NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

# EMPLOYEE BENEFITS PROGRAMS COMMITTEE

Thursday, November 9, 2000
Harvest Room, State Capitol
Bismarck, North Dakota

Representative Bette Grande, Acting Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives Glen Froseth, Bette Grande, Joe Kroeber; Senators Ralph Kilzer, Karen K. Krebsbach, Herb Urlacher

**Members absent:** Representatives Jim Poolman, Serenus Hoffner; Senator Carolyn Nelson

**Others present:** See Appendix A

**It was moved by Senator Kilzer, seconded by Representative Froseth, and carried on a voice vote that the minutes of the October 10, 2000, meeting be approved as distributed.**

## EMPLOYEE BENEFITS PROGRAMS COMMITTEE BILLS

At the request of Acting Chairman Grande, committee counsel distributed 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

Acting Chairman Grande called on Mr. Michael Carter, Vice President, Watson Wyatt Worldwide, Dallas, Texas, who reviewed the July 1, 2000, actuarial valuation of the Teachers' Fund for Retirement. A copy of the overheads used in his presentation is attached as Appendix B, and a copy of the actuarial valuation is on file in the Legislative Council office. He said there has been slow growth in active members, an average increase of .5 percent since 1990, and that active membership actually decreased from 10,046 to 10,025 since the last valuation. He said the number of retired members is increasing at a faster rate, almost two percent. He said the ratio of active members to retired members is 2.1 to 1. He said active payroll has increased to $323 million, an average increase of 3.4 percent since 1990. He said the average salary for teachers is now $32,223, a 2.9 percent average increase since 1990 and the average annual benefit is $11,643, an 8.9 percent average increase since 1990. He said the market value of assets was $1,405,000,000 as of June 30, 2000, and the actuarial value of these assets was $1,308,000,000. He said there has been an average annual increase in the actuarial value of assets of 11.9 percent since 1990 and an average annual increase in the market value of these assets of 12.1 percent since 1990. He said actuarial assets are 93.1 percent of market value. He said the actuarial rate of return for the fiscal year ending June 30, 2000, was 13.3 percent and the market value rate of return was 11.6 percent. He said the average annual compound return on market value has been 11.9 percent since 1990, and the average annual compound return on actuarial value has been 9.9 percent since 1990. He said the Teachers' Fund for Retirement paid out more in benefits and refunds than it received in contributions during the last year. He said the system paid out $57.4 million in benefits and refunds and took in $53.6 million in contributions. He said this results in an external cash flow as a percentage of market value of a negative .3 percent of assets. However, at this low level, he said, it does not have any impact on cash flows in the system. He said the unfunded actuarial accrued liability decreased from $135.3 million to a funding surplus of $20.6 million since the last valuation. He said this is the first time in the history of the Teachers' Fund for Retirement that it is fully funded, and in fact, is over-funded $20.6 million. He said the funded ratio increased from 88.6 percent to 101.6 percent. He said this is the first time the system has achieved a funded ratio of 100 percent. He said the unfunded actuarial accrued liability as a percentage of payroll is now a negative 64 percent. He said the required contribution rate for the plan year is 1.47 percent. Thus, he said, the margin available in the Teachers' Fund for Retirement is the statutory contribution rate minus the required contribution rate or 7.75% - 1.47% = 6.28% of covered payroll. Concerning the change in the unfunded actuarial accrued liability, he said, amortization payments resulted in an 11.1 percent decrease in the unfunded liability, asset experience resulted in a 55.6 percent decrease in the unfunded liability, liability experience resulted in a 6.9 percent increase in the unfunded liability, and changes in assumptions and methodology resulted in a 96.1 percent decrease in the unfunded liability for a total of $155.9 million.

In response to a question from Representative Grande, Mr. Carter said among the assumption changes made by Watson Wyatt Worldwide was an update in the mortality table, an increase in retirement rates, an adjustment in the salary assumption, modification of the asset valuation method, and a change in the disability rates.

In response to a question from Senator Krebsbach, Mr. Carter said the available margin on July 1, 1998, was 2.97 percent of payroll or 7.75% - 4.78% = 2.97% of covered payroll.

Mr. Carter said the Teachers' Fund for Retirement has been a beneficiary of the equity markets of the 1990s and has implemented an asset allocation formula to take advantage of these markets.

Ms. Fay Kopp, Deputy Executive Director, Retirement and Investment Office, reviewed Employee Benefits Programs Committee Bill No. 69. She said the bill increases the formula multiplier from 1.88 percent to 2.00 percent; grants an ad hoc monthly benefit increase to current retirees and beneficiaries equal to the sum of $2 for each year of service plus $1 for each year retired; and adds a permanent, automatic postretirement increase equal to .5 percent per year. As a result of the actuarial valuation, she said, the Teachers' Fund for Retirement Board is requesting that the bill be amended to provide a .75 percent automatic postretirement increase.

