House Bill 670 – State Prescription Drug Benefits – Retirees
House Appropriations Committee
March 12, 2024
Testimony of James C. Roberts

Favorable

My name is James C. Roberts, Ph.D. I retired from Towson University on July 1, 2022 after 33 years of service to the State of Maryland. During my employment, I was a professor of political science, Chairperson of the Department of Political Science, and Director of International Studies.

I testify today to **support passage of House Bill 670** to restore prescription benefits for Medicare-eligible State retirees who were hired before July 1, 2011

Let me address the State's three main reasons for ending this life-saving benefit.

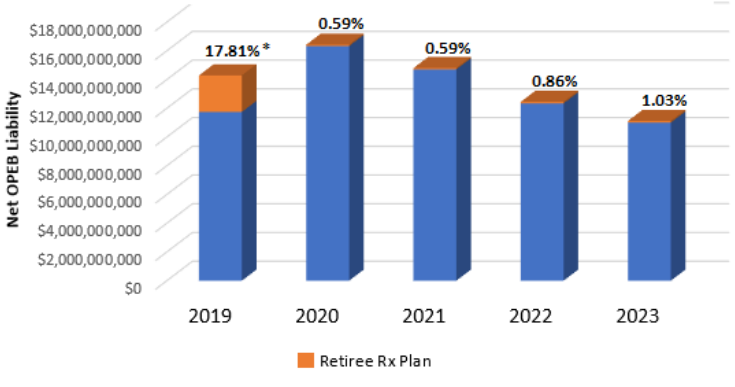
1. The State retiree prescription plan raises the Other Post Employment Benefits (OPEB) liability for the State, which could harm the State's AAA bond rating.
2. The annual cost of the State retiree prescription plan is too high in a time when the State is facing budget problems.
3. The Medicare Part D program provides an equivalent and adequate replacement for the State retiree prescription plan.

1. OPEB Liability and the State's AAA Bond Rating

The State is concerned that its OPEB liability could harm the State's Triple-A bond rating, yet no state has ever had its bond rating reduced solely because of its OPEB liability. There are two facts that are clear from DBM's own OPEB actuarial reports that challenge this concern.

- Net OPEB liability has actually decreased over the last four years.
- **Over the last four years, the annual addition to Net OPEB Liability due to the State retiree prescription plan was 1% or less of the Net OPEB liability.**

Figure 1. Amount Added to Net OPEB Liability Each Year by the State Prescription Plan for Medicare-Eligible Retirees



* The amount added to Net OPEB liability due to the retiree prescription plan in 2019 reflects increased obligations resulting from the adoption of SB 946.

Source: OPEB Actuarial Reports 2019-2023 submitted to DBM by the Segal Group, Inc.

The Fiscal and Policy Note for Senate Bill 349 states that OPEB liability will increase by $8.9 billion over its current $11.1 billion. **That is an 80% increase in OPEB liability due solely to the Medicare-eligible retiree prescription plan. How can this be true when the prescription plan has added 1% or less of the Net OPEB liability over the last four years?**

The question that must be asked is, **how much will Net OPEB Liability be reduced by eliminating the State Retiree Prescription Plan?** This question has not been answered by DBM in its actuarial reports and it has not been addressed in Fiscal and Policy Notes published by DLS for prior year legislation. It is clear that the annual contribution of the State prescription plan for Medicare-eligible retirees to Net OPEB Liability is small.

Net OPEB Liability includes obligations derived from

- health insurance for employees;
- health insurance for retirees;
- dental insurance for employees;
- dental insurance for retirees;
- prescription plans for employees; and
- prescription plans for retirees.

Figures 1 and 2, show that the annual addition to Net OPEB Liability due to the Medicare-eligible retiree prescription plan is miniscule compared to the overall liability. Clearly, other components of Net OPEB Liability have a much greater impact on Net OPEB Liability.

