NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

EMPLOYEE BENEFITS PROGRAMS COMMITTEE

Tuesday, October 10, 2000
Harvest Room, State Capitol
Bismarck, North Dakota

Representative Jim Poolman, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Jim Poolman, Bette Grande, Serenus Hoffner, Joe Kroeber; Senators Ralph Kilzer, Carolyn Nelson, Herb Urlacher

Members absent: Representative Glen Froseth; Senator Karen K. Krebsbach

Others present: See Appendix A

It was moved by Senator Nelson, seconded by Representative Hoffner, and carried on a voice vote that the minutes of the May 31, 2000, meeting be approved as distributed.

EMPLOYEE BENEFITS PROGRAMS COMMITTEE BILLS

At the request of Chairman Poolman, committee counsel distributed a copy of the May 2000 *Retirement Today* newsletter, a copy of the May 2000 *Report Card* newsletter, and a copy of the August 2000 *Your Vested Interest* newsletter, which are on file in the Legislative Council office. He also presented a memorandum describing the statutory responsibilities of the committee and summarizing the bills that have been submitted to the committee for review entitled *Employee Benefits Programs Committee Bills*.

TEACHERS' FUND FOR RETIREMENT

Chairman Poolman called on Ms. Fay Kopp, Deputy Executive Director, Retirement and Investment Office, who reviewed Employee Benefits Programs Committee Bill No. 69. A copy of her written comments is attached as Appendix B. Ms. Kopp said the bill proposes to amend Teachers' Fund for Retirement statutes relating to computation of retirement benefits and adds a new section relating to ad hoc and automatic postretirement benefit adjustments. In summary, she said, as the competition for teachers accelerates, the Teachers' Fund for Retirement Board of Trustees believes it is important to include retirement plan features comparable to those found in other states, a two percent multiplier, a base retiree increase, and a modest automatic cost-of-living adjustment provision, all funded through the fund's actuarial margin. She said a retirement plan including these valuable features will allow the best teachers in the country, North Dakota teachers, to retire with dignity.

Mr. W. Michael Carter, Vice President, Watson Wyatt Worldwide, Dallas, Texas, addressed the committee. A copy of his written comments concerning Employee Benefits Programs Committee Bill No. 69 is attached as Appendix C. Mr. Carter noted the Teachers' Fund for Retirement Board has had a longstanding goal of seeing the formula multiplier eventually raised to two percent so that a 30-year employee would be able to retire with a benefit of 60 percent of final average compensation. He said this would bring the Teachers' Fund for Retirement benefits more in line with the average for other statewide teacher plans.

Mr. Larry Klundt, North Dakota Council of Educational Leaders, addressed the committee. Mr. Klundt said his organization supports the two percent multiplier as well as the automatic cost-of-living adjustment contained in the bill. He said the cost-of-living adjustment will allow North Dakota employers to attract teachers to the profession.

Mr. Howard Snortland, Chairman, Legislative Committee, North Dakota Retired Teachers Association, addressed the committee. Mr. Snortland said the association is very appreciative of the efforts of the Legislative Assembly and the Teachers' Fund for Retirement Board to provide enhancements for retired teachers. However, he said, the association would still like to see a health insurance program for retired teachers similar to the retiree health insurance program available to members of the Public Employees Retirement System.

Mr. Joseph A. Westby, Executive Director, North Dakota Education Association, addressed the committee. Mr. Westby said his organization supports the proposal submitted by the Teachers' Fund for Retirement Board.

Representative Hoffner addressed the committee. He presented an amendment, a copy of which is attached as Appendix D, which would replace the "APPLICATION OF ACT" section with a July 1, 2001, effective date and an emergency clause. He said several of his constituents had expressed concern with the August 1 effective date, and this amendment would ensure that the bill and benefit payments would become effective July 1.