Mr. J. Christian Conradi, Actuary, Watson Wyatt Worldwide, Dallas, Texas, reviewed the actuarial cost analysis for Employee Benefits Programs Committee Bill No. 69, a copy of which is attached as Appendix C. He said the cost of the proposal as submitted is 6.30 percent of payroll and the cost of the proposal as amended is 7.36 percent of payroll. Thus, he said, if the proposal as submitted as enacted it would leave a margin of 1.45 percent or 7.75% - 6.30% = 1.45% leaving a sufficient margin to enact the proposal as amended. As amended, he said, the cost of the proposal is 7.36 percent which would leave a margin of .39 percent in the Teachers' Fund for Retirement or 7.75% - 7.36% = .39% of payroll. He said Watson Wyatt Worldwide is recommending that the Teachers' Fund for Retirement Board amend the bill to use a portion of the original margin for benefit enhancements.

In response to a question from Representative Grande concerning the disparity in benefits for retirees, Mr. Conradi said the Teachers' Fund for Retirement Board is using the one-time ad hoc adjustment and the cost-of-living adjustment to address this issue. He said the one-time ad hoc adjustment of $2 for each year of service plus $1 for each year retired benefits lower-paid teachers and those who have been retired for a longer period at a lower multiplier. However, he said, as more retirees retire at higher multipliers the Teachers' Fund for Retirement Board would like to move to an automatic cost-of-living adjustment. He said this is intended to slowly move to an increase that is based on the current benefit rather than years of service and salary.

In response to Representative Grande's question, Ms. Kopp said the Teachers' Fund for Retirement Board has a policy on how it divides the available margin between active members and retired members.

Mr. Joe Westby, Executive Director, North Dakota Education Association, addressed the committee. He said his organization supports the proposal and the amendment proposed by the Teachers' Fund for Retirement Board. He said this is an important factor in helping to ameliorate the inflation factor eroding benefits for retirees. He said providing a cost-of-living adjustment will help North Dakota school districts attract and retain teachers, especially when competing with Minnesota.

Mr. Howard Snortland, North Dakota Retired Teachers Association, addressed the committee. He said his organization supports the proposal but would like to see a health insurance benefit for retired teachers.

In response to a question from Representative Froseth, Mr. Conradi said the proposal, as amended, will take the unfunded actuarial accrued liability from an overfunded $20 million to a negative $148.9 million.

In response to a question from Representative Grande, committee counsel said the procedure the committee has followed in the past is that once the committee has taken jurisdiction over a proposal, reviewed the actuarial valuation of the affected system, and reviewed the cost of the specific proposal, it has then given the proposal either a favorable, unfavorable, or no recommendation. He said Employee Benefits Programs Committee Bill No. 69 contains an automatic increase that would not require legislative approval, and thus the committee must note in its report the proposal will allow future changes without legislative involvement.

In response to a question from Senator Krebsbach, Mr. Conradi said Watson Wyatt Worldwide feels comfortable with implementation of the automatic cost-of-living adjustment. He said there is a sufficient cushion in the actuarial value of assets, a cushion since the system only assumes an actuarial rate of return of eight percent, and a cushion as a result of the level dollar amortization approach used by Watson Wyatt Worldwide. He said it is Watson Wyatt Worldwide's opinion that this is a very reasonable position for the Teachers' Fund for Retirement Board to take.

In response to Mr. Conradi's comments, Representative Grande said if this proposal is enacted, the Legislative Assembly would lose control over cost-of-living adjustments, and it may be preferable to provide increases for retirees through ad hoc benefit adjustments.

Senator Krebsbach said the Legislative Assembly may have to enact the cost-of-living adjustment in order for school districts to remain competitive with school district's in other states in the attraction and recruitment of teachers.

**It was moved by Senator Krebsbach, seconded by Representative Froseth, and carried that the committee give Employee Benefits Programs Committee Bill No. 69 a favorable recommendation.** Representatives Froseth, Grande, and Kroeber and Senators Kilzer, Krebsbach, and Urlacher voted "aye." No negative votes were cast.

Ms. Kopp reviewed Employee Benefits Programs Committee Bill No. 70. She said the bill makes several changes in the statutes governing the administration of the Teachers' Fund for Retirement. Since the committee's last meeting, she said, the bill has been amended to remove the words "state agency" from the list of employers in the definition of "teacher"; change the return-to-work provisions from the current limit of 90 working days of four or more hours of teaching to a maximum of 700 hours per year; and incorporate the provisions of Employee Benefits Programs Committee Bill No. 3, which provided that if a retired teacher returned 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, but changed the recalculation from four years to five years of additional credited service.