Figure 2. OPEB Actuarial Report Summaries 2019-2023 including OPEB LIability Due to the Retiree Prescription Plan

		2019	2020	2021	2022	2023
A	Total OPEB Liability	$14,640,716,177	$16,779,614,988	$15,252,485,842	$12,830,273,077	$11,581,861,729
B	OPEB Assets - Fiduciary Net Position	$350,731,748	$355,104,756	$453,851,674	$385,360,205	$463,248,330
C	Net OPEB Obligation - NOL (A - B)	$14,289,984,429	$16,424,510,232	$14,798,634,168	$12,444,912,872	$11,118,613,399
D	OPEB Expense	$3,075,223,738	$1,064,106,782	$748,731,224	$266,266,767	-$1,245,407,403
E	Total Payroll	$5,380,191,507	$5,669,620,478	$5,687,358,300	$5,944,012,441	$6,692,487,573
F	State Contribution toward OPEB Benefits	$499,502,066	$601,486,709	$629,563,761	$673,695,362	$706,945,934
H	**Addition to NOL due to Medicare-Eigible Retiree Rx Plan**	**$2,544,752,043 ***	**$97,220,709**	**$87,982,364**	**$106,421,348**	**$115,000,000**
I	**Medicare-Eligible Addition to NOL as % of NOL (H/C*100)**	**17.81%**	**0.59%**	**0.59%**	**0.86%**	**1.03%**

Source: All data were taken from OPEB Actuarial Reports 2019-2023 submitted to DBM by The Segal Group, Inc.

* The increased OPEB obligations due to the Medicare-eligible State Retiree Prescription Plan in 2019 resulted from the adoption of Senate Bill 946.

Net OPEB Liability has decreased overall for the last four years. The State Retiree Prescription Plan serves an aging population. This population is decreasing each year due to the mortality of its members. **Since only retirees hired before 2011 are eligible for the program, this population will ultimately dwindle to zero and the portion of Net OPEB Liability due to the State prescription plan for Medicare-eligible retirees will disappear**. Few retirees hired before July 1, 2011 will even survive the current 30-year amortization that the State uses to calculate the OPEB liability.

Continuing the State Retiree Prescription Plan will not add substantially to OPEB liability in the long run. Since the rating agencies have not tagged OPEB liability as a current threat to the bond rating, the State prescription plan for Medicare-eligible retirees will not be a threat to the bond rating in the future.

2. State Expenditures for the Retiree Prescription Plan

Another State concern is that the cost of the State Retiree Prescription Plan is too high. Two facts address this concern,

- The expenses of the State Retiree Prescription Plan, including rebates and subsidies, over the last four years represented only about 0.3% of total State expenditures.
- Restoring State Retiree Prescription benefits does not require a new expense for the State. The State has found this plan to be an affordable expense for retirees for many years.

These expenses are illustrated in figure 3.

Figure 3. State Contribution to OPEB Expenses and the State Retiree Prescription Plan

		2020	2021	2022	2023
A	Maryland State Total Annual Expenditures	$47,247,000,000	$53,841,000,000	$61,547,000,000	$58,244,000,000
B	State Contribution toward OPEB Benefits	$601,486,709	$629,563,761	$673,695,362	$706,945,934
C	Total Expense of State Retiree Prescription Plan including Rebates and Subsidies	$165,300,000	$169,000,000	$167,900,000	$178,100,000
D	Expense of State Retiree Prescription Plan as % of State Contribution to OPEB	27.48%	26.84%	24.92%	25.19%
E	**Expense of State Retiree Prescription Plan as % of Total State Expenditures**	**0.35%**	**0.31%**	**0.27%**	**0.31%**

Source: Maryland Budget Hightlights FY 2021 & 2023 (DBM), Annual OPEB Actuarial Reports 2020-2023 submitted to DBM by The Segal Group, Inc., and data received directly from DBM by request.

The total expense of the State Retiree Prescription plan shown on line C in figure 3 includes all beneficiaries of the plan, including police officers, who can retire at a much younger age. The expense for the Medicare-eligible retirees whose benefits are being terminated will be much lower, but neither DBM nor The Segal Group have separated out the expenses for this group. **How can the State claim that the prescription plan for Medicare-eligible retirees is too expensive when it does not report the expenses of the plan only for these retirees?** The State Retiree Prescription Plan is an affordable benefit that was promised to State employees who were hired before July 1, 2011 and that has been easily funded by the State for many years, even when it was not budgeted after the passage of SB 946 in 2019.

The Government Accounting Standards Board (GASB) considers OPEB benefits that were promised at the time of employment to be part of the compensation for the employees.