Ms. Kopp reviewed Employee Benefits Programs Committee Bill No. 70. A copy of her written comments and proposed amendments is attached as Appendix E. She said the bill proposes a number of administrative changes to the statutes governing the Teachers' Fund for Retirement, including modifying the definition of contract by specifically including written agreements with special education units in addition to written agreements with school districts and other employers participating in the Teachers' Fund for Retirement; modifying the definition of teacher by removing language indicating a person must be licensed to teach by the Education Standards and Practices Board; adding language that specifies that licensed teachers contractually employed by participating employers under third-party contracts are required to be Teachers' Fund for Retirement members; clarifying the spousal consent provisions enacted by the 1999 Legislative Assembly; modifying retiree reemployment provisions; and allowing the Teachers' Fund for Retirement Board to disclose certain retirement-related information to other entities. She said the last change would allow the Teachers' Fund for Retirement Board to share certain information with a member's employer relating to the member's eligibility for retirement, including years of service credit, age, employer and employee contribution amounts, and salary. She said this change would also clarify that the board can share certain information with the Public Employees Retirement System, other state agencies, or federal agencies to demonstrate employer compliance with applicable state or federal laws, and with member interest groups approved by the board to disseminate retirement-related information.

In response to a question from Senator Nelson concerning disclosure of information to member interest groups, Ms. Kopp said the proposed language does not allow an employee to opt out or decline to receive this information.

In response to a question from Representative Poolman, Ms. Kopp said the intent of the board is to allow member interest groups to provide retirement-related information to members of the Teachers' Fund for Retirement. She said the board is proposing to amend the bill by removing the term "state agency" in the definition of "teacher"; allowing a retiree to return to covered employment for a maximum of 700 hours per year rather than the current 90-day limit of four hours or more; and incorporating the provisions of Employee Benefits Programs Committee Bill No. 3, submitted by Representative Michael D. Brandenburg, to change the return-to-work recalculation from four years to five years.

Mr. Carter reviewed the technical comments prepared by Watson Wyatt Worldwide concerning Employee Benefits Programs Committee Bill No. 70, a copy of which is attached as Appendix F. He said the return-to-work issue is becoming of paramount importance to employers across the country. He said most retirement systems in the country are considering measures to allow teachers to return to work to address the current teacher shortage. He said there are two issues that must be addressed in the return-to-work area. He said the first issue is an Internal Revenue Service qualification issue and the second is an actuarial issue. He said for an Internal Revenue Code Section 401a qualified retirement plan to remain qualified, it may not provide for inservice retirement distributions. What this means, he said, is that a retiree who is drawing a benefit cannot be actively employed as a full-time employee. However, he said, there are several exceptions to this rule. He said the penalty for violating these provisions is plan disqualification.

However, Mr. Carter said, if there is a sufficient break in service between the retirement and the reemployment, the system may remain qualified. He said the Internal Revenue Service has not made a specific determination on this issue but has indicated in several letter rulings that a break of 30 days is sufficient. Since retirement benefits would be suspended during the period of reemployment, he said, the cost of the proposal should be modest.

In summary, Mr. Carter said, the change from 60 days to 30 days will not jeopardize the qualified status of the Teachers' Fund for Retirement and the reemployment provisions will not change the underlying rates of retirement, but that long term there will be a cost to the proposal. He said the long-term cost of the proposal may be as much as 25 basis points, but the cost may be offset by actuarial gains. Also, he said, the proposal increases the complexity of the return-to-work provisions for the retirement system, employers, and employees.

In response to a question from Senator Nelson, Ms. Kopp said the reduction from 60 days to 30 days is to allow individuals retiring on July 1 to return to work at the beginning of the school year as the 60-day period often falls after the school year has started.

Mr. Klundt addressed the committee. He said the Council of Educational Leaders is in support of both the bill and the proposed amendments submitted by the Teachers' Fund for Retirement Board.

Mr. Westby addressed the committee. He said the North Dakota Education Association supports the proposal submitted by the Teachers' Fund for Retirement Board. He said the proposal is an attempt to address the teacher shortage in North Dakota.

Mr. Tom Tupa, North Dakota Retired Teachers Association, addressed the committee. He said the association supports the proposal, especially the proposal allowing the board to provide mailing information to member interest groups approved by the board.

At the request of Chairman Poolman, committee counsel reported that Representative Brandenburg is withdrawing Employee Benefits Programs Committee Bill No. 3, which provides that if a retired teacher returns to teaching and subsequently retires with more than four years of additional credited service, the retired teacher's annuity for all years of service must be computed under North Dakota Century Code (NDCC) Section 15-39.1-10(2), age 65 or Rule of 85. He said the bill is being withdrawn because its provisions are being incorporated into Employee Benefits Programs Committee Bill No. 70.

