State of New Mexico

LEGISLATIVE EDUCATION STUDY COMMITTEE

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MINUTES
Legislative Education Study Committee
State Capitol, Room 307
Santa Fe, New Mexico
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Representative Dennis J. Roch, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 9:10 a.m., on Friday, October 14, 2016, in Room 307 of the State Capitol in Santa Fe, New Mexico.

The following voting and advisory members were present:
Voting: Representatives Dennis J. Roch, Chair, Tomás E. Salazar, James E. Smith, Sheryl M. Williams Stapleton, Christine Trujillo, and Monica Youngblood; and Senators John M. Sapien, Vice Chair, Craig W. Brandt, Gay G. Kernan, and Howie C. Morales; and
Advisory: Representative David M. Gallegos; and Senators Lee S. Cotter, Linda M. Lopez, John Pinto, Mimi Stewart, and Pat Woods.

The following advisory members were not present:
Advisory: Representatives Alonzo Baldonado, Jim Dines, Stephanie Garcia Richard, Nora Espinoza, Jimmie C. Hall, D. Wonda Johnson, Timothy D. Lewis, G. Andrés Romero, Patricia Roybal Caballero, and James G. Townsend; and Senators Jacob R. Candelaria, Carlos R. Cisneros, Daniel A. Ivey-Soto, Michael Padilla, and William P. Soules.

On a motion by Representative Salazar, seconded by Representative Smith, the committee approved the agenda for the October 2016 interim meeting. On a motion by Senator Brandt, seconded by Senator Kernan, the committee approved the minutes for the September 2016 interim meeting.

College and Career Readiness: Leveraging the Every Student Succeeds Act

Michelle Cruz Arnold, Executive Director of State Government Relations, College Board, noted that she has presented to LESC in the past on a number of topics including college readiness and affordability, the advanced placement (AP) program, and PSAT exams. Ms. Arnold said the College Board is highly involved with the Every Student Succeeds Act (ESSA) and has an office in Washington D.C. where staff has attended all hearings and provided letters and testimony in the creation of the act itself, so there is a lot of information to share.

Julia Fox, Director of K-12 Policy, College Board, has lived in Washington D.C. for about eight years and has a Master's in International Economics from Johns Hopkins University. She has been at the College Board for about three years and her work focuses on ESSA and policies around AP participation and success for AP students.

The ESSA was signed into law in December of 2015 to replace the No Child Left Behind (NCLB) law and Elementary and Secondary Education Act (ESEA) flexibility waivers granted by the Secretary of the U.S. Department of Education (ED). The new law is a clear departure from NCLB and it reflects a strong desire by congress to transfer power back to the states. Under ESSA, states will develop assessment and accountability systems and determine how to spend federal dollars. Funding starts in FY17 and implementation of the new law is focused on the 2017-2018 school year. ESSA maintains some of the cornerstones of NCLB while granting considerable power and flexibility to states. The states will still be required to test students in math and English language arts (ELA) annually in grades 3 through 8 and at least once in high school. States will also need to test science once per grade span, which is once for grades 3 to 5, once in grades 6 to 9, and once in grades 10 to 12. The new law also maintains the requirement that states disaggregate data on assessment results and other accountability indicators by student subgroups to look at how certain subgroups of students are performing in addition to students overall.

However, ESSA also allows states the power to design their own accountability systems, including choosing additional indicators. Under NCLB, the federal government prescribed certain sanctions and school interventions, but ESSA allows states to determine how they will intervene in low-performing schools and it includes a new block grant, the Title IV Student Support and Academic Enrichment grants program which will give states and districts additional flexibility to prioritize how they are going to spend federal dollars.

The College Board views ESSA as a great opportunity for states like New Mexico to continue to build a college-going and career-ready culture in their schools and provide even more opportunities for students. There are four main levers in ESSA to do this, and the first lever is to use a college entrance exam like the SAT as the high school accountability assessment either statewide or as a local option. ESSA would allow states to use a college entrance exam statewide for accountability in high school if they choose to and it also includes a provision that allows districts, with the approval of their state, to administer a nationally recognized assessment such as the SAT or ACT in lieu of a statewide test in high school. Second, states can add or maintain advanced coursework indicators such as AP for an additional indicator of school quality to accountability systems. Ms. Fox added a number of states including New Mexico already include college- and career-ready indicators and accountability. Third, states can redesign their school report cards and can prominently feature data on participation and performance on AP exams, college-readiness assessments, and postsecondary enrollment data. This will help communicate to parents how schools are doing at preparing students for college and careers. Last, states can expand access to AP courses and exams to low-income students through the use of Title I and Title IV funding.

Currently under ESSA, six states are using the SAT for accountability purposes. For example, Illinois is using the Partnership for Assessment of Readiness for College and Careers (PARCC) in grades 3 to 8 and the SAT in high school. New Mexico is currently using PARCC and the state can certainly continue to do that, but the College Board wanted to make you aware that several states have decided to go with the SAT. There are several reasons that some states are deciding to go with the SAT – it meets all of the federal requirements to be the high school accountability test, it is aligned to state standards, it is valid and reliable for all students, and it provides useful data for students, schools, and teachers to improve. It also offers some additional benefits as a college admissions exam; students can use their scores to apply to college and it is linked to free personalized online practice through the Kahn Academy. It also includes college application fee waivers for income-eligible SAT takers and it only takes three hours to take the test.

The Chair mentioned alignment to state standards and asked how a national test can be aligned to individual state standards except perhaps in the world where everybody adopts the same standards or very close, and Ms. Fox answered that the SAT reflects the skills and knowledge that students need to be successful in college and careers which are the same standards reflected in many state standards including New Mexico. The Chair stated that he believes AP does alignment studies comparing the SAT to state standards, and Ms. Arnold added that AP can do an alignment study for New Mexico if the LESC wants more information about how specifically aligned the SAT is to your state standards. Representative Salazar noted that ED is prohibited from imposing standards on states, and Ms. Fox answered that is correct.

Next, Ms. Fox talked about accountability and said ESSA requires state accountability systems at the high school level to include at least four indicators – test score proficiency, high school graduation rate, English language proficiency, and at least one additional indicator of school quality or success. The additional indicator needs to be reliable, valid, comparable, and statewide and has to allow for a meaningful differentiation between schools. The proposed regulations from ED would further require that the indicator be backed by research linking it to improved achievement or graduation rates and the indicator must have at least three distinct levels of school performance so we know that indicator has good data associated with it. States are considering a number of different indicators right now and New Mexico already has some indicators that would likely satisfy this requirement. A number of states are thinking about indicators that will advance college and career readiness such as advanced coursework indicators. New Mexico is among 19 states currently using advanced placement and other advance coursework in accountability, and states started adding these indicators primarily under ESEA waivers when the secretary granted that additional flexibility. In New Mexico that indicator is looking at both participation and performance in a wide variety of college- and career- ready activities. To provide some perspective on AP in New Mexico, Ms. Fox noted the state has seen tremendous growth in AP participation and performance over the last decade. Referring to the handout, the blue bars represent participation and the orange bars represent performance, and both have increased. This improvement is due to the hard work and dedication of students, teachers and administrators, and the investments made by the state, noted Ms. Fox.