> OPEB and pensions are components of exchange transactions—between an employer and its employees—of salaries and benefits for employees' services. OPEB and pensions are provided to an employee—on a deferred-payment basis—as part of the total compensation package offered by an employer for employee service each financial reporting period. Even though the employer and employees have agreed that a portion of the total compensation for those services, in the form of OPEB, will be paid later (when the employees are no longer in active service), the employer receives full value from the employment exchange each period in the form of employee service. **Therefore, the Board concluded that as a result of the employment exchange each year, an employer incurs an obligation to its employees for OPEB**. (GASB Statement 75, page 137, emphasis added)

Removing the State Retiree Prescription Plan retroactively decreases the compensation promised to the employee at the time of employment. This is done, as GASB statement 75 affirms, after the employer has received the full value from the employee's service.

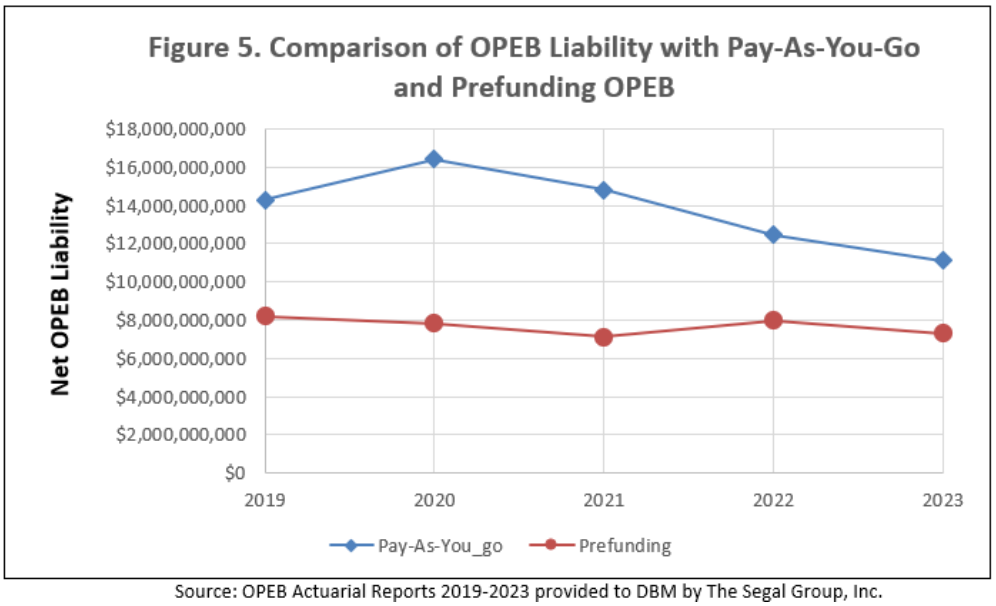
Both the OPEB liability and the OPEB annual expense could have been reduced if the State continued contributing to the OPEB Trust Fund that it established in 2007. Prefunding OPEB expenses and liability is considered a best practice by GASB and the bond ratings agencies. Figures 4 and 5 show the effect that prefunding OPEB would have had on OPEB liability and the State contributions for the last five years.

Figure 4. The Effect of Prefunding OPEB on Net OPEB Liability and State OPEB Contributions

Prefunding Net OPEB Liability			
Year	Pay-as-You Go	Pre-Fund OPEB Benefits	Difference
2019	$14,289,984,429	$8,221,535,060	$6,068,449,369
2020	$16,424,510,232	$7,831,450,697	$8,593,059,535
2021	$14,798,634,168	$7,113,265,189	$7,685,368,979
2022	$12,444,912,872	$7,975,028,600	$4,469,884,272
2023	$11,118,613,399	$7,332,117,244	$3,786,496,155
		Average	**$6,120,651,662**

Prefunding State OPEB Contributions			
Year	Pay-as-You Go	Pre-Fund OPEB Benefits	Difference
2019	$499,502,066	$644,918,764	-$145,416,698
2020	$601,486,709	$611,709,393	-$10,222,684
2021	$629,553,761	$551,442,656	$78,111,105
2022	$673,695,362	$610,967,342	$62,728,020
2023	$706,945,934	$581,189,617	$125,756,317
		Total	**$110,956,060**

Source: OPEB Actuarial Reports 2019-2023 provided to DBM by The Segal Group, Inc.



Source: OPEB Actuarial Reports 2019-2023 provided to DBM by The Segal Group, Inc.