At the request of Chairman Poolman, committee counsel reviewed Employee Benefits Programs Committee Bill No. 95. He said this bill allows retired teachers to return to teaching in critical shortage areas or disciplines as determined by the Teachers' Fund for Retirement Board by rule. He said the sponsor, Senator Ray Holmberg, had made several changes in the bill since the committee's last meeting, including allowing a retired teacher to elect to return to teaching under the proposal or the provisions of NDCC Section 15-39.1-19.1, extending the bill's provisions to both critical shortage geographical areas and subject disciplines, providing that a teacher may not engage in part-time teaching during the one-year separation from service, requiring the employer to make contributions for retired teachers who return to teaching, and replacing the requirement that the bill becomes effective when the Internal Revenue Service determines it will not jeopardize the qualified status of the Teachers' Fund for Retirement with a July 31, 2005, expiration date.

In response to a question from Representative Kroeber, committee counsel said the Legislative Assembly could enact both Employee Benefits Programs Committee Bill Nos. 70 and 95 without creating a conflict because the retired teacher would elect which return-to-work provision he or she would follow.

In response to a question from Senator Nelson, committee counsel said the term "critical" is not defined in the bill but would be defined by the Teachers' Fund for Retirement Board by rule.

In response to a question from Representative Grande, committee counsel said the bill applies to retired teachers who return to work full time. In response to a further question from Representative Grande, committee counsel said if a teacher wanted to utilize the return-to-work provisions under Employee Benefits Programs Committee Bill No. 95, the teacher would have to have a one-year break in service, whereas under the provisions of Employee Benefits Programs Committee Bill No. 70, the teacher would have to have a break in service of 30 days.

In response to a question from Representative Kroeber, committee counsel said Senator Holmberg had included a requirement that the employer make contributions to the fund for a teacher who returns to work to address concerns that the Teachers' Fund for Retirement Board had that employers would hire retired teachers as opposed to teachers who did not meet the Rule of 85 or age 65 because they would then not have to make contributions for those teachers.

Ms. Kopp addressed the committee. She said the Teachers' Fund for Retirement Board has not taken a formal position concerning the bill draft. However, she said, Senator Holmberg has incorporated a number of suggestions made by the Teachers' Fund for Retirement Board into the bill draft. She said the board is recommending that employers make contributions so school districts will not be tempted to employ retired teachers rather than active teachers. One concern of the Teachers' Fund for Retirement Board that has not been addressed in the bill draft, she said, is whether the determination of a critical shortage geographical area or subject discipline should be made by the Teachers' Fund for Retirement Board, the Department of Public Instruction, or the Education Standards and Practices Board. She said the latter two entities may be more appropriate to make this decision.

Mr. Carter reviewed Watson Wyatt's technical comments concerning Employee Benefits Programs Committee Bill No. 95, a copy of which is attached as Appendix G, and coordination issues involving Employee Benefits Programs Committee Bill Nos. 3, 70, and 95, a copy of which is attached as Appendix H. With a one-year break-in service requirement, he said, the bill meets Internal Revenue Service requirements. He said the bill also addresses another concern expressed by Watson Wyatt, that a teacher be allowed to elect the current return-to-teaching provisions or the provisions of this bill. He said the primary difference between the current return-to-work provisions and those proposed by Senator Holmberg is that retirement benefits are suspended under current law, whereas a retiree would be receiving both retirement benefits and salary under Employee Benefits Programs Committee Bill No. 95.

PUBLIC EMPLOYEES RETIREMENT SYSTEM

Defined Contribution Retirement Plan

Chairman Poolman called on Mr. Roderick B. Crane, Benefits Consultant and Vice President, The Segal Company, Denver, Colorado, who reviewed the technical comments for Employee Benefits Programs Committee Bill No. 72, a copy of which is attached as Appendix I.

Mr. Sparb Collins, Executive Director, Public Employees Retirement System, reviewed Employee Benefits Programs Committee Bill No. 72. A copy of observations and suggestions concerning each of the bills submitted to the committee, which affect plans administered by the Public Employees Retirement System, is attached as Appendix J. Mr. Collins said the Public Employees Retirement System Board has concerns with the election date, calculation of the employer and employee contribution, participation requirements, and rollovers. He said these issues are addressed in proposed amendments that are included in his written comments.