Ms. Fox stated there is still room for improvement and this chart is showing on the horizontal axis participation growth over the last 10 years in New Mexico in red, and then all the other states in gray. On the vertical axis, it shows growth in student performance on the AP over the last 10 years and as you can see New Mexico is a bit below the national average in terms of participation and performance as well, she stated. However, about 30 percent of New Mexico students in the graduating class of 2015 took at least one AP exam and roughly 13 percent scored at least 3 or higher on the AP exam. There are still some equity gaps in New Mexico and across the country. In this state roughly 68 percent of kindergarten through 12th grade students are eligible for free and reduced lunch (FRL) but low-income students make up only about 43 percent of the statewide AP test takers so there is still a gap that needs to be improved.

In regard to providing funds for low-income students to take the AP exam, New Mexico has historically participated in the federal AP test fee program and has contributed state funds as well to offset the costs of AP exams for low-income students. In May 2016, low-income students paid $3 per AP exam in New Mexico due to generous funding by the Legislature, the federal AP test fee program, and the College Board fee reduction all combined to offset the cost. Those combined funding sources have helped contribute to the growth in low-income participation on the AP test.

Ms. Fox noted the ESSA changes the funding situation for AP at the federal level and consolidated about 49 programs including the AP test fee program into a new block grant under Title IV. Funding under the block grant will be distributed by formula grants to states based on the Title I formula and then states must distribute 95 percent of those funds to districts, so it will be up to school and school district leaders to make big decisions on how they want to spend this new block grant. States and districts can choose to use their block grants in a variety of different ways, and including continued use of the funds to reduce AP exam fees for low-income students. They can also be used to support other initiatives for a variety of access to other courses including AP science, technology, engineering and math (STEM) courses and many other things.

Ms. Fox stated that this change is important because there are roughly half a million low-income students across the country including a few thousand in New Mexico who are sitting in AP classes right now and are counting on this funding which they have received in the past to offset the cost of the exam, and many students may not be aware that the situation is changing this year. We are doing our best to get the word out but it is ultimately up to the states and districts to ensure funding continues to be available for these students so that income is not a barrier to their participation in the AP program. States do have one other option for helping low-income students pay for their exam fees, and this is new. States will have the option, if they choose, to set-aside 3 percent of their Title I funds to provide direct student services, which could be another source of funding for AP exam use.

Ms. Fox further noted, to give you a quick sense of how much funding we are talking about, it is around $200 thousand per year that the state or districts would need to set-aside to make up for the federal sources to cover the remaining costs after the College Board fee reduction and assuming the Legislature continues to provide funding as well.

There is still one big uncertainty about Title IV and that is how much money Congress will provide for it. When they wrote the law, at one point they authorized $1.65 billion, but the various budgets we have seen thus far provide a range of funding levels far below that. The administration's budget provided $500 million, the Senate included $300 million, and the House included $1 billion. We are keeping a close eye on this hoping something will occur that ensures states and districts will have access to the funds needed to provide a variety of important educational programs, Ms. Fox stated.

Representative Salazar asked what ESSA calls for relating to ELLs, and Ms. Fox replied that under ESSA states need to include English language proficiency within their accountability system as one of the four required indicators (test score and English language proficiency, graduation rates, and the fourth indicator of success). The law will also look at ELLs as a subgroup when examining how schools are doing for groups of students as well as students overall and there is considerably more in the law about ELLs that could provide testing. The representative asked about the significance of ELL accountability moving from Title III to Title I programs for legislators and other decision-makers, and Ms. Fox said she can look into that and get back to him. Regarding teacher evaluation and options for student outcomes, Representative Salazar asked Ms. Fox to differentiate between ESSA and NCLB. In response, Ms. Fox noted one change from NCLB is the fact there is no longer a requirement to include student growth, which is now left up to the states.

The Chair noted that Ms. Fox indicated several states have adopted the SAT as their primary student achievement measure for high schools to meet the one year requirement for federal testing and asked if she knew how many off the top of your head, and Ms. Fox answered there are six currently, and added that several states have adopted the ACT as their primary student achievement measure, including Montana and Nebraska. The Chair noted that although New Mexico should consider what other states have done, the state is also interested in the alternate demonstration of competence (ADC) component which is used when a student does not score sufficiently well on the PARCC exam. PED, in Attachment 2 on the green paper, lists the different kinds of scores required to have ADCs and there are a number of AP tests on this list in addition to the SAT and ACT tests. The Chair asked whether AP test scores are used across the states for ADCs to offer flexibility for students, and Ms. Fox replied that not every state requires students to pass an assessment in order to graduate; that is completely a state decision and there is no federal requirement around it. However, among the states that do require a graduation assessment we are seeing two trends: some states are moving away from requiring an "exit exam" to graduate; and among the states continuing to require an exit exam, more options are becoming available like we see in New Mexico. Colorado provides a menu of assessments as well.

Senator Kernan expressed concern over the high scores that PED required for some ADCs, noting if a student did not do well on the PARCC science exam it is doubtful they will score a 23 in that subject area on the ACT, and she asked how an SAT score would compare, noting that if an alternative score is hard to achieve then it is not really an alternative. Ms. Cruz Arnold answered that the College Board could look at these scores and compare them to other states and see what the requirements are.

The Chair commented that end-of-course (EOC) exams can be used as an ADC for students who do not score sufficiently on the standardized tests and asked if any AP exams are being used in other states as an EOC exam. In reply, Ms. Cruz Arnold said she knows of a couple of states who allow a successful score on an AP exam to substitute as an EOC exam, for example, in Texas, if you score a 3 on an AP English exam then you do not have to take the EOC exam for that course. The Chair requested Kimberly Ulibarri, Legislative Program Manager, PED, to ask the department if New Mexico allows AP exams to serve as EOCs; and second, since EOCs contribute to a teacher's student achievement measures under their summative evaluation, would AP exams serve as EOCs for that purpose as well. Ms. Cruz Arnold added that the only instance where this is a bit troublesome is if you have an EOC requirement, let's say in the senior year, there could be problems because AP exams are graded in the summer time, which would be after graduation. In Texas, you only have to pass "x" number of EOCs, let's say five, so the schools encourage students to take those AP exams before their senior year so they do not have to wait until they get into a situation where they do not know what their score is going to be.

Senator Brandt noted that Rio Rancho Public Schools (RRPS) EOCs are different than what you are talking about which is almost an exit exam; whereas, at RRPS the EOCs are required for each high school class so it really would not work to use the AP as an alternative because you do not get the score until the summer. He stated that they did not find out that their daughter got college credit for passing an AP exam until before she was heading off to college.

Senator Kernan asked how it would compare cost-wise to use the ACT or SAT as the graduation test instead of PARCC, and Ms. Cruz Arnold answered that they are not aware of PARCC costs and cannot comment on the cost savings. Something else to consider is that there is a shelf price for the SAT and when the College Board enters into state contracts it figures in a state discount as well. The senator also asked about timing and turnaround when the test results come in, and Ms. Cruz Arnold said they could provide information on time and turnaround, especially with the SAT. The senator also noted that it is not easy to compensate for AP test costs and recalled that a couple of years ago the Maddox Foundation covered the whole cost of AP testing and the expectation was that no student would have to pay for the test so in our community the students do not have to pay anything. I checked with our superintendent to see if it came out of the operating budget or the state pays some kind of relief, and I imagine it is out of the operating budget, she stated. Research indicates that just by taking one AP course a student is more likely to graduate and go on to college. Senator Kernan also discussed the AP connection with the Kahn Academy in which students can now prepare online for the AP test and in our community people are concerned because there is nowhere to go to do test preparation, and I am glad that now with this it is easy for students to use a computer and do online preparation.