Mr. Conradi reviewed the supplemental analysis for this bill, a copy of which is attached as Appendix D. He said Watson Wyatt Worldwide does not believe the effect of the changes in the bill are material, and the cost will probably fall in the range of from 0.02 percent of pay to 0.10 percent of pay. Expressed as an annual dollar figure, he said, this is equivalent to an increase of $68,000 to $340,000 per year based on current payroll.

**It was moved by Senator Krebsbach, seconded by Senator Kilzer, and carried that the committee give Employee Benefits Programs Committee Bill No. 70 a favorable recommendation.** Representatives Froseth, Grande, and Kroeber and Senators Kilzer, Krebsbach, and Urlacher voted "aye." No negative votes were cast.

Ms. Kopp reviewed Employee Benefits Programs Committee Bill No. 226. She said this bill establishes the Teachers' Fund for Retirement plan as both a contributory and noncontributory retirement plan. She distributed a memorandum from Ms. Carol V. Calhoun concerning the reasons for considering state legislation to deal with the "pickup" problem and why such legislation can resolve this problem, a copy of which is attached as Appendix E.

Mr. Conradi reviewed Watson Wyatt Worldwide's comments concerning this bill, a copy of which is attached as Appendix F. He said since the proposal would produce exactly the same benefits as under current law, whether the employer opts to contribute 7.75 percent or 15.50 percent, and since the total number of employer contributions is the same, it will have no impact on the actuarial status of the Teachers' Fund for Retirement.

**It was moved by Representative Froseth, seconded by Senator Urlacher, and carried that the committee give Employee Benefits Programs Committee bill No. 226 a favorable recommendation.** Representatives Froseth, Grande, and Kroeber and Senators Kilzer, Krebsbach, and Urlacher voted "aye." No negative votes were cast.

Committee counsel said 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 NDCC Section 15-39.1-10(2), age 65 or Rule of 85, is being incorporated into Employee Benefits Programs Committee Bill No. 70, and thus Bill No. 3 has been withdrawn at the request of the sponsor, Representative Brandenburg.

Vice Chairman Krebsbach assumed the chairmanship.

Mr. Conradi presented a supplemental analysis for Employee Benefits Programs Committee Bill No. 95, a copy of which is attached as Appendix G. He said the bill has been modified to address many of the comments made concerning the prior version and Watson Wyatt Worldwide believes that the bill will not have a measurable cost impact on the Teachers' Fund for Retirement. He said that two changes have been made to the bill to provide even more cost protection. First, he said, the bill has been modified to prohibit a teacher from arranging with a school district to retire, teach part time for a year, and then return to teach in a critical shortage area, in order to draw both a full retirement benefit and a full-time salary. Second, he said, the employer is required to contribute to the fund on behalf of the retiree during the time of reemployment, even though for all other retirement purposes, the teacher is treated as retired. Also, he said, the bill clarifies that reemployed retired teachers who meet the bill's eligibility conditions may elect not to have their benefits continued while in service, if that is their preference. However, he said, Watson Wyatt Worldwide believes that the Teachers' Fund for Retirement Board of trustees is not the appropriate body to make determinations about critical shortage areas.

In response to a question from Representative Kroeber, Ms. Kopp said the Department of Public Instruction or the Education Standards and Practices Board is a more appropriate entity to determine critical shortage geographical areas and subject disciplines.

**It was moved by Representative Grande, seconded by Senator Kilzer, and carried that the committee give Employee Benefits Programs Committee Bill No. 95 a favorable recommendation but note that the committee is concerned with whether the Teachers' Fund for Retirement Board is the appropriate entity to determine critical shortage geographical areas or subject disciplines.** Representatives Froseth, Grande, and Kroeber and Senators Kilzer, Krebsbach, and Urlacher voted "aye." No negative votes were cast.