Concerning Employee Benefits Programs Committee Bill No. 50, Mr. Collins said The Segal Company has been retained to prepare actuarial and technical comments on the bill, and Watson Wyatt Worldwide has been retained to prepare an analysis of the plan as envisioned in the bill.

Mr. Carter addressed the committee. A copy of his analysis is attached as Appendix K. He said the purpose of the study is to determine how the existence of an optional defined contribution retirement plan will affect future defined benefit plan funding levels and margins, compare the results to a projection with the defined benefit plan only, and determine whether the 4.12 percent employer contribution rate will continue to be adequate for the defined benefit plan. He also reviewed the methodology, assumptions, election rates for current members, and election rates for future members for the study. He said the conclusions of Phase 1 of the study are that the employer contribution rate can remain at 4.12 percent of payroll with or without the optional defined contribution retirement plan. He said the defined benefit plan remains overfunded in either case, and the funded ratio continues to improve. Also, he said, the margin continues to increase, and a negative cash flow does not create an asset allocation problem other than in the year the optional transfers occur. He said these conclusions assume the optional defined contribution retirement plan will not be extended to local governmental units as this would dampen the effects of allowing member choice. Also, he said, Watson Wyatt has not reflected any future benefit changes to the defined benefit plan. He said the existence of the optional defined contribution retirement plan may affect the ability of the Public Employees Retirement System Board to pay for enhancements to the defined benefit plan from existing margins. Finally, he said, a heavier election rate by current or future members could change these conclusions.

In response to a question from Representative Poolman, Mr. Carter said the ideal funded ratio is between 90 and 100 percent.

In response to a question from Representative Poolman, Mr. Carter said Phase 2 of the study will determine whether opening the defined contribution retirement plan to all state employees will impact the ability of the Public Employees Retirement System Board to make enhancements to the defined benefit retirement plan.

Mr. Crane addressed the committee. A copy of the actuarial review and technical comments prepared by The Segal Company for Employee Benefits Programs Committee Bill No. 50 is attached as Appendix L. Concerning implementation and timing issues, he said, The Segal Company is recommending the implementation date of the expanded plan be delayed until January 1, 2003, in order to complete the calculation of transfer amounts and the education of eligible employees prior to the transfer. He said The Segal Company is also recommending the eligibility date be moved to September 30 and that all employees after that date be given the normal six months to make a decision. He said The Segal Company is also recommending the end of the election window be moved to December 15 and the bill be amended to exclude existing nonclassified employees who have already had an opportunity to choose the defined contribution plan under prior legislation from the provisions of the bill. Concerning the allocation of administrative expenses, he said, the existing legislation provides that the administrative costs of the Public Employees Retirement System are charged against the plan investments. He said the board has set this amount at .03 percent of assets yearly. He said this amount is then assessed quarterly. He said this process means larger accounts pay a greater share of the costs versus smaller accounts, and consequently, the assessment methodology results in longer-term employees paying more and shorter-term employees paying less of the administrative expenses. He said The Segal Company is recommending that the Public Employees Retirement System employ an alternative methodology. One such methodology, he said, would be to pay administrative costs out of contributions instead of account assets. For example, he said, pursuant to this methodology, the employer contribution would remain at 4.12 percent, but .12 percent would be deposited into the administrative account, and the remaining four percent would go to the employee's account. He said this methodology would more fairly distribute administrative costs to all members.

In response to a question from Representative Poolman, Mr. Crane said the administrative expenses include noninvestment fees to administer the account and that investment fees would still be paid by the accountholder.

Another issue that should be addressed, Mr. Crane said, concerns the National Guard plan. He said National Guard members were permitted to elect into the new defined contribution plan that was established by 1999 House Bill No. 1257. At the time of the July 1, 1999, actuarial valuation, he said, there were 33 active members in the National Guard plan. He said a total of 18 members elected to transfer into the defined contribution plan. Although the total dollar cost decreases under the plan, he said, the payroll also is decreased, creating a required increase as a percentage of pay to fund the plan. Thus, he said, as the number of participants in the plan decreases, the variability in the transfer amount increases, and fluctuations in asset and demographic changes are more keenly felt by those few remaining participants. Allowing National Guard members to elect again into the defined contribution plan, he said, raises the question of the continued viability of the current

National Guard defined benefit retirement plan. He said consideration should be given to developing a policy toward the National Guard plan before allowing additional members the opportunity to exit the defined benefit plan.