If the State had prefunded the OPEB Trust, it would have saved an average of over six billion dollars in OPEB liability each year and a total of over $110 million in State OPEB expenditures over the last five years. Prefunding would significantly reduce the addition to Net OPEB liability that DLS claims will result from continuing the State prescription plan for Medicare-eligible retirees.

3. Medicare Part D is not Equivalent to the State Retiree Prescription Plan

The State claims that Medicare Part D is equivalent to the State Retiree Prescription Plan and that Part D might even save money for the retirees. Unfortunately, these claims do not take into account all the issues that will affect retirees as they move to Medicare Part D. The following issues must be considered in the comparison between Medicare Part D and the State Retiree Prescription Plan:

- The list of drugs (formulary) for the State Retiree Prescription Plan is much more extensive than the formulary for any of the Medicare Part D plans available in Maryland.
    - The retiree must pay the entire cost of drugs not covered by the retiree's formulary.
    - The costs of uncovered drugs are not included in the caps on out-of-pocket expenses.

- Retirees currently pay a co-pay of $20, $50, or $80 for a 90 day supply of drugs covered by the State Retiree Prescription Plan, depending on the tier of the drug. Many Medicare Part D plans charge a co-insurance for drugs that is a percentage of the total cost of the drug. Retirees will end up paying very high prices for expensive drugs on Medicare Part D.

- The State Retiree Prescription Plan offers a family option that covers the retiree's spouse or other family members. Medicare only offers single user plans. DBM's actuarial report for 2023 by The Segal Group states that there are 22,954 spouses currently participating in OPEB retiree benefits.

The difference in formularies is a critical part of the extra expense that retirees will pay on Part D. Figure 6 contains comparisons of Medicare Part D plans that were made using the Medicare.gov comparison tool. The comparisons are based on the actual prescribed medications of a 70 year old

Figure 6. Comparison of the Nineteen 2024 Medicare Part D Plans Available in Montgomery County Maryland

					Covered Drugs												
Medicare Part D Plans	Monthly Premium	Annual Cost Drugs + Premium	Deductible	Difference * between Part D Plan and the State Plan	Carvedilol	Farxiga	Fenofibric Acid	Folic Acid	Valsartan	Tresiba	Metformin	Methotrexate	Mounjaro	Novolog	Crestor	Spironolactone	# Drugs Covered
AARP Medicare Rx Preferred From UHC	**$103.00**	**$6,429**	**$0**	**$3,720**		x	x		x	x	x	x	x	x	x	x	**10**
Humana Walmart Value Rx	$43.50	$8,154	$545	**$5,444**		x			x	x	x	x	x	x	x	x	**9**
Humana Basic Rx Plan	$44.40	$8,235	$545	**$5,526**		x			x	x	x	x	x	x	x	x	**9**
Humana Premier Rx Plan	$104.60	$8,467	$0	**$5,758**		x			x	x	x	x	x	x	x	x	**9**
Mutual of Omaha Rx Essential	$26.30	$14,784	$545	**$12,075**		x	x		x		x	x	x	x	x	x	**9**
SilverScript SmartSaver	$12.40	$16,802	$280	**$14,092**	x	x	x		x	x	x	x		x	x	x	**10**
SilverScript Plus	$113.40	$17,823	$200	**$15,114**	x	x	x	x	x	x	x	x		x	x	x	**11**
Wellcare Value Script	**$0.40**	**$18,293**	**$545**	**$15,583**	x	x	x		x	x	x	x	x		x	x	**10**
Wellcare Medicare Rx Value Plus	$78.90	$18,885	$0	**$16,176**	x	x	x		x	x	x	x	x		x	x	**10**
Clear Spring Health Value Rx	$25.80	$22,013	$545	**$19,304**		x	x		x	x	x	x	x		x	x	**9**
AARP Medicare Rx Walgreens from UHC	$54.20	$22,448	$410	**$19,739**		x			x	x	x	x		x	x	x	**8**
Wellcare Classic	$37.40	$24,122	$545	**$21,413**		x			x	x	x	x	x		x	x	**8**
Cigna Extra Rx	$69.10	$27,688	$145	**$24,978**	x		x		x	x	x	x	x		x	x	**9**
Cigna Saver Rx	$20.00	$29,914	$545	**$27,204**			x		x	x	x	x	x		x	x	**8**
Cigna Secure Rx	$41.40	$30,097	$545	**$27,388**			x		x	x	x	x	x		x	x	**8**
Mutual of Omaha Rx Premier	$84.60	$31,314	$349	**$28,604**		x			x		x	x		x	x	x	**7**
AAUP Medicare Rx Saver from UHC	$62.40	$31,530	$545	**$28,820**		x			x	x	x	x		x	x	x	**8**
SilverScript Choice	$42.50	$33,799	$545	**$31,089**	x	x	x		x	x	x	x			x	x	**9**
Mutual of Omaha Rx Plus	$89.10	$52,306	$545	**$49,597**			x		x		x	x			x	x	**6**
Maryland SilverScript Employer Plan	**$53.28**	**$2,709**	**$0**		**x**	**x**	**x**		**x**	**x**	**x**	**x**	**x**	**x**	**x**	**x**	**11**

