7 million in fiscal 2010, for which the state overfunded its annual contribution at $8 million, not including the implicit health subsidy for non-Medicare eligible retirees.

On a scale of '1' (strongest) to '4' (weakest), we have assigned a '1.8' to North Dakota's debt and liability profile.

The Bank of North Dakota

The state of North Dakota owns, controls, and maintains the Bank of North Dakota (BND). By statute, BND is defined as the state of North Dakota doing business as BND. The state views the bank as serving an important role in promoting the state government's economic development and stabilization. BND has a captive customer base and operates as the agent of several state-legislated programs, a lender, a depository for state agency funds, and a correspondent bank to private financial institutions in the state. The state legislation asserts that the state guarantees all BND's deposits.

Standard & Poor's bases its ratings on BND on the state of North Dakota's ownership of the bank, and the bank's "strong" (as our criteria define it) business and risk positions, "strong" capital and earnings, "average" funding, and "adequate" liquidity. The bank's geographic concentration in North Dakota, its indirect exposure to the agriculture industry, and its limited capital flexibility constrain the ratings. The rating includes a one-notch lift from the company's 'a+' stand-alone credit profile, based on the application of our criteria for government-related entities. As an entity that the state owns, controls, and maintains, we believe that there is a high likelihood that the state of North Dakota would provide timely and sufficient extraordinary support to BND, if necessary. Moreover, the state explicitly guarantees all of BND's deposits, as codified in the North Dakota Century Code (NDCC §6-09-10). The 'AA+' rating on the bank's deposits parallels our issuer credit rating on the state of North Dakota. None of BND's other liabilities have an explicit guarantee.

Related Criteria And Research

- USPF Criteria: State Ratings Methodology, Jan. 3, 2011
- USPF Criteria: Appropriation-Backed Obligations, June 13, 2007

Ratings Detail (As Of May 4, 2012)		
North Dakota Bldg Auth, North Dakota		
North Dakota		
North Dakota Bldg Auth (North Dakota) lse ser 2010A		
Long Term Rating	AA/Positive	Affirmed
North Dakota Bldg Auth lse rev bnds ser 2002A dtd 04/01/2002 due 12/01/2003-2017 2019 2022		
Unenhanced Rating	AA(SPUR)/Positive	Affirmed
North Dakota Bldg Auth lse rev rfdg bnds 2002 ser C dtd 07/01/2002 due 08/15/2003-2014		
Unenhanced Rating	AA(SPUR)/Positive	Affirmed
North Dakota Pub Fin Auth, North Dakota		
North Dakota		
North Dakota Mun Bnd Bank		
Long Term Rating	A+/Positive	Affirmed
North Dakota Mun Bnd Bank cap fincg prog bnds ser 2004A		
Long Term Rating	A+/Positive	Affirmed
North Dakota Pub Fin Auth (North Dakota) cap fincg prog bnds		
Long Term Rating	A+/Positive	Affirmed
North Dakota Pub Fin Auth (North Dakota) moral oblig		
Long Term Rating	A+/Positive	Affirmed
North Dakota Pub Fin Auth (North Dakota) moral oblig		
Long Term Rating	A+/Positive	Affirmed
North Dakota Pub Fin Auth (North Dakota) moral oblig		
Long Term Rating	A+/Positive	Affirmed
North Dakota Pub Fin Auth (North Dakota) moral oblig		
Long Term Rating	A+/Positive	Affirmed
North Dakota Pub Fin Auth (North Dakota) moral oblig		
Long Term Rating	A+/Positive	Affirmed

Attachment 1

North Dakota
Public Employees Retirement System
400 East Broadway, Suite 505 • PO Box 1657
Bismarck, North Dakota 58502-1657

Sparb Collins
Executive Director
(701) 328-3900
1-800-803-7377

FAX: (701) 328-3920 • EMAIL: NDPERS-INFO@ND.GOV • www.nd.gov/ndpers

MEMORANDUM

TO: Representative Jim Kasper, Chairman
House Government and Veterans Affairs Committee

FROM: Sparb Collins, Executive Director, NDPERS

DATE: March 13, 2013

SUBJECT: Senate Bill 2059

This is a follow-up to the hearing on SB 2059 and two questions. The first related to the calculation of the retirement benefit for the Main Retirement plan and the second related to the authority of PERS to require an employer to pay the retirement contributions.

Main System Retirement Benefit

At the normal retirement date (age 65 or the Rule of 85) a member's retirement benefit is calculated at follows:

Final Average Salary
X
Benefit Multiplier (2.00%)
X
Years of Service Credit
=
Monthly Single Life Retirement Benefit

Final Average Salary is the average of the highest salaries in 36 of the last 180 months worked.

Benefit Multiplier is the rate established by the legislature, at which the member would earn benefits. The current benefit multiplier is 2.00%.

Service Credit is the amount of public service accumulated under NDPERS for retirement purposes. The credited service is reported to members each August in the Annual Statement of Account.