The Chair alluded to some states replacing their existing exit exams or high stakes graduation tests with an SAT or ACT kind of product. For graduation purposes I can see some similarity with alignment to standards and something that has been validated. What about the use of these assessments for other accountability purposes? Can such an assessment be used to measure the growth of a school for an extended period of time, for example? Our statewide accountability system is largely based on how students grow or change performance over an extended period of time, so would a student take the SAT multiple times under a proposal like this? How does it work and what metrics are available to use it as a full accountability measure? In response, Ms. Fox noted that the SAT is part of an aligned suite of assessments that we offer, so growth can be measured from the PSAT to the SAT and since New Mexico broadly administers the PSAT that might be one option. The Chair observed the difficulties in measuring growth from taking one test to taking another, noting that New Mexico is struggling with this right now during the transition from the standards-based assessments to PARRC and people questioning whether it is a true growth measure. He asked, "how can you take a PSAT that is suitable more for the freshman or sophomore level and then take the SAT and show growth for the school that way?" Ms. Fox said she could provide more information from experts at the College Board, but essentially the assessments are aligned in such a way that you can measure student growth from one to the next because they are on the same sort of scale. She added that under ESSA you do not have to include growth for accountability at the high school level; states can continue to do so, but it is not required. The Chair noted that this is still required under current state law.

Representative Salazar noted slide 7 on ESSA requirements and the terms "comparable" and "statewide." The representative said that although "statewide" indicates PED, the term "comparable" concerns me, and you said you would provide more information on that, to which Ms. Fox replied that "comparable" means you can use one indicator to compare across schools so that a school in Santa Fe can be compared to a school in Albuquerque, so you have to use the same indicators across the state and be able to compare that data. For example, an indicator like participation in AP can be consistently used across the state and can be measured in all schools statewide to compare data. She added there is a separate provision in ESSA that, for the statewide assessment at the high school level, would allow districts upon state approval to administer a nationally recognized assessment like the SAT or ACT instead of the current statewide assessment. To do this, we use concordance and concordance tables to make sure those scores are comparable.

The Chair asked about the change in the funding mechanism through federal law. The College Board obviously was involved when Congress made these changes, so is this what you wanted in federal law? Are you supportive of block grants or did you try to protect the individual carve outs for dedicated funding, and Ms. Cruz Arnold answered that because of ease of use, the College Board preferred the old method because it was easier to understand. When you give block grant money to districts they use it as they see fit, and the federal government is not necessarily in the business of governance so they are not going to do compliance monitoring, but it is easier for us to lobby Congress for a large appropriation and have that money flow to states as they apply for certain numbers. We know that New Mexico gets about $200 thousand per year because they applied for it, Ms Cruz Arnold stated.

<u>Public Education Employee Retirement Trends and Educational Retirement Board Fund Solvency</u>

Jan Goodwin, Executive Director, Educational Retirement Board (ERB), provided LESC with information on what recent retirement trends in New Mexico are looking like, expectations about future retirements, and ERB's long-term sustainability including the importance of cash flows. In addition, she discussed the importance of ERB's defined benefit pension plan and the role it can play in attracting and retaining teachers.

Here is some information on this year's retirements. The pension benefits that ERB pays are the combination of member and employer contributions, and investment earnings over time. As you may recall, the ERB retirement benefit formula is years of service times the highest five years of salary times our multiplier of 2.35 percent. This results in an average monthly benefit of $1,819 for ERB retirees. As you can see, ERB provides members with 25 years of service credit, a 58.75 percent pre-retirement income replacement rate, which is separate from social security payments which our members are eligible for, unlike teachers in many other states. In FY16, the most recent ended year, ERB paid $981.8 million in retirement benefits.

Ms. Goodwin stated, the number of retirements has been increasing and seems to be leveling off. This is consistent with what is happening nationally and in other states. It is important to remember that the decision of when to retire is one of the most important financial choices our members make, and I always remind them that being eligible to retire does not mean that now is the best time for someone to retire, she noted. Many factors must be considered including how long will I be in the Retiree Health Care Authority as a pre-Medicare member; those premiums go up by 8 percent each year so that means they double in nine years. As for when to start receiving social security benefits, which can begin as early as age 62, there is a substantial and permanent reduction in beginning this benefit before the social security normal retirement age which is now 67 for most people. In addition, the social security benefit is based on a 35-year work history so if someone has worked for less than 35 years, zero earnings are included for those years, pulling down the lifetime earnings and permanently decreasing the social security retirement benefits, Ms. Goodwin said.

The next page covers different ERB retirement eligibilities and they will be a factor in some of the materials on the next few pages. The different tiers and the retirement eligibilities are all tied to when someone began their initial employment with ERB, so for most of the people in this room who are ERB members, your employment began before July 1, 2010 and you have three different ways of retiring. There is 25 years and out; the rule of 75, or age in service equals 75 with a significant reduction if the member is younger than age 60 if they retire under this retirement eligibility; and there is also age 65 and five. Next, Tier II is for people who began their employment on or after July 1, 2010 and before July 1, 2013; those people have three different retirement eligibilities. They are 30 years and out; rule of 80 with a reduction if the member is younger than age 65 at the time of retirement and age 67 in five years; and then we have Tier III, which is part of our sustainability legislative package in 2013 which basically kept the Tier II retirement eligibilities but did add a 55year-old minimum retirement age for the 30 and out; so if someone is younger than age 55 when they retire there will be an actuarial reduction in their retirement benefit. The other change for Tier III is that their cost-of-living increase (COLA) will not begin until age 67 and currently the COLA begins at age 65 for ERB retirees.

The median for ERB member retirement has been increasing over time and is largely driven by the increasing proportion of members who retire under the rule of 75 retirement eligibility which imposes a reduction in benefits for those retiring before age 60. The median retirement age for FY16 was approximately 62.25 years for those retiring from ERB under either 25 and out, rule of 75, or age 65 with five years and this excludes reciprocity retirement and disability benefit recipients. Reciprocity retirements are those people who work for part of their career with a Public Employees Retirement Association (PERA) employer. In addition, the median retirement age for those with 25 and out was 58.8 years. This is our youngest group of retirement eligibilities and is the only one without a de facto minimum age.

Slide 6 shows how the numbers of members retiring under the different retirement eligibilities have changed over time. Beginning in FY11 we saw an increase in the proportion of members who were retiring under the rule of 75 retirement eligibility, prior to that year this retirement eligibility was approximately 51 percent of all retirements for our fiscal year, now this retirement eligibility accounts for 55 percent of all retirements. This also implies that we have fewer career employees, that is, people who have dedicated their entire career to teaching here in New Mexico, and more members joining us for a second career.

When we look at the overall median retirement benefit over the past few years it appears stagnant, however, when the median benefit of the different retirement eligibilities is looked at a different picture emerges. With the exception of the final average salary that is the highest 20 consecutive quarters the most important contributor to a member's retirement benefit is how many years of service they have worked. When you look at the line for the median retirement benefit you can see that the years with the higher amounts are the ones with the highest median service credit for those people retiring that year.

Staff has given you a separate schedule because the slide you have is illegible because the numbers are too small. This chart pulls together all of the data we have previously discussed. In the upper left-hand quadrant of the page we have all the retirements for 25 and out by year beginning in FY09 through the most recent fiscal year. When you look at that corner of the page you can see how many people are retiring under that retirement eligibility and under the FY16 column you can see that 909 people retired and you can also see the ages of those people. It is a lot of information and we have that for each of the retirement eligibilities for each of the fiscal years between FY09 and FY16. We also show how many people retired at the different ages in the age ranges below and then show the same information for the different retirement eligibilities.