## PUBLIC EMPLOYEES RETIREMENT SYSTEM

Ms. Leslie L. Thompson, Vice President and consulting actuary, The Segal Company, Englewood, Colorado, presented the July 1, 2000, actuarial valuation of the Public Employees Retirement System, the Highway Patrolmen's retirement system, and the retiree health benefits fund. A copy of the overheads used in her presentation is attached as Appendix H, and a copy of the actuarial valuation for the Public Employees Retirement System as of July 1, 2000, is on file in the Legislative Council office. She said all systems have positive contribution margins except the retiree health benefits fund. She said the actuarial contribution requirements for 2000-01 as a percentage of payroll for the main system is 2.32 percent, 6.50 percent for the judge's retirement system, and 1.74 percent for the National Guard retirement system. Thus, she said, the available margin in the main system is 1.80 percent or 4.12% (the statutory contribution rate) - 2.32% = 1.80% of payroll. She said the statutory contribution rate for the judge's retirement system is 14.52 percent and the actuarial contribution requirement is 6.50 percent, thus the margin is 8.02 percent or 14.52% - 6.50% = 8.02% of covered payroll. She said the available margin in the National Guard retirement system is 6.59 percent or 8.33% (the rate set by the retirement board) - 1.74% = 6.59% of covered payroll. She said the required contribution rates decreased primarily due to a gain in the actuarial value of assets and assumption changes that were adopted since the preceding valuation. She said the return on the actuarial value of assets for 1999-2000 was 13.71 percent compared to the investment return assumption of 8 percent. As a result, she said, the fund experienced an investment gain of approximately $52 million. The return on the market value of assets for 1999-2000, she said, was 9.43 percent compared to 10.88 percent for the preceding year. As of July 1, 2000, she said, the assets exceed the accrued liability and the benefit security ratio, reflecting actuarial value of assets, was 115.1 percent. She said the combined market value of net assets of the Public Employees Retirement main system and the Highway Patrolmen's retirement system was $1,236,180,055 with a combined actuarial value of $1,062,878,291. She said the rate of return on the market value of assets was 9.43 percent as compared to the assumed rate of return of 8 percent.

Ms. Thompson said the retiree health benefits fund has assets of $26.1 million at market value or $22.6 million at actuarial value. She said the actuarial value is 87 percent of market value. She said the statutory contribution rate is 1 percent and the cost of the system is 1.02 percent leaving a margin of a negative .02 percent of covered payroll.

Ms. Thompson said the cost rate for the Highway Patrolmen's retirement system is 9.18 percent of payroll, and the statutory contribution rate is 16.70 percent of payroll leaving a margin of 7.52 percent of payroll or 16.70% - 9.18% = 7.52%.

### Defined Contribution Retirement Plan

Mr. Sparb Collins, Executive Director, Public Employees Retirement System, reviewed Employee Benefits Programs Committee Bill No. 72. He said the bill had been amended since the committee's last meeting to change the election provisions to allow the board, in its sole discretion, to determine whether an employee was adequately notified of the employee's option to participate in the defined contribution retirement plan and if not, to provide the employee a reasonable time within which to make the election, which may extend beyond the original six-month election window; revise participation requirements to provide that if an employee elected to participate in the defined contribution retirement plan and moved from a nonclassified position in which the employee selected the defined contribution retirement plan to the Supreme Court or State Board of Higher Education, the employee would maintain the employee's membership in the defined contribution retirement plan rather than be required to switch to the defined benefit plan; and to add a provision to allow direct rollovers from other Internal Revenue Code Section 401 plans. He said the actuarial report, a copy of which is attached as Appendix I, shows that the bill will have no actuarial cost impact on the Public Employees Retirement System.

**It was moved by Representative Froseth, seconded by Representative Grande, and carried that the committee give Employee Benefits Programs Committee Bill No. 72 a favorable recommendation.** Representatives Froseth, Grande, and Kroeber and Senators Kilzer, Krebsbach, and Urlacher voted "aye." No negative votes were cast.

Concerning Employee Benefits Programs Committee Bill Nos. 50 and 51, Mr. Carter said Watson Wyatt Worldwide had been retained by the Public Employees Retirement System Board to prepare an analysis of the impact of the optional defined contribution plan on the defined benefit plan. A copy of Mr. Carter's presentation is attached as Appendix J. He said the study incorporates the changes recommended in Employee Benefits

Programs Committee Bill No. 72 and addresses the impact of opening the defined contribution plan to all state employees and all public employees, including employees of political subdivisions that are members of the Public Employees Retirement System. He said the study anticipates that the Public Employees Retirement System will meet its goal of providing a two percent multiplier and that the ad hoc benefit increase for retirees will be converted to a cost-of-living adjustment in either 2005 or 2007. Based upon the election rates for the nonclassified group, he said, Watson Wyatt Worldwide anticipates that approximately 2,900 state employees would transfer to the defined contribution retirement plan or 31 percent of eligible state employees. He said the average account balance transferred would be $20,300 for a total of $59 million. If the defined contribution plan was opened to all public employees, including employees of political subdivisions, he said, Watson Wyatt Worldwide anticipates that approximately 5,300 employees would transfer or 32 percent of the active eligible members. He said the average account balance transfer would be $19,300 for a total of $102 million in assets.