* The comparisons in this table are for 2024. In 2025, Medicare will cap individual out-of-pocket expenses at $2,000 and the State will cap out-of-pocket expenses at $1,500 for individuals and $2,000 for families. Since the differences in total annual costs are mostly due to non-covered drugs that are not included in these caps, the caps will not significantly affect the differences between the Part D plans and the State plan.

retiree with Type II Diabetes and Psoriatic Arthritis. The costs are based on the test subject's actual prescriptions. The costs for the Maryland SilverScript Employer plan were derived from actual costs of drugs and benefits from the plan as stated in the Evidence of Coverage. The comparisons are only for coverage year 2024.

Figure 6 illustrates that even the AARP plan, which is the Medicare Part D plan with the lowest annual expense, will cost this retiree $3,720 more than the State Retiree Prescription Plan. The reason for this difference is the cost of the drugs not covered by the Part D plans.

Figure 6 also illustrates the pitfalls that retirees may encounter when choosing a Part D Plan. Retirees may be lured into purchasing a Part D plan with very low monthly premiums, such as the Wellcare Value Script Plan. This, however, will result in dramatically higher annual costs because the cheaper plan covers fewer of the retiree's drugs.

The only drug not covered by the AARP plan, compared to the State SilverScript plan, is Carvedilol (Coreg). Drug prices vary by plan and by pharmacy, but one estimate of the annual cost of Carvedilol is $2,336. Figure 2 shows that the test retiree would have to pay that entire amount on the AARP plan and it would not be credited toward his Medicare or State cap on out-of-pocket expenses.

Figure 7. Comparison of Carvedilol (Coreg) Costs Across Plans

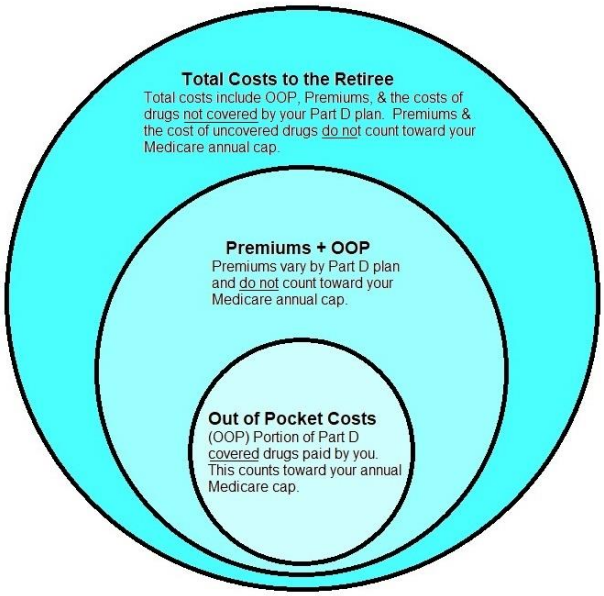
Plan	Covered?	Co-pay or Co-insurance	Annual Cost	Included in Cap?
AARP Medicare Preferred from UHC	No	n/a	$2,336	No
Wellcare Value Script	Yes	50% Co-insurance	$1,168	Yes
State SilverScript Employer Plan	Yes	$20 Co-pay	$80	Yes

If the retiree chose the Wellcare Value Script Plan with the lowest monthly premium, he would pay $1,168 per year for Carvedilol because the Wellcare Value Script plan uses a 50% coinsurance rather than a co-pay. On the State retiree prescription plan (SilverScript Employer), he would only pay the $20 for a 90 day supply of Carvedilol for an annual cost of approximately $80.