At the bottom of the page we calculate the overall average in median age at retirement; average and median service credit as well as the average and median monthly benefit by fiscal year for everyone that began receiving either a retirement or a disability benefit from ERB for a reciprocity retirement benefit through PERA. Further to the right we have the same overall information for only ERB retirees who retired under our three retirement eligibilities so disabilities and reciprocities are excluded from those numbers so that is in the middle column kind of with the khaki colored bar across the top where it says 25_75_65.

We have been analyzing how retirement ages, benefits, and service credit have changed over time both overall and by retirement type. Slides 9 and 10 are from a presentation that our actuary, Ryan Falls of Gabriel Roeder Smith and Company, presented to the board recently. It is from training that your staff was invited to and attended; and Representative Salazar was also in attendance. This slide shows how the expected longevity at age 65 by gender has increased over the past 45 years. Today a 65-year-old woman can expect to live to age 85.3 years and a 65-year-old man can expect to live to age 82.7. This is 4.1 and 4.9 years longer, respectively, than they would have expected to live back in 1965. ERB takes into account increasing longevity in its actuarial evaluations and uses a very conservative, that means we expect a longer life, methodology in calculating our liabilities.

Slide 10 looks at where the state of New Mexico fits in terms of mortality when compared to other states. New Mexico is in the middle of the pack with a mortality rate of 749 deaths per 100 thousand lives, which is very similar to the national average of 746.2 deaths per 100 thousand lives. Page 11 shows how our average age at death by gender has changed over time. There has been very little change over the past 10 years – actuaries prefer to look at things over 30 to 50 years so we do not see a big trend here but if we did have the numbers for a longer period of time you would have seen that we have had an increase over time. Similar to the national numbers, our female retirees are living longer than their male counterparts.

On page 12 we have information on expected retirements and Rick Scroggins, Deputy Director, ERB, will present that to you. Mr. Scroggins said that what ERB does with this information is take its population of active members at the end of FY16, which is about 60 thousand, and categorizes it by tiers and employer types. You can see on the left side a breakdown of numbers between kindergarten through 12th grade and higher education and then the other employers. Next, we construct and look at their age and service and determine how many people that are actively employed meet the qualifications for retirement at different periods of time. As you look across the top part of the schedule you see that in the blue column titled, Total Qualified to Retire – Tier 1, there are 8,581 people who were actively employed at the end of FY16 that were qualified to retire under one of the three options. Moving to tier 2 and 3, you see an additional 77 people were qualified to retire under those which would have been either rule of 80 or 67 and five for a total of 8,658 people who were qualified to retire at the end of the fiscal year. Since we do not have the actuarial expertise in our office we take that population and freeze it and then advance it one year at a time or three years at a time. Admittedly, it is not the scientific way to do it but that is one of the few tools we have to roughly project these and we have been doing this for three or four years now and it is starting to bear out in that we are beginning to see these kinds of trends.

I call your attention to the bottom of the schedule where we take those percentages and aggregate those of the total population. As an example, for Tier 1, 14.28 percent of the active population is qualified to retire at the end of FY16. As we move down that schedule we end up with 45 percent 10 years from now, and again, it is not going to stay the same. The population of actives moves but if it were frozen and they all continued to work 45 percent of the active population would be eligible to retire under Tier 1 and an additional 5.43 percent would be qualified under the other two retirement types, so the bottom little segment of that schedule is telling us that 50 percent of our population would be eligible to retire in 10 years.

Ms. Goodwin commented that most ERB members do not retire when they can. If you look back to this larger page you will see that for the people who retire 25 years and out the median service credit for FY16 was 27.5 years, and then when you look at the rule of 75 and add the median age at retirement to the median service credit our members are almost doing the rule of 80 – almost all of them are closer to 80 than 75 when they are actually retiring so you will not see that as much with 65 and out. Most of our members work at least a few years past the point when they are first eligible to retire and that has been consistent over time.

As you can see on page 13, the proportion of our retirees to active members has been increasing over time and this is part of the natural progression of pension plans and we will discuss how this affects cash flows. What is happening in New Mexico is the same thing happening nationally with social security and other retirement plans elsewhere so this is nothing unique. The next several slides are from the actuarial training and the important thing to keep in mind is that calculations of net cash flow do not take into account the cash flows from investment earnings. All they look at is how the contributions that we have collected compare to the benefits we pay out in any given year. The omission of the investment earnings is very important. Net cash flow for pension plan compares the contributions from members and the employees coming in with the benefits refund and expenses paid by the plan. The net cash flow varies over time for any given plan.

As slide 15 indicates, the younger plans tend to have positive cash flow as they have more contributions coming in than benefits being paid because this is the prefunding portion of their life cycle. In contrast, mature pension plans such as ERB pay more in benefits than we collect in contributions; that is why we are a prefunded plan, we have investment earnings to pay the difference. We are prefunded because we have had decades of building up investment earnings to pay today's and tomorrow's benefits. Our negative cash flow (page 16) has varied over time and is expected to do so in the future. Although there may not be sufficient contributions to pay benefits, this in and of itself does not indicate that a pension plan is in jeopardy.

As slide 18 notes, the real issue is not negative cash flow, but rather does the pension plan have sufficient liquid that is able to be turned into cash and assets to pay benefits when they are due. ERB has a very well-diversified investment portfolio which is why we have been able to have relatively good performance during these difficult financial markets. One of the things that our Chief Investment Officer Bob Jacksha and our board keeps in mind when designing our asset allocation is maintaining sufficient liquidity in our portfolio so that we can pay benefits every month. With that in mind, 30 percent of our portfolio is always highly liquid and invested in Standard and Poors 500 Index, as well as a core bond fund that can be tapped to pay benefits.

Slide 19 puts net cash flow into perspective by comparing the cash flows with the investment performance over time. When looking back to 2005 when our current investment consultant, NEPC, began analyzing our investment performance. Over that time period the change in the value of investments of $6.5 billion more than exceeds the negative cash flow of $2.8 billion. Because of this our net value has increased from $7.7 billion in 2005 to $11.4 billion in June 2016 and this is how a pension plan is designed to function over time. Slide 20 tries to make my point in a different way than the last few slides. It puts benefits and contributions into perspective with the net assets that ERB manages. Despite the negative cash flows, ERB's net assets have increased over time. On August 31, 2016 we hit a new record high for investment assets of $11.665 billion which is an accomplishment we are incredibly proud of. Our preliminary numbers for September indicate that our total net assets will likely be around $11.7 billion.

Despite the year-to-year variation in investment performance ERB is capable of paying retirement benefits for many years into the future. Although we would like to earn exactly 7.75 percent or more each year it is impossible given the volatility of the financial markets. Fortunately ERB has a sizeable trust fund corpus of $11.4 billion which permits us to pay all of the promised retirement benefits regardless of any single year of investment performance. Furthermore, the diversification within our portfolio allows us to reduce the volatility of our performance which positively impacts long-term performance. In 2005, the Legislature allowed us to invest in additional asset classes such as private equity and infrastructure. Since 2005 our board and staff have worked to change our portfolio from being essentially a 70 percent stock and 30 percent bonds portfolio to our current asset allocation of 36 percent stocks, 32 percent bonds, 25 percent alternatives, and 7 percent real estate. This has allowed us to significantly reduce the volatility in our performance and all the performance numbers on this slide going back to 2002 are a net of fees which do vary over time.