In response to a question from Representative Grande, Mr. Collins said 38 percent of eligible nonclassified employees transferred to the defined contribution retirement plan. He said the lower estimated rate of 32 percent is a result of different demographics for the classified group.

In response to a further question from Representative Grande, Mr. Carter said the actuarial status of the defined benefit plan will be enhanced with the existence of the defined contribution plan and improved further if the defined contribution plan is opened to all public employees including employees of political subdivisions.

In conclusion, Mr. Carter said, the guaranteed cost-of-living adjustment cannot be added to the defined benefit plan in 2005 or in 2007 unless the rate of return is greater than the actuarially assumed rate of return of eight percent or the employer contribution is increased. Second, he said, the existing defined benefit plan would not be harmed by the passage of Employee Benefits Programs Committee Bill No. 50. He said this result was not anticipated by Watson Wyatt Worldwide. Also, he said, expansion of the defined contribution plan to employees of political subdivisions helps the existing defined benefit plan. He said the expansion of the defined contribution plan reduces the cost of the cost-of-living adjustment for the defined benefit plan, and finally, while external cash flow may become a minor issue in 15 to 20 years, it will not cause any need to change asset allocations or the assumed investment rate.

In response to a question from Representative Grande, Mr. Carter said there is no actuarial reason not to expand the defined contribution plan to all public employees including employees of political subdivisions.

In response to a question from Representative Grande, Mr. Collins said limiting expansion to state employees will test the underlying assumptions of the expansion before participation is made available to employees of political subdivisions.

Mr. Collins reviewed the actuarial review and technical comments prepared by The Segal Company for Employee Benefits Programs Committee Bill No. 50, a copy of which is attached as Appendix K. Issues identified in the technical comments, he said, include administrative costs, investment education, enrollment of new employees, eligibility date, implementation date, administrative cost assessment methodology, enrollment date, treatment of nonclassified employees, disability provisions, calculation of the employer and employee contribution, and treatment of National Guard retirement system members.

Representative Grande said she and Representative Wald were considering the observations and suggestions proposed by the Public Employees Retirement System Board.

Representative Kroeber said members should be made aware of the additional administrative and investment costs of the defined contribution plan and should be provided a comparison of total benefits under the defined benefit plan and the defined contribution plan.

**It was moved by Representative Grande, seconded by Representative Froseth, and carried that the committee give Employee Benefits Programs Bill No. 50 a favorable recommendation.** Representatives Froseth, Grande, and Kroeber and Senators Kilzer, Krebsbach, and Urlacher voted "aye." No negative votes were cast.

Mr. Collins presented the actuarial review and technical comments for Employee Benefits Programs Committee Bill No. 51, a copy of which is attached as Appendix L. He said The Segal Company determined that since the actuarial impact to the plan was minimal when the original 200 people elected to participate in the optional defined contribution plan during the original window, it is anticipated the impact of this bill will be minimal. However, he said, the Public Employees Retirement System Board has identified several issues. He said the bill provides multiple windows in a short period of time, and the window should be for those who have previously elected to stay in the defined benefit plan. He said the Public Employees Retirement System Board had received several complaints that the original enrollment date was December 31, 1999, which was during the Christmas holidays, and that the enrollment date for this bill should be moved up to December 14, 2001, to avoid the holidays. He said the eligibility date, calculation of employer and employee contribution, and treatment of the members of the National Guard system should also be addressed.

**It was moved by Senator Urlacher, seconded by Senator Kilzer, and carried that the committee give Employee Benefits Programs Committee Bill No. 51 a favorable recommendation.** Representatives Froseth, Grande, and Kroeber and Senators Kilzer, Krebsbach, and Urlacher voted "aye." No negative votes were cast.

## Public Employees Retirement System Main System

Ms. Thompson presented the actuarial review and technical comments for Employee Benefits Programs Committee Bill No. 71, a copy of which is attached as Appendix M. She also distributed a copy of the overheads used in her presentation showing the actuarial cost impacts for Employee Benefits Programs Committee Bill Nos. 71, 73, 74, 77, and 88, a copy of which is attached as Appendix N. She said Employee Benefits Programs Committee Bill No. 71 increases the benefit multiplier from 1.89 percent to 2 percent, adds a 6 percent ad hoc cost-of-living adjustment for all retirees, and provides that early retirement reduction factors will be applied from the earlier of age 65 or the Rule of 85. She said the cost of the proposal is 3.67 percent which would leave a margin of .45 percent in the main system or 4.12% - 3.67% = .45% of covered payroll. She said the cost of the proposal to the National Guard retirement system is 3.02 percent. She said the bill would also have a cost of .16 percent of payroll for the judge's retirement system.