Mr. Collins addressed the committee. Issues identified by the Public Employees Retirement System Board concerning Employee Benefits Programs Committee Bill No. 50, he said, include administrative costs, investment education, enrollment of new employees, the eligibility date, the implementation date, the methodology of determining the assessment for administrative costs, enrollment date, the treatment of nonclassified employees, disability provisions, calculation of the employer and employee contribution, and treatment of National Guard members. His written comments and proposed amendments are contained in Appendix J. He said the Public Employees Retirement System Board is recommending that an appropriation of $283,000 and authorization of three additional full-time equivalent positions be included to implement Employee Benefits Programs Committee Bill No. 50. Also, he said, the implementation date should be moved back from January 1, 2002, to January 1, 2003.

Mr. Crane presented the actuarial review and technical comments for Employee Benefits Programs Committee Bill No. 51, a copy of which is attached as Appendix M. He said the comments on benefits policy, funding, and administration policy made by the The Segal Company on Employee Benefits Programs Committee Bill No. 50 also apply to this bill. He said the bill appears to create multiple election windows that may be confusing to employees and difficult to administer; thus The Segal Company is recommending that the election window be restricted to individuals hired on or before December 31, 2000, to help avoid contiguous and overlapping windows.

Mr. Collins addressed the committee. A copy of his written comments and proposed amendments are contained in Appendix J. He said the Public Employees Retirement System Board has identified issues, including the availability of multiple windows in a short period of time, the enrollment date, the eligibility date, calculation of the employer and employee contribution, a needed appropriation, and treatment of National Guard members. He said the Public Employees Retirement System Board is requesting an appropriation of $3,780 for administering this bill.

Public Employees Retirement System Main System

Mr. Crane presented the actuarial review and technical comments for Employee Benefits Programs Committee Bill No. 71, a copy of which is attached as Appendix N. Concerning funding policy issues, he said, the requirement that the cost of repurchasing service after a refund of the member's account be the greater of the refund amount of the actuarial cost of the service will act to protect the actuarial funding status of the system, particularly when a returning former member returns after a long period of time. However, he said, the language of Section 3 of Employee Benefits Programs Committee Bill No. 71 appears to require the full amount of the withdrawal benefit as a minimum payment even if the participant only wants to purchase a portion of the prior service forfeited upon withdrawal. He said The Segal Company is recommending that Section 3 of the bill be revised to either require the purchase of all the forfeited service or allow the payment of a pro rata amount of the withdrawal benefit as the floor payment amount.

Mr. Collins addressed the committee. A copy of his comments and proposed amendments is contained in Appendix J. He said the Public Employees Retirement System Board has identified two issues--a clarification to subdivision a of subsection 3 of NDCC Section 27-23-03 and a clarification of optional benefit forms as identified by The Segal Company.

Mr. Crane presented the actuarial review and technical comments for Employee Benefits Programs Committee Bill No. 73, a copy of which is attached as Appendix O. He said the bill increases benefits under the judges' retirement system.

Mr. Collins addressed the committee. A copy of his comments is included in Appendix J.

Mr. Crane presented the actuarial review and technical comments for Employee Benefits Programs Committee Bill No. 88, a copy of which is attached as Appendix P. He said the bill provides that payments for overtime must be included as wages and salaries for purposes of calculating benefits under the Public Employees Retirement System.

Mr. Collins addressed the committee. A copy of his comments and a proposed amendment to the bill is contained in Appendix J. He said the Public Employees Retirement System Board is recommending that the proposal be amended to include an appropriation of $7,300 to defray the expenses of administering the responsibilities created by the proposal.

Ms. Chris Runge, Secretary Treasurer, North Dakota AFL-CIO, and representing the Bakery, Confectionery, Tobacco Workers, and Grain Millers Union, addressed the committee. She said many of the employees at the State Mill and Elevator in Grand Forks are on mandatory overtime, and this bill would assist them in counting their overtime hours toward their salary which would benefit their retirement calculation. She encouraged the committee to give Employee Benefits Programs Committee Bill No. 88 a favorable recommendation.