The information on slide 22 is taken from the National Institute on Retirement Security (NIRS) 2011 report entitled, *The Three Rs of Teacher Pension Plans, Recruitment, Retention, and Retirement*. The data came from 2003 so it is quite likely that the costs have increased since then. Included in the report's takeaways are: teacher effectiveness increases with experience; the cost of teacher turnover is quite high; and defined benefit pension plans help to recruit and retain teachers. A good benefits package is an important part of recruiting and retaining good employees. In the last few years the stories in the national press about workers with insufficient 401k balances nearing retirement have made employees with defined benefit plans aware of the value and importance of their retirement benefit. The NIRS looked at the effect of having a defined benefit plan for teachers in New Mexico and found that 159 teachers are retained each year solely due to the defined benefit plan. Teacher turnover is expensive. In 2003 the cost was $9,764 per teacher and retaining these teachers saves New Mexico about $1.6 million each year.

When our actuaries prepare the ERB annual evaluation they make many assumptions. These include retirement and mortality rates, investment return and salary increase rates, and inflation rates. The inflation rate is one of the most important rates and one of the building blocks for both investment returns and salary increases. Our current long term inflation rate assumption is 3 percent. As soon as this year's valuation is complete our actuary will begin working on our Experian study which compares our actual performance with what was expected to see which assumptions should be changed prospectively. The salary increase assumption is comprised of both wage inflation and service-based promotional or merit increases. Wage inflation is currently assumed to be 3.75 percent which is 3 percent for price inflation plus 0.75 percent for productivity increases, and this is the assumed salary increase for longer service members with at least 10 years of service. New members have a much higher salary increase assumption, 12.5 percent, for the first few years of their career. Salary increases, although they increase benefits, do help the fund as contribution rates are higher than the cost of benefits allowing us to pay down our unfunded liability. However, if a member receives a significant salary increase close to retirement that can hurt the fund it is referred to as "spiking." The fund is hurt because the benefit is based on a salary that is greater than the contributions received over time.

LESC staff asked us to present our thoughts on enhancing benefits for members who work longer similar to social security. First I would like to note some important distinctions between our benefit and the benefit provided by social security. Social security is based on a 35-year work history and working longer per se does not increase the benefit but may increase the number of higher earning years. Social security also provides a higher level of income replacement to lower wage earners and has an earnings cap, which for 2015 was $118,500. In contrast, ERB's benefit has no maximum numbers of years and the benefit for all wages of earners is treated equally subject to an earnings cap of $265 thousand for 2015. With social security the income replacement ranges from 30 percent to 90 percent and lower income earning workers end up with the higher ratio toward 90 percent replacement and high income earners will end up toward the lower 30 percent income replacement.

With the ERB benefit the multiplier for all years is 2.35. Some states have what is called a graduated multiplier. For example, Arizona has a multiplier of 2.1 for the first 20 years of service, 2.15 for the next five years of service, 2.2 for the subsequent five years of service, and 2.3 for all years past 30 years. The goal with this type of increasing multiplier is to reward longevity. If ERB were to take this approach it would most likely have to do it in a cost neutral way so that the cost of the benefit would remain the same. This would involve lowering the multiplier for the earlier years of the career and raising it for the later years so that the income replacement for 30 years of service would remain at 70.5 percent.

Page 26 is a history of ERB contributions over time. Our members have always paid a significant proportion of the total contributions invested by the board. In some years it was 50 percent and even recently with the swaps that were done in 2012 our members paid over 54 percent of the total contributions received that year. Because of this each dollar in retirement benefits by ERB represents 71 cents in employer contributions and investment earnings and 29 cents in employee [she said "employer"] contributions.

Representative Youngblood asked Ms. Goodwin to tell LESC what a healthy funded ratio is for a pension, and Ms. Goodwin replied that the ultimate goal for all pension plans is 100 percent and with the changes that ERB made back in 2013 we are on the path to that goal, but it will take time. The representative noted that an 80 percent funded ratio is considered healthy and asked Ms. Goodwin for ERB's current status. In response, Ms. Goodwin noted as of June 30, 2015 the ERB funded ratio was 63.7 percent. Representative Youngblood asked what assumptions since that time have changed, and Ms. Goodwin said with the 2014 Experian study ERB changed its salary increase and longevity assumptions and will be undertaking another Experian study as soon as our current evaluation is done. In response to Representative Youngblood, Ms. Goodwin said that best practices suggest that an Experian study be done every five years, but at ERB, since we want to be on top of emerging trends we look at them every two years which is a very conservative way of doing it. The representative asked how long it would take for ERB to have a healthy funded ratio based on current changes, and Ms. Goodwin noted that when the 2013 study was submitted ERB's goal was to be 100 percent funded within 30 years. However, since then we have made changes on some of our important assumptions especially longevity, and we have also had two very difficult years with the market in 2015 and 2016 so those are going to add a few years to how long it will take us to get to a 100 percent funded ratio.

Representative Youngblood noted that ERB made some salary increase adjustments and asked if ERB foresees having to make an adjustment since the state has not given salary increases for a number of years, and Ms. Goodwin said ERB changed that two years ago. One of the many assumptions we will be looking at as part of this Experian study is inflation. We have been in a relatively low inflation environment for the last two decades so we will be looking closely at our inflation assumption. Our current long-term assumption is 3 percent so if we change that in any way it will trickle back and affect other assumptions such as salary increases and investment earnings so we will looking at that as part of the current Experian study. The representative asked what ERB is doing to keep members apprised of certain changes such as funding expectations, what the negative cash flow is, and that sort of thing. In reply, Ms. Goodwin answered that ERB does presentations similar to this, and she was recently at the New Mexico Association of Education Retirees to give them an update on ERB's fund. We have a great deal of information in our newsletter as well as on our website and also put together a very short 2-page document based on our annual report with lots of charts and pieces of information about the fund and the funded ratio, and how assets are changing over time. The representative asked how is someone who is not using a computer supposed to get information, and Ms. Goodwin replied that ERB sends out a quarterly newsletter to its members.

Representative Gallegos implied he was curious because at the Eunice Public School District (EPSD) we look for any way to retain teachers, and I think PED gets a black eye for what baby-boomers do, when we get tired we just leave. But I know for EPSD it is really hard to retain teachers so I liked some of the information you gave. Regarding the Arizona multiplier on page 25 he asked if we have any information indicating they were able to retain using that formula, and Ms. Goodwin answered she did not know and offered to reach out to her counterpart in Arizona and see to what extent this has helped them keep teachers longer. I would like to point out that with our multiplier there is no cap in our benefit so each additional year that a teacher works their retirement benefit will increase even if their salary is not increasing because they will have more years going into that formula so I believe we already are encouraging people to stay longer and when you look at all the retirement eligibilities people are staying longer than 25 years which is what is needed to retire under the rule of 75. The representative commented about his cousin who is a special education teacher and wanted to go out of state, but when she looked at the benefits apples to apples and saw that wages were low and benefits were high she decided to go to Rio Rancho Public Schools (RRPS). He asked if there is any training we can provide to be able to show staff the total value of their retirement and wages, and Ms. Goodwin replied that ERB is working on this. In New Mexico, unlike Texas and Colorado, our teachers have social security. Even though our wages may be lower we do have one of the highest retirement multipliers around and social security. We are working on seminars for new and early career teachers to remind them of how strong their benefits are and social security is more than a retirement benefit as it also provides disability and survivor benefits. Mr. Scroggins added that ERB participates in as many different forums and seminars as it can, like the hiring seminars that took place in Albuquerque and I think Rio Rancho, so we are actively going out to explain our story about benefits.