**It was moved by Representative Froseth, seconded by Senator Kilzer, and carried that the committee give Employee Benefits Programs Committee Bill No. 71 a favorable recommendation.** Representatives Froseth, Grande, and Kroeber and Senators Kilzer, Krebsbach, and Urlacher voted "aye." No negative votes were cast.

Ms. Thompson presented the actuarial review and technical comments for Employee Benefits Programs Committee Bill No. 73, a copy of which is attached as Appendix O. She said the bill provides that the disability of a Supreme Court or district court judge will be based solely on a judge's inability to perform judicial duties arising from physical or mental impairment as determined by the Public Employees Retirement System Board or under NDCC Section 27-23-03(3), which provides for the removal of a judge by a commission of the Supreme Court. She said the bill also provides that for a judicial member, if no optional form is selected, the retirement benefit will be paid in the normal form of an automatic unreduced 50 percent joint and survivor annuity for married participants, and a single life annuity for unmarried participants. Finally, she said, the bill provides a two percent postretirement increase for retired judges and beneficiaries receiving benefits on December 31, 2001, and an additional two percent for those receiving benefits on December 31, 2002. She said the cost of the benefit enhancements is 11.20 percent of payroll while the statutory contribution rate is 14.52 percent. Thus, she said, the remaining margin will be 3.32 percent or 14.52% - 11.20% = 3.32%. However, she noted that changing the early retirement reduction factors under Employee Benefits Programs Committee Bill No. 71 will also cost the judge's retirement system .16 percent of covered payroll.

**It was moved by Senator Urlacher, seconded by Representative Kroeber, and carried that the committee give Employee Benefits Programs Committee Bill No. 73 a favorable recommendation.** Representatives Froseth, Grande, and Kroeber and Senators Kilzer, Krebsbach, and Urlacher voted "aye." No negative votes were cast.

Ms. Thompson reviewed the actuarial review and technical comments for Employee Benefits Programs Committee Bill No. 88, a copy of which is attached as Appendix P. She said the bill would include payments for overtime within the definition of "wages" and "salaries" under the retirement system for purposes of contributions and benefits. She said the cost of this proposal is .18 percent for the main system and .19 percent for the National Guard retirement system, and the proposal would reduce the actuarial contribution requirement for the retiree health benefits fund .02 percent.

Ms. Chris Runge, North Dakota AFL-CIO and 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 receive a large portion of their compensation in overtime, and this bill would allow them to count their overtime compensation for purposes of determining retirement benefits.

**It was moved by Representative Grande, seconded by Representative Froseth, and carried that the committee make no recommendation on Employee Benefits Programs Committee Bill No. 88 due to its uncertain impact on political subdivisions.** Representatives Froseth and Grande and Senators Kilzer, Krebsbach, and Urlacher voted "aye." Representative Kroeber voted "nay."

Mr. Collins reviewed the actuarial review and technical comments for Employee Benefits Programs Committee Bill No. 191, a copy of which is attached as Appendix Q. He said the bill is intended to address the recent issues arising from an Internal Revenue Service audit of the Fargo School District. He said the Internal Revenue Service audit raised a question as to whether the offset against future salary increase method by which mandatory employee contributions to the retirement plans administered by the Public Employees Retirement System are paid on a pretax basis under Internal Revenue Code Section 414(h) does or does not result in the exclusion of such "picked-up" contributions from FICA taxable wages. He said the proposed change has no actuarial cost impact on the Public Employees Retirement System.

**It was moved by Representative Grande, seconded by Representative Froseth, and carried that the committee give Employee Benefits Programs Committee Bill No. 191 a favorable recommendation.** Representatives Froseth, Grande, and Kroeber and Senators Kilzer, Krebsbach, and Urlacher voted "aye." No negative votes were cast.

## HIGHWAY PATROLMEN'S RETIREMENT SYSTEM

Ms. Thompson reviewed the actuarial review and technical comments for Employee Benefits Programs Committee Bill No. 74, a copy of which is attached as Appendix R. She said the bill affects the Highway Patrolmen's retirement system and would allow the purchase of service credit for up to four years of certain active military service not otherwise covered by this or another retirement system; for employer-approved leaves of absence not otherwise covered by the system; and as may be necessary to qualify for normal retirement, age 55 and 10 years of service or the Rule of 80. She said the purchase cost is the actuarial cost established by the Public Employees Retirement System Board and may be paid through the use of rollover contributions from other eligible plans. She said the bill also increases the benefit multiplier for the first 25 years of service from 3.40 percent to 3.60 percent for active participants and retirees, increases disabled members and disabled member's beneficiaries' benefits by six percent, allows nonspouse beneficiaries for purposes of preretirement death benefits with the consent of the member's spouse, and allows the purchase of service credit with either pretax or after-tax moneys effective after the receipt of a favorable ruling from the Internal Revenue Service. She said the cost of the proposal is 13.16 percent of payroll. She said the current employer statutory contribution rate is 16.70 percent, thus the remaining margin if this proposal is enacted would be 3.54 percent of payroll.