Mr. Collins reviewed Employee Benefits Programs Committee Bill No. 191. He said this bill had been submitted after the committee's April 1, 2000, deadline and establishes the Public Employees Retirement System Retirement plans as both contributory and noncontributory retirement plans. He said a regional

Internal Revenue Service auditor has determined that employer contributions on behalf of an employee, even in lieu of a salary increase, are subject to FICA taxes. He said this bill draft has been submitted to address this issue and provides that the employer will pay the entire retirement contribution.

It was moved by Representative Grande, seconded by Senator Nelson, and carried on a voice vote that the committee waive its April 1, 2000, deadline and accept jurisdiction over the bill for purposes of getting the Public Employees Retirement System Board to obtain technical comments and an actuarial review of the proposal.

Highway Patrolmen's Retirement System

Mr. Crane presented the actuarial review and technical comments for Employee Benefits Programs Committee Bill No. 74, a copy of which is attached as Appendix Q. He said the bill increases benefits under the Highway Patrolmen's retirement system.

Mr. Collins addressed the committee. A copy of his comments and proposed amendments is contained in Appendix J. He said the Public Employees Retirement System Board is requesting that Section 1 of the bill draft be amended to clarify that the purchase of service credit applies both to normal benefits as well as additional benefit credits.

In response to a question from Senator Nelson, Mr. Collins said members of the Highway Patrolmen's retirement system are not eligible for Social Security, and thus the multiplier for that system is higher. He said the goal of the Highway Patrolmen's retirement system is the same as that for the other systems administered by the Public Employees Retirement System, a benefit when added to Social Security of 90 percent of final average salary.

In response to a question from Representative Grande, Mr. Collins said if Employee Benefits Programs Committee Bill No. 74 is enacted, it would establish a multiplier of 3.60 percent, which would achieve the 90 percent goal of the Public Employees Retirement System Board.

Colonel James M. Hughes, Superintendent, Highway Patrol, addressed the committee. He said the Highway Patrol supports the bill drafting relating to the Highway Patrolmen's retirement fund submitted by the Public Employees Retirement System Board. He said the bill will enhance benefits for both active and retired members of the patrol.

ALTERNATE FIREFIGHTERS RELIEF ASSOCIATION PLANS

Mr. Thomas Schons, Secretary Treasurer, Fargo Firefighters Pension Association, reviewed Employee Benefits Programs Committee Bill No. 79. A copy of his presentation, including a letter from Mayor Bruce W. Furness, with information concerning the projected funding margin as of January 1, 2000, and information concerning benefit improvements as of January 1, 1999, is attached as Appendix R. He said the board of commissioners of Fargo has endorsed the enhancements proposed to the Fargo firefighters pension plan. He said the bill increases the benefit multiplier for current firefighters from 2.33 percent to 2.50 percent, defines final salary for a first-class firefighter as the final salary at the time of the member's retirement and for officers or members of higher rank as the average salary for the last five years of employment. Finally, he said, the legislation would allow a 13th check to be paid to current retirees and surviving spouses receiving benefits.

RETIREE HEALTH INSURANCE CREDIT FUND

Mr. Crane presented the actuarial review and technical comments for Employee Benefits Programs Committee Bill No. 77, a copy of which is attached as Appendix S. He said the bill would increase the credit from $4.50 per month per year of service to $5 per month per year of service credit. He said the increased benefit formula will help offset increasing retiree medical premium costs and thus help preserve the value of total retirement benefits provided under the Public Employees Retirement System.

Mr. Tupa addressed the committee. He said he supports both Employee Benefits Programs Committee Bill Nos. 71 and 77. He said the credit has not been increased for seven years while health insurance premiums have increased, and thus this bill will help retirees pay for their health insurance.

UNIFORM GROUP INSURANCE PROGRAM

Mr. Patrick L. Pechacek, Director, Deloitte & Touche, Minneapolis, Minnesota, reviewed Employee Benefits Programs Committee Bill No. 75. He said Employee Benefits Programs Committee Bill No. 75 does not have an actuarial impact on the uniform group health insurance program.

Mr. Collins addressed the committee. He said the Public Employees Retirement System is requesting the bill be amended to authorize the Public Employees Retirement System to transfer $475,000 from the life insurance plan to the health plan to reduce health insurance premiums for the upcoming biennium. He also distributed two schedules concerning uniform group insurance plan features and the cost of several alternatives, which are attached as Appendices T and U, respectively.