Representative Gallegos noted that the starting wage in Eunice was so low that we offered teacherages (homes) to bring them in. I retired from New Mexico Gas Company after 30 years and I get $697 per month for retirement and I understand that the teacher retirement package here is nationally ranked high which is why my relative decided to stay here for 25 years.

Senator Brandt asked if an employee can opt out of ERB, and Ms. Goodwin answered no, since membership in ERB is a condition of employment. The senator asked whether we withhold ERB for substitute teachers and if so what are the benefits, and Ms. Goodwin replied that it depends for how long the substitute is teaching. If they are a casual day-to-day then nothing is withheld but if they are a long-term substitute then they will have withholdings and they can either keep the benefits there or withdraw them if they are not going to work more than one or two stints. The senator noted, he believes RRPS starts withholding for substitutes after 10 days and asked how does the withdrawal process work. Ms. Goodwin answered that the threshold for membership at ERB is working 0.26 FTE or more so that amount of time (exceeding 10 days) could be a threshold for membership. We try to do a rule to clarify that which was wildly unpopular so we backed off of that and are working on doing more research since we want a really good definition out there of who is a sub and who is a member, so we have some bright lines so that anyone at the school district will know and understand who should pay contributions and who should not. Our understanding is that currently there is a great deal of variety in the interpretation of our rules on who is a long-term sub and who is not, and we want to establish clear rules that are easy to follow. The senator noted that subs have approached him with concerns that they contribute to ERB but will never make it to any of the retirement options. He asked if they are correct, and why we would withhold from them if they never receive any long-term benefits, and Ms. Goodwin said if that person ceases to substitute teach they can withdraw their contributions. However, it is possible – there are people out there who do sub regularly for short-term periods and my personal philosophy is if someone is working 0.26 FTE or more over the course of a quarter of the school year they are a member and should be allowed to have the benefits of membership. If someone should stop doing that type of work they can withdraw their contributions. The senator did not know withdrawal was an option and asked if the same applies for teachers who leave within five years, and Ms. Goodwin confirmed that any ERB member can withdraw their contributions upon leaving or leave the money in deposits because life changes and some teachers may come back to the teaching profession. The senator asked if there was a penalty for withdrawing the contributions, and Ms. Goodwin said that people get the contributions plus interest based on the five-year U.S. Treasury Note and it depends what they do with the contributions. If they roll them over into a 401k or other qualified plan there is no penalty, but if they withdraw the contributions then there is a penalty because the contributions are paid on a pre-tax basis and not included in taxable income so now they are getting money back which they never paid tax on, and there is a 10 percent penalty for receiving the funds before age 70.5. The Chair added if a teacher leaves after a few years, withdraws her contributions, and then comes back, she comes back in under a new tier. If their employment was pre-2010 and they were under the rule of 25 and they withdrew and came back in they may come back under the rule of 30 and their benefits plan has changed.

Representative Gallegos described a teacher in Eunice who was a long-term sub in 2000 and worked for 0.25 FTE for a few years and then went to Eastern to get her teaching certificate. He asked would her date start back in 2000, and Ms. Goodwin replied that one's tier is determined by his or her first employment with ERB provided the contributions were kept in. So if that person kept their contributions from 2000 they would be Tier 1; if they withdrew their contributions then they would be whatever tier they restarted their employment with an ERB employer. The representative said some substitutes at EPSD do that to start their process going into education and I did not realize they would have that benefit from day one.

Senator Stewart asked if active membership means everybody who is retired and drawing a pension, and Ms. Goodwin clarified that active members are those who are currently working for an ERB employer. Retirees are the people who have ceased employment and are receiving retirement benefits. Then the senator said she does not see how we get to 60 thousand active members when we have about 20 thousand teachers working in kindergarten through 12th grade (K-12) and 6,500 instructors in higher education. In reply, Mr. Scroggins said if you look at the schedule at the top under the first column after the labels is not qualified, so there is 27 thousand there not included in the 8,000 meaning there are 27 thousand under Tier 1 who are not qualified yet to retire and under Tier 2 there are 23 thousand. The senator still noted there are only 24 thousand or so K-12 teachers and she does not understand where the numbers are coming from, and Ms. Goodwin said the 65 thousand is all ERB employees, not just active members, which includes bus drivers, administrators, secretaries, college staff, etc.

Senator Stewart referred to slide 26 and said she did not understand the last column, "percent employee pays," percent of what? The employee is paying 10.7 percent, the state is paying 13.9 percent for a total of 24.6 percent, I just do not understand the last column, she said. Ms. Goodwin replied that the 43 percent is the percent that the employee is paying of the total contributions that are paid. The total contribution is 24.6 percent so it is 10.7 percent divided by that 24.6 percent. That is a substantial portion and higher than most states. Our members pay for their benefits, it is not something handed to them on a silver platter. The senator recalled in the 1980s and 1990s when the member contribution rate was lower they were still paying a large percent so they have been paying this large percentage since the beginning, and Ms. Goodwin said that is an important point and everyone should be aware that members pay a significant portion of the benefits they receive. The senator noted that a few teachers returning to work said the employer used to be required to pay and now it has been changed so the teacher has to pay but that is not contributing further to their retirement, is that correct? In response, Ms. Goodwin said what is currently happening now with return-to-work retirees is that the retiree pays the member contribution and the employer pays the employer contribution. That is done to offset the cost to the fund of having someone retire earlier than they might have otherwise because the earlier someone starts to receive a retirement benefit the more it stresses the fund. If someone were to work longer even though they would have a higher retirement benefit that gets paid out, it would be paid out for fewer years.

The senator noted the ERB slides looking into the future and said with the rule of 75 it is not really that people are retiring with the rule of 75 if you look at their age and the years they are working it is closer to 80 and even more. I added up a few of these and you have some who are well over 80 so when they are ready to retire they may have started late so they do not have a full 25 years but they could be just one or two years short of that and retire. My question is when you are looking at this and looking at the future liability, are you taking that into account in your projection or is this simply by the math those people that would be qualified even though our history shows they are not getting out at 75 or even 80. Mr. Scroggins replied, no, we are not taking into consideration actuarial impact at all, this is just math, and one of the characteristics of the way this operates is we move from the least, in a sense, to the greatest requirement. The first test you run is 65 and five, or 67 and five, in the case of Tier 2 and Tier 3. As we add five years and 10 years to someone who is qualified in 65 and five for instance, they migrate into rule of 75 qualification so they move over to rule of 75 instead and in some cases they actually migrate from rule of 75 to 25 and out where they might not actually end up doing that, but it is purely math and there is no actuarial assumption.

Senator Stewart asked if ERB does any kind of assessment of people who are retiring (questionnaires, etc.) so we can drill down more into why this is happening. We have an increase now and we all have an idea of why that is happening but I am looking for harder evidence about the reasons why teachers are retiring when they could teach longer. Ms. Goodwin replied that she thinks there are as many reasons why people are retiring as there are people who are retiring. We try to make this a very informative experience for our members. Typically before someone turns in their applications they have gone to a retirement seminar and at the seminar we talk to them and remind them that just because they are eligible to retire does not mean it is the optimal time for them to retire. They need to take into account how long they will be at the RHCA as a pre-Medicare member, when they want to start receiving social security, and remind them that social security is based on 35 years. Ms. Goodwin added that ERB does one-on-one interviews but does not do a specific survey of them on why they are retiring right now. The senator suggested it would be good to capture this information in a short survey because ERB knows who is retiring and who is not – so could not that be added to the work you do – I'm just a little frustrated that we have this treasure trove of people that I would like to find out why they are choosing to retire now and what could have happened to keep them longer. I am looking for real data and real information because we have a teacher shortage for lots of reasons. Teacherages in the Native American communities would be helpful and there are all kinds of things we could do, but I would like what we do to be based on real data. In response, Mr. Scroggins noted that the process of retirement for our members is involved enough and has enough paperwork and everything to the point where that time may not be the right time to interview them. We could certainly look at constructing some kind of survey to send out 90 days after a person is effectively retired and begin to see if we could get some feedback like that.