Medicare and the State claim that out-of-pocket drug expenses will be capped beginning in 2025, but how are out-of-pocket expenses calculated? **Both the provisions of Senate Bill 946 (2019) and Medicare's definitions of out-of-pocket expenses only include expenses for drugs covered by the retiree's Part D plan.** If a retiree must take a drug not on the formulary, the retiree must pay the full cost of the drug and that cost is not included in the cap on out-of-pocket expenses. Figure 8 shows that that out-of-pocket expenses, as defined by the State and by Medicare, only account for a portion of the total costs that retirees must pay for their prescriptions.

It is misleading to claim that "out-of-pocket" expenses will be capped by either the State or Medicare because these costs only account for a portion of the total expenses that must be paid by the retiree. Only the costs associated with purchasing covered drugs are included in caps on "out-of-pocket" expenses as defined by the State plan or Medicare Part D. The other costs shown in figure 8 - premiums, deductibles, and the costs of uncovered drugs - must be fully borne by the retiree and are not credited toward the State or Medicare caps.

Figure 8. Components of the Costs Paid by the Retiree



Medicare Part D is not equivalent to the State Retiree Prescription Plan because the State plan offers a family option while Medicare only offers single-person options. Under Medicare Part D, families will have to obtain separate prescription plans for the retiree and each family member currently covered under the State Retiree Prescription Plan.

Switching from a family plan to individual Part D plans could double or more the total costs faced by families. There are 22,954 retiree spouses currently participating in OPEB benefits, according to DBM's 2023 actuarial reports (p.31). Each of these families will have to purchase two Part D plans if the state terminates the retiree prescription plan. **That's 22,954 retirees that will have to get a separate Part D plan for their spouses – doubling or more the costs of their prescription plans.**

Benefits and Costs of Terminating the State Retiree Prescription Plan and a Path Forward

- The State claims that terminating the State Retiree Prescription Plan for Medicare-eligible retirees will benefit the State's bond rating, yet the State does not provide any estimate of how much Net OPEB Liability will be reduced by eliminating the plan. The State prescription plan for Medicare-eligible retirees only adds approximately 1% to the Net OPEB Liability each year.

- The State claims that the State Retiree Prescription Plan's annual expense is too high, yet the Plan only represents about 0.3% of the total State expenditures. This is not a new expense. The State Retiree Prescription Plan has been an affordable benefit for its employees and should be considered as part of the employee's overall compensation package, according to GASB. The State has not reported the annual cost for only the Medicare-eligible prescription plan, so how can it claim this cost is too high?

- The costs of terminating the State Retiree Prescription Plan will be borne by retirees – citizens of Maryland. These costs could be excessive due to the price of uncovered drugs, paying co-insurance instead of co-pays, and having to purchase separate plans for family members.

There are many unanswered questions that should be addressed before action is taken to eliminate the State Retiree Prescription Benefit Plan.

- What proportion of Net OPEB Liability is due solely to the State Retiree Prescription Plan and how much will Net OPEB Liability be reduced if the Plan is eliminated?

- Will reducing annual additions to Net OPEB Liability by only 1% improve Maryland's position with the bond rating agencies?

- Are there other ways that could reduce the State costs of the retiree prescription plan including prefunding OPEB liability and expenses and alternative premium models for the plan?

- How many people will lose prescription benefits? DBM claims that around 58,000 people will be initially affected, but this doesn't include current employees, 40% of whom were hired before July 1, 2011, according to the Fiscal and Policy Note for SB 349. If 40% is correct, the actual number of people affected by is likely to be closer to 90,000 people affected by the change.

One path forward would be to delay termination of the State Retiree Prescription Plan until a study can be conducted that can answer these and other questions that are key to this issue. This Committee can refer the matter for a Summer Study. The study panel should include experts on Medicare, State budget officials, and, most importantly, representatives of State retirees. Senator McKay recommended this as an amendment when he introduced Senate Bill 349 in committee. I support a similar amendment to HB 670.

Many State employees worked many hard years for the State of Maryland – surviving furloughs and years without pay raises. They counted on maintaining their prescription benefits in retirement as part of their overall compensation, as GASB has affirmed. **Removing those prescription benefits now retroactively cuts their salary one more time.** Their voices will be heard, if not in the legislature, then at the ballot box.

I respectfully ask that you support HB 670 and give it a **favorable report** from this committee well before crossover day on March 18, 2024.