**It was moved by Senator Urlacher, seconded by Senator Kilzer, and carried that the committee give Employee Benefits Programs Committee Bill No. 74 a favorable recommendation.** Representatives Froseth, Grande, and Kroeber and Senators Kilzer, Krebsbach, and Urlacher voted "aye." No negative votes were cast.

## RETIREE HEALTH INSURANCE CREDIT FUND

Ms. Thompson reviewed the actuarial review and technical comments for Employee Benefits Programs Committee Bill No. 77, a copy of which is attached as Appendix S. She said the bill would increase the retiree health insurance credit from $4.50 per month per year of service to $5 per month per year of service. However, she said, the proposed change would cost .14 percent of payroll which would leave a negative .16 margin in the retiree health benefits fund.

Mr. Collins said in light of the results of the actuarial review prepared by The Segal Company, the Public Employees Retirement System Board would not be introducing this bill.

**It was moved by Representative Grande, seconded by Representative Froseth, and carried that the committee give Employee Benefits Programs Committee Bill No. 77 no recommendation.** Representatives Froseth, Grande, Kroeber, and Senators Kilzer, Krebsbach, and Urlacher voted "aye." No negative votes were cast.

## UNIFORM GROUP INSURANCE PROGRAM

Mr. Collins reviewed the actuarial comments prepared by Deloitte & Touche, the board's actuarial consultants for the uniform group insurance program, for Employee Benefits Programs Committee Bill No. 75, a copy of which is attached as Appendix T. He said the bill moves the provisions allowing the Public Employees Retirement System Board to use excess funds credited to the separate uniform group insurance program fund to provide increased insurance coverage to the members or to reduce premiums. Also, he said, the proposal includes a provision allowing retired employees receiving regular periodic distributions from the defined contribution plan to participate in the Public Employees Retirement System benefit plans. He said the bill will not have any significant adverse impact on the program. Also, he said, the bill has been amended to require the executive director of the Public Employees Retirement System to transfer $475,000 from the public employees life insurance program fund to the uniform group health insurance program fund for the purpose of increasing the health insurance reserves.

**It was moved by Senator Kilzer, seconded by Representative Grande, and carried that the committee give Employee Benefits Programs Committee Bill No. 75 a favorable recommendation and note that the transfer from the public employee life insurance program fund to the uniform group health insurance program fund for the purpose of increasing the health insurance reserve is public employee money.** Representatives Froseth, Grande, and Kroeber and Senators Kilzer, Krebsbach, and Urlacher voted "aye." No negative votes were cast.

Mr. Collins reviewed the actuarial review for Employee Benefits Programs Committee Bill No. 76, a copy of which is attached as Appendix U. He also distributed a schedule showing the estimated cost per state agency for this program, a copy of which is attached as Appendix V. He said the bill would establish an employer-paid preventive dental plan with an employee option to purchase family or comprehensive dental insurance. He said the actuarial review shows that the program would cost approximately $2.6 to $3.0 million per biennium. He said the Public Employees Retirement System Board is allocating its resources toward improving the health insurance program and thus will not be submitting this bill to the Legislative Assembly.

**It was moved by Representative Grande, seconded by Representative Froseth, and carried that the committee give Employee Benefits Programs Committee Bill No. 76 an unfavorable recommendation.** Representatives Froseth, Grande, and Kroeber and Senators Kilzer, Krebsbach, and Urlacher voted "aye." No negative votes were cast.

Mr. Collins reviewed the actuarial 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. He said Deloitte & Touche, the actuarial consultants for the uniform group insurance program, determined that insurance premiums would increase due to adverse selection and overall costs of the program would increase due to offering the incentive to employees already waiving coverage, the potential of having to pay incentives to families who are dually employed by the state, and the additional administrative burden of implementing the program. He said adverse selection would occur because employees who elect to leave the plan would likely have fewer claims than average because they would use the plan less due to their health status. He said the entire premium that those who waive participation would otherwise pay is removed as revenue, and the remainder of the claims would be spread over a smaller population.

**It was moved by Representative Grande, seconded by Representative Froseth, and carried that the committee give Employee Benefits Programs Committee Bill No. 2 an unfavorable recommendation because adverse selection would reduce revenue to the insurance program and incentives paid to those leaving the program would increase the cost of the program which would be spread over the remaining participants thus increasing the average premium per employee.** Representatives Froseth, Grande, and Kroeber and Senators Kilzer, Krebsbach, and Urlacher voted "aye." No negative votes were cast.