The Chair noted that ERB members include K-12 teachers and college faculty and asked who fits in the "Other" category, and Ms. Goodwin said there are some employees at state agencies that are licensed teachers and are ERB members at PED and the Department of Corrections, to name a few agencies. She also confirmed they are in an educational function tied to both certification and job class. The Chair also asked if teachers in the Children, Youth and Families Department juvenile justice program qualify as ERB members, and Ms. Goodwin said yes.

Senator Kernan referred to one of the charts and asked if 709 members retired in FY09 and 909 retired in FY16 would that be because the total membership increased, and we see an increase in retirement but probably see an increase in membership as well. Would that be true? Ms. Goodwin replied that ERB active membership has been fairly flat over the last several years but what is happening is the graying of the baby boomers – more people are eligible to retire, which is why we are seeing an increase in the numbers rather than the number of active employees increasing. She referred to a chart on page 13 with the number of actives every year from 2001, and you can see it is basically hovering around 60 thousand and peaked in 2009 and has been slightly declining since then. Senator Stewart looked at the numbers of retirees and beneficiaries and said it seems like a huge difference over time where the membership itself fluctuates a bit, but not much, and Ms. Goodwin referred to the trend line as the "Silver Tsunami" of retiring baby boomers who are also living longer and the Chair observed that social security is dealing with the same issue.

Senator Kernan highlighted page 21 looking at the return versus the target goal for investments and asked what the standard for funds such as this is when you look over time, and Ms. Goodwin answered that when you look at ERB returns over a 30-year period they are at about 9 percent. She added that over a 10-year period the average return rate has been 5.7 percent and 6.9 percent over the last three years. Regarding ERB's unfunded liability and how that looks Ms. Goodwin stated that on June 30, 2015 the funded ratio was 63.7 percent and the unfunded liability number at that point was $6.5 billion. The senator inquired about the change in accounting rules that caused everyone to look bad and when it occurred, and Ms. Goodwin said the changes in the Governmental Accounting Standards Board (GASB) rules occurred about two years ago. The actuaries said GASB completely divorced accounting from funding so up until then we calculated our funded ratio and unfunded liability using the smooth value of our assets by looking at what our assets had been over a five-year period and averaged them. With the new GASB rules we just look at our total assets as of June 30, 2015. The senator asked how this affected ERB's asset valuation and Ms. Goodwin answered that because ERB had some good years prior to June 30, 2015 ERB assets actually looked a little bit better because the other years were not averaged in and it really did not hurt us that much. Regarding competitiveness among the states, the senator noted that New Mexico has social security but in Texas it is up to the districts to decide whether or not to have social security – that is how it works, since school districts in Texas have more autonomy than New Mexico school districts. In reply, Ms. Goodwin stated she believes it is a state-by-state election rather than a district-by-district, however, with that said, we are seeing with the new charter schools coming on, each one in New Mexico has the ability to participate in social security or not, but I cannot answer exactly as to how Texas does it. The senator asked if someone can remind her of what happened several years ago when there was a change in social security, and we had employees at the junior college and there were many employees in Texas that had to quit and go somewhere else to work for some time to be eligible for social security benefits. It did not impact most of us in New Mexico but my teacher friends in Texas were devastated because they were not paying into social security and something occurred, there was some sort of deadline by which they had to do something. Ms. Goodwin stated that she was unfamiliar with the situation in Texas.

Senator Sapien reminded committee members that you have to pay into social security to glean the benefit so everybody gets a social security printout showing annual earnings for every year, and you have to pay them a certain amount of money over your lifetime to garner the maximum benefits. If you have not paid in those dollars then you either receive a reduced or zero benefit, and I think our firefighters are in that situation where they do not pay social security. Either you do not receive social security or go work another job related or unrelated to your current job that does pay into social security and money is coming out of your paycheck so that you do have money in that system to be able to make a claim against social security. Senator Kernan asked if that affects the spouse's ability to access social security if they have not paid in and Senator Sapien there would have to be social security payments by the deceased person in order for the surviving spouse to make a claim. Senator Kernan stressed the importance of letting New Mexico teaching recruits know that our benefits are much better than Texas'.

Representative Salazar commented that more active members should be aware of what faces them when they retire in the future and indicated that the ERB pension plan is superior to most other ones. He then asked Ms. Goodwin to talk about alternative plans, and she explained that ERB also has an alternative plan which is eligible only for certain positions in higher education and it is a defined contribution plan in contrast to our regular defined benefit plan and there is the same amount of contributions for both the member and the employer. However, 3 percent of the employer contribution goes to the fund itself because by having those people not participate it hurts the fund actuarially so that 3 percent is the offset for that. We have a couple of different investment providers that those employees can use to manage their investments and they have that beginning choice to make during the first 60 or 90 days of employment whether to join the ERB or alternative benefit plan. A few years ago we added another timeframe so after seven years, which is the time period for whether people get tenured or not, they are allowed a second opportunity to choose whether or not to opt into ERB and if they do come into ERB their total employment with ERB counts toward their retirement eligibility but only their participation in the defined benefit plan counts toward calculating their retirement benefit. Representative Salazar noted that attending the ERB training was beneficial and suggested it may be good for the committee to receive something like he was privy to at the training on an annual basis.

Representative Stapleton asked, "what is the difference between Tier 2 and Tier 3?" Ms. Goodwin stated that what mainly drives the difference is a matter of when someone began their employment. For people who belong to Tier 3 who started on or after July 1, 2013, although it looks as though their retirement eligibilities are identical to Tier 2 there is a slight difference. First, for a Tier 3, 30 and out if the member is younger than age 55 when they retire their benefit will be actuarially reduced to be the equivalent of waiting to age 55 to receive the benefit. For most of our members it is probably not an issue; our median retirement age in the most recent year was 58.83 years. The second difference for Tier 3 is that their COLA, unlike Tier 1 and Tier 2 which begins at age 65, begins at age 67. Representative Stapleton asked what happens if a member retires at 55 and Ms. Goodwin said if the member has 30 years of service there is no reduction of benefits but they will wait 12 years for their first ERB COLA. She also told the representative that Tier 1 and Tier 2 members have to wait until age 65, and Representative Stapleton said this has been a complaint from my teacher constituents who taught many years ago. When they were in the teaching field their pay was very low and now as they live longer and get older they are still waiting for a COLA. The representative stated that according to the American Academy of Actuaries senior employees can overstate fund liabilities since only a few members will receive higher payments and it says that salary increase assumptions are used to project future benefits and payroll growth is used to amortize their funded liability as a pension plan. In FY09 and FY14 the average rate of payroll growth was lower than the expected rate; do we know where it is now? Ms. Goodwin replied that ERB will be looking at that as part of its next Experian study to see how much wages have grown in the past couple of years so I will have that answer for you in the spring.