In response to a question from Senator Kilzer, Mr. Collins said there is no statutory requirement that excess life insurance premiums be deposited in the general fund and can be used to reduce uniform group insurance premiums.

Mr. Pechacek presented the review for Employee Benefits Programs Committee Bill No. 76, a copy of which is attached as Appendix V. He said the bill draft directs the Public Employees Retirement System Board to establish a new dental plan for eligible employees and retirees.

Mr. Pechacek presented the review for Employee Benefits Programs Committee Bill No. 2, a copy of which is attached as Appendix W. He said the bill would allow the state to provide a monthly payment to state employees who are eligible for family coverage and who waive coverage under certain conditions. However, he said, the bill may subject the Public Employees Retirement System plan to adverse selection and may be discriminatory.

Mr. Collins addressed the committee. A copy of his comments concerning Employee Benefits Programs Committee Bill No. 2 is contained in Appendix J. He said the bill draft does not authorize the Public Employees Retirement System Board to establish a cafeteria plan, may be discriminatory, may increase health costs, may create adverse selection problems for the board, has a negative effect on payroll systems, may increase payments to those who are eligible but who do not presently take coverage, and is not equitable for dual-membership families. He said the Public Employees Retirement System Board is recommending the bill not be introduced because of the potential increased costs, possible equity and discrimination issues, effect on political subdivisions, and administrative issues.

Senator Mathern reviewed Employee Benefits Programs Committee Bill No. 49. He said the bill draft would allow any person who is without health insurance coverage to participate in the uniform group insurance program subject to minimum requirements established by the Public Employees Retirement System Board. He said the Public Employees Retirement System's uniform group insurance plan is an excellent health insurance plan, professionally managed, and provides comprehensive benefits. He said the plan is creative in promoting wellness and has competitive premiums. He said the plan is available to the Governor, legislators, state employees, and political subdivision employees and should be made available to small business owners and farmers. He said the bill would save money because there would be less reliance on Medicaid or charity health care if this system were opened to businesses and people without health insurance.

Mr. Pechacek presented a review of Employee Benefits Programs Committee Bill No. 49, a copy of which is attached as Appendix X. He said it is not clear the Public Employees Retirement System plan would be able to negotiate an arrangement to provide any significant cost-savings over the current cost structure in the arrangement with Blue Cross Blue Shield of North Dakota. Also, he said, adverse risk selection is an issue that must be considered when changing eligibility requirements. However, he noted, the bill provides for a number of safeguards against adverse risk selection, including minimum requirements established by the Public Employees Retirement System Board, and a minimum participation period of sixty months for private sector employer groups. He said Deloitte & Touche does not believe the Health Insurance Portability and Accountability Act applies to the bill.

Mr. Collins said the Public Employees Retirement System Board is recommending the bill draft not be implemented for 24 months after the board receives an Employee Retirement Income Security Act (ERISA) waiver, underwriting requirements for individual coverage be clarified, authority to use risk-adjusted premiums for private sector employers be added, and final implementation be made subject to being able to place the plan in the marketplace.

OLD-AGE AND SURVIVOR INSURANCE SYSTEM (OASIS)

Mr. Ray Gudajtes, Job Service North Dakota, reviewed Employee Benefits Programs Committee Bill No. 78. A copy of his written comments is attached as Appendix Y.

In response to a question from Representative Grande, Mr. Gudajtes said there is approximately $260,000 in the OASIS fund, and there are presently seven beneficiaries.

In response to a question from Senator Nelson, Mr. Gudajtes agreed that Job Service North Dakota could probably provide a larger increase, but he cautioned a fine line must be drawn in order to ensure that the fund does not run short of money while there are still beneficiaries.

In response to a question from Senator Urlacher, Mr. Gudajtes said the Legislative Assembly has appropriated $5,000 to administer the OASIS fund and the actual cost was $3,900 for the last fiscal year.

STAFF DIRECTIVES

Chairman Poolman requested the Legislative Council staff to incorporate the amendments proposed by the Teachers' Fund for Retirement Board and the Public Employees Retirement System Board to the bill drafts submitted by those agencies.

No further business appearing, Chairman Poolman adjourned the meeting at 3:00 p.m.

Jeffrey N. Nelson
Committee Counsel

ATTACH:25