The following table illustrates the percent of final average salary someone earns for each year of service:

Years of Service	Percent of Final Average Salary
3	6%
4	8%
5	10%
6	12%
7	14%
8	16%
9	18%
10	20%
11	22%
12	24%
13	26%
14	28%
15	30%
16	32%
17	34%
18	36%
19	38%
20	40%
21	42%
22	44%
23	46%
24	48%
25	50%
26	52%
27	54%
28	56%
29	58%
30	60%

Authority of Board to Require Payment of Contributions

As noted in the testimony, NDPERS provides services to the state and political subdivisions that voluntarily elect to join the plan. As illustrated above, a member's benefit is based upon their service credit. For each month a contribution is received for a member, they receive an additional month of service credit. If we do not receive a contribution, the member does not receive service credit. Consequently, if an employer did not pay, the PERS plan would not incur an unpaid liability since we would not add any additional service credit to a member account.

Pursuant to the request at the hearing we did ask our attorney this question and the following is the response:

> You requested that I detail the options available to the NDPERS Board (hereinafter "Board") in the event a political subdivision currently enrolled in NDPERS refused to pay the employer contribution increases provided for in SB 2059. Please accept this email in response to that request.
>
> The applicable statutory language concerning employer contribution rates for political subdivision employees may be found in N.D.C.C. § 54-52-06 and 54-52-06.3. Section 54-52-06 specifically sets the employer contribution rate for most governmental unit/ political subdivision employees, while section 54-52-06.3 authorizes the Board to set the employer contribution rate for peace officers and correctional officers employed by political subdivisions. Section 5 of SB 2059 proposes to increase the required employer contribution rate applicable to most political subdivision employees by 1% beginning in January 2014 and again by 1% in January 2015. While section 8 of SB 2059 amends section 54-52-06.3, it only amends the required employee contribution rate as the required employer contribution rate is set by the Board. The repercussions for non-payment of the required employer contribution rates are set forth in the written agreement between the Board and the political subdivision as well as in statute.
>
> Pursuant to N.D.C.C. § 54-52-02.1 political subdivisions are authorized to join NDPERS by entering into an agreement with the Board. It is my understanding that the specific terms of such agreements with political subdivisions may vary slightly depending upon the date of entry to the system due to the inevitable evolution of contract language; so for the purposes of your question I will refer to the form contract currently in use and available on the NDPERS website.

Section 1 of this form agreement reaffirms the political subdivisions obligation to comply with those requirements set by statute and in rule by stating:

> "All of the provisions of Chapter 54 52 of the North Dakota Century Code and the current or later amended rules of the Retirement Board shall apply with regard to benefits, contributions and administration of the system."

Section 8 of this form agreement also speaks to the potential repercussions for a non-compliant political subdivision stating that if the political subdivision fails to perform according to its statutory participation requirements, the NDPERS Board may terminate the enrollment in NDPERS. Such statutory participation requirements would include the employer contribution rate required under sections 54-52-06 and 54-52-06.3.

Furthermore, while some provisions of the agreement are discretionary, section 54-52-02.1 requires the agreement to provide that:

> "The political subdivision will contribute on behalf of each eligible employee an amount equal to that provided in section 54-52-06 or 54-52-06.3 for peace officers and correctional officers participating separately from other political subdivision employees."

Finally, prior to disenrollment various civil penalty and interest charges may be incurred by a political subdivision failing to pay the required employer contribution rate. Section 54-52-06 authorizes such charges as

follows:

> Each governmental unit shall pay the contribution monthly, or in the case of an election made pursuant to section 54-52-17.14 a lump sum, into the retirement fund from its funds appropriated for payroll and salary or any other funds available for these purposes. Any

> governmental unit failing to pay the contributions monthly, or in the case of an election made pursuant to section 54-52-17.14 a lump sum, is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due. In lieu of assessing a civil penalty or one percent per month, or both, interest at the actuarial rate of return may be assessed for each month the contributions are delinquent. If contributions are paid within ninety days of the date they became due, penalty and interest to be paid on delinquent contributions may be waived.

In summary, if a political subdivision refuses to pay the employer contribution increases required by statute as amended by SB 2059, the Board could impose civil penalties and interest for failure to make the required monthly payments under section 54-52-06, as well as terminate the enrollment in NDPERS under the agreement.

If you need any additional information, please let me know.

EMPLOYEE BENEFITS PROGRAMS COMMITTEE REPORT TO THE 63RD LEGISLATIVE ASSEMBLY REGARDING SENATE BILL NO. 2059

Sponsor: PERS Retirement Board

Proposal: Increases both the employer contribution rates and the member contribution rates that are mandated by statute in the Highway Patrolmen's retirement system, hybrid plan (main and judges' only), and defined contribution plan by 1 percent of the member's monthly salary beginning January 2014, plus an additional increase in both employer and member contribution rates of 1 percent of the member's monthly salary beginning January 2015. The proposal also would increase member contribution rates for peace officers and correctional officers in the hybrid plan employed by political subdivisions, for which the member contributions would increase by .50 percent annually, instead of 1 percent, over the same time period, and peace officers in the hybrid plan employed by the Bureau of Criminal Investigation, for which only member contributions would increase 1 percent annually over the same period, and National Guard members for which only member contributions would increase .50 percent instead of 1 percent over the same time period, and temporary employees of the hybrid plan and defined contribution plan, for which the member contribution rate would increase by 2 percent annually instead of 1 percent annually over the same period.

Actuarial Analysis: The consulting actuary reported the bill would not have a material actuarial impact on the liabilities of either the hybrid plan or the Highway Patrolmen's retirement system, but would positively affect the current funding levels of both systems.

Committee Report: Favorable recommendation.