Representative Stapleton asked how ERB membership is decreasing or increasing based on looking at Tier 2 or Tier 3, and the balance of young teachers coming in and older teachers leaving and Ms. Goodwin said it is difficult to answer because ERB does not control who gets hired and how long they stay. If the district is not hiring due to whatever financial situation they have, ERB will not see an increase in actives. The representative asked whether the economic situation in New Mexico affects the unfunded liability of the pension plan and Ms. Goodwin answered that it does and has a dramatic effect on ERB's funded ratio and everything else. The more people we have working at higher salaries the more money is coming in as contributions, and the more money we have coming in as contributions and generating investment earnings the higher our funded ration is going to be. The representative asked if that is why ERB is paying out more than is coming in and Ms. Goodwin indicated it is a factor in that but not the primary one which is that ERB is a mature pension plan and we have been pre-funding for decades to have enough money to pay the current benefits. Currently the total payroll for all ERB members is $2.5 billion and if we increased that by another billion dollars that would ultimately allow us to reach our goal of being 100 percent funded earlier. Representative Stapleton said if school districts are unable to increase salaries due to lower public school support appropriations what effect will lower payroll growth have on the amortization period of accrued unfunded liability and Ms. Goodwin answered it will increase as long as it will take ERB to pay off the accrued unfunded liabilities.

The Chair referred to the sheet with retirement age grouping and said the difficulty with measures of central tendency is it can mask the ends. Everything groups around the middle so you talk about averages or medians in the retirement ages say for the rule of 75 group and service credit, adding those averages together comes up to 80 but if the average is 80 that means some are greater and some are less and so I am interested in what portion of these retirees are actually pulling the rip cord even at a loss and being willing to take a reduction. Ms. Goodwin answered that if you take the sheet and turn it sideways you can see age 60 on the left hand side it says age at retirement and then you see 40-45, 45-50, 50-55, and then age by year, you can see there are a number of people who do retire before age 60 with rule of 75 and these people would incur a permanent reduction in benefits. This is why we try to show both average and median because averages can be distorted by outliers. The Chair noted there is no reduction for a 25 and out scenario based on age until you get to Tier 3 and Ms. Goodwin confirmed that is correct and added the reduction would be actuarial rather than the reduction for the rule of 75. The Chair noted this could be a subset of the data that Senator Stewart was asking for on why folks retire – I would go one step further and say I do not necessarily need to know why members retire once they get to the eligibility point but why are they making the choice to retire at a reduced level of benefits. That would be certainly even more powerful as an answer, and Ms. Goodwin replied anecdotally she has heard that people leave early due to health reasons or caring for an ill family member. The Chair noted how there is the sense that people leave because they are unhappy with the system or feeling burdened but you are saying those are not the answers you are hearing and Mr. Scroggins answered that most of the comments our member services group receives as they are working with people toward retirement are generally off the cuff but we do not get a lot of "I cannot stand this anymore and I am stomping out."

Senator Stewart pointed out that anecdotal evidence is not good enough and all of us have heard stories, but no one asked me why I retired. Senator Sapien said since we are talking about the retirement fund itself, if it gleans information that is pointed toward the system outside the retirement I am wondering if somebody asks why did a member retire; how does that help ERB, and the Chair noted it would not necessarily help ERB, which is why they are reluctant to ask the question. I think what it does is it would help LESC but we do not have the mechanism to pose that question although ERB is in a better position to ask it. Senator Sapien wondered if it was better to ask the question during an exit interview with the school district rather than having staff from the retirement fund do it since this does not affect their operations. Senator Stewart agreed with Senator Sapien, but depending upon who you are and where you are that might be something you are not going to be honest about. To me it behooves the ERB to be able to answer the kinds of questions we are asking and it would be easier for them to do it because it could be statewide and separate from internal politics of whatever district you are in. I understand that ERB may not need to know what LESC wants to know, and anecdotally I have heard that some of the districts do ask members why they leave but they do not keep it in a database. I do not care who does it but I want the information. The Chair noted that some people may refuse to answer, and Senator Stewart said that is true but if you had a centralized ERB asking it that is different from your principal, superintendent, human resources person, etc.

Senator Sapien said this harkens us back to the Title 9 conversation we had and in terms of unintended consequences when we asked athletic directors to get this information because it was sitting out there and we found out school districts were actually hiring a person to get all the information. This is not a big question but it is still a step in the process of having ERB do something else with the information we ask them to get, like do a report that involves data crunching. We should ask ERB to do a report on something that benefits them rather than other areas of the system.

The Chair brought up the topic of return-to-work, which is effective in statute until 2021 and will come up for sunset renewal. There are certainly arguments for and against return-to-work options as a policy but I would ask specifically vis a vis solvency if it is advisable for us to renew it, give us some advice. Ms. Goodwin answered that if she is correct, the return-to-work legislation expires on June 30, 2022. We have done as much as we can to mitigate the actuarial impact on the fund by having people pay contributions, however, given that, as Senator Stewart said, an important thing we need to start doing is treating retirement as retirement, not as another period for working, and if we have people staying in the extra few years that they could have instead of doing the one year layout and returning to work I think it would help the fund by eliminating return-to-work. The Chair noted that the ERB recommendation, purely on a fiscal basis, would be to allow the law to sunset which would then re-incentivize current members to stay on as contributing active members, and Ms. Goodwin added that she would definitely have to discuss that with the actuary before taking a definitive stance but my take is that the return-to-work law does not help the fund. She also pointed out that under return-to-work one of the options is that retirees always have the ability to suspend their retirement and earn additional service credit. Mr. Scroggins noted it also harkens back to Representative Stapleton's comment about the COLA as well because moving the COLA out until age 65 is another, in a sense, actuarial-related move to reduce the impact of early retirement, and all these things work together to benefit the actuarial position.

Representative Salazar asked ERB to comment about the significance of the one year layout that we need to understand and Ms. Goodwin replied that the one year layoff is important for a couple of reasons. First, the Internal Revenue Service (IRS) – in order for us to continue as a qualified pension plan ERB has to have valid terminations before our members begin to receive retirement benefits; so retiring on Friday and going back to work on Monday at the same job with the same responsibilities is not a valid termination. If we were to lose our qualified status it would have immense repercussions, one of which immediately comes to mind is that contributions people are currently paying on a pre-tax basis would no longer be on a pre-tax basis. The other important part of being in a qualified retirement plan is that the investment earnings accrue tax free over time until the retirement benefits begin – that too would cease, so we really want to stay on the right side of the IRS. Second, actuarially if someone retires sooner than they would have otherwise and begins drawing a pension it hurts the fund, so that is why we have the one year layout.

Senator Sapien asked if the non-qualified retirement affects PERA as well and Ms. Goodwin replied this is true, as PERA is subject to the same IRS rules for qualified pension plans that ERB is subject to. Senator Stewart observed that PERA employees only have to wait three months before they could jump back in so if it is the same for both why is it 12 months for ERB and three months for PERA and Ms. Goodwin said the one year layout took into account both the actuarial impact as well as the IRS rules. She added that the IRS has been very non-specific on what they consider the necessary layout to be. Senator Sapien suggested that LESC contact

PERA to make sure we know what the federal application of that same rule is to PERA because there are so many pension plans becoming insolvent I know that the federal government has changed rules. We allowed double-dipping and now we do not, there have been rule changes at the federal level and although I trust Senator Stewart's statement that PERA's layout is three months, since we do not have double-dipping now we really would not be applying anything so has it really changed to be consistent with what ERB is looking at and is it really 12 months mandated by the federal government and not by our interpretation. To clarify, Ms. Goodwin said the 12-month layout policy was a combination of IRS rules and what we needed to do actuarially. The IRS did not tell us it had to be 12 months but ERB wanted a period that was long enough to satisfy the IRS and keep the fund whole.

With no further business, the Chair adjourned the LESC meeting at 10:59 a.m.