Mr. Collins reviewed the actuarial review for Employee Benefits Programs Committee Bill No. 49, a copy of which is attached as Appendix X. He said the bill would expand the uniform group insurance program to allow participation by private sector employees and uninsured individuals. He said the proposal would not have any impact on the integrity of the uniform group insurance program because the bill allows the Public Employees Retirement System Board to underwrite the risk and use risk-adjusted premiums. Effectively, he said, this means the plan would only accept healthy people. Also, he said, if the plan accepted healthy people whose health subsequently deteriorated, the board would be able to charge these persons additional premiums to offset the costs to the plan.

In response to a question from Representative Kroeber, committee counsel said Senator Mathern would not be prohibited from introducing this proposal if the committee gave it an unfavorable recommendation.

**It was moved by Representative Grande, seconded by Senator Kilzer, and carried that the committee give Employee Benefits Programs Committee Bill No. 49 an unfavorable recommendation.** Representatives Froseth and Grande and Senators Kilzer, Krebsbach, and Urlacher voted "aye." Representative Kroeber voted "nay."

At the request of Vice Chairman Krebsbach, committee counsel reviewed Employee Benefits Programs Committee Bill No. 213. He said the bill allows nonprofit corporations organized for the purpose of providing residential services for developmentally disabled, chronically mentally ill, and physically disabled persons to participate in the uniform group insurance program subject to minimum requirements established by the Public Employees Retirement System Board.

Mr. Collins reviewed the actuarial review for the bill, a copy of which is attached as Appendix Y. He said the bill would not have any impact on the uniform group insurance program.

**It was moved by Representative Grande, seconded by Representative Froseth, and carried on a voice vote that the committee accept jurisdiction over Employee Benefits Programs Committee Bill No. 213.**

**It was moved by Representative Froseth, seconded by Representative Grande, and carried that the committee make no recommendation on Employee Benefits Programs Committee Bill No. 213.** Representatives Froseth, Grande, and Kroeber and Senators Kilzer, Krebsbach, and Urlacher voted "aye." No negative votes were cast.

Mr. Ray Gudajtes, Job Service North Dakota, reviewed Employee Benefits Programs Committee Bill No. 78. Under the bill, he said, surviving beneficiaries under the old-age and survivor insurance program would receive an increase of $20 per month. He also presented a spreadsheet showing the impact of various benefit increases on the Old-Age and Survivor Insurance System fund, a copy of which is attached as Appendix Z.

**It was moved by Representative Grande, seconded by Senator Urlacher, and carried that the committee give Employee Benefits Programs Committee Bill No. 78 a favorable**

**recommendation.** Representatives Froseth, Grande, and Kroeber and Senators Kilzer, Krebsbach, and Urlacher voted "aye." No negative votes were cast.

## ALTERNATE FIREFIGHTERS RELIEF ASSOCIATION PLANS

Mr. Terry Wagner, Vice President, Fargo Firefighters Relief Association, reviewed Employee Benefits Programs Committee Bill No. 79. He said the bill would increase the benefit multiplier applicable to the Fargo Firefighters Relief Association from 2.33 percent to 2.50 percent; base final salary for service retirement benefits of current active firefighters with "blueshirt" status as earnings at retirement, and for officers or firefighters of higher rank, final salary would be the average earnings for the last five years of employment; base earnings on salary excluding overtime and longevity payments; provide a thirteenth check to current retirees and surviving spouses receiving benefits; and provide a disability benefit of 50 percent of a first-class firefighter's salary after five years of service. He said The Segal Company, the actuarial consultant for the Fargo Firefighters Relief Association, had determined the cost of this proposal is 2.83 percent of payroll while the actuarial margin is between 3.55 percent and 4.55 percent. Thus, he said, actual contributions will exceed required contributions by .72 percent to 1.72 percent of covered payroll. A copy of the actuarial review and technical comments is attached as Appendix AA.

**It was moved by Representative Grande, seconded by Representative Froseth, and carried that the committee give Employee Benefits Programs Committee Bill No. 79 a favorable recommendation.** Representatives Froseth, Grande, and Kroeber and Senators Kilzer, Krebsbach, and Urlacher voted "aye." No negative votes were cast.

**It was moved by Representative Kroeber, seconded by Senator Kilzer, and carried that the chairman and the staff of the Legislative Council be requested to prepare a report and to present the report to the Legislative Council.**

No further business appearing, Vice Chairman Krebsbach adjourned the meeting at 3:40 p.m.

Jeffrey N. Nelson
Committee Counsel

ATTACH:27