NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

EMPLOYEE BENEFITS PROGRAMS COMMITTEE

Monday, October 28, 2002
Roughrider Room, State Capitol
Bismarck, North Dakota

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

Members present: Representatives Bette Grande, Glen Froseth, Joe Kroeber, Francis J. Wald; Senators Ralph L. Kilzer, Stanley W. Lyson, Tim Mathern

Members absent: Representative Wayne W. Tieman; Senator Karen K. Krebsbach

Others present: See Appendix A

It was moved by Senator Lyson, seconded by Senator Mathern, and carried on a voice vote that the minutes of the September 23, 2002, committee meeting be approved as distributed.

EMPLOYEE BENEFITS PROGRAMS COMMITTEE BILLS

At the request of Chairman Grande, committee counsel distributed a memorandum entitled *Employee Benefits Programs Committee Bills* describing the statutory responsibilities of the committee and summarizing the bills that have been submitted to the committee for review.

TEACHERS' FUND FOR RETIREMENT

Chairman Grande recognized Mr. Chris Conradi, Enrolled Actuary and Senior Consultant, Gabriel, Roeder, Smith and Company, Dallas, Texas, who reviewed the July 1, 2002, 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. Mr. Conradi said the actuarial valuation was prepared as of June 30, 2002, using member data, financial data, benefit and contribution provisions, actuarial assumptions, and methods. He said the purposes of an actuarial valuation are to measure the actuarial liabilities of a pension system, determine the adequacy of current statutory contributions, provide various reporting information, explain changes in the actuarial condition of the pension system, track changes over time, and to warn about possible future problems and issues. Key changes and issues identified since the last actuarial valuation was performed on July 1, 2001, he said, are the implementation of the second of .75 percent conditional annual benefit adjustments, the second of which became effective in July 2002; the significant investment losses experienced in fiscal years 2001 and 2002 and the impact of those losses in the future; the fact that the margin is currently positive but may disappear as soon as next year; and a decrease in the active membership.

Mr. Conradi said the number of active members decreased by 308 from 10,239 to 9,931, which is a 3 percent decrease. Since 1992, he said, active membership has increased an average of .2 percent per year. He said census projections show school-age population in North Dakota decreasing over the next 15 to 20 years, which may impact the number of active members in the Teachers' Fund for Retirement. He said payroll for members who were active on June 30, 2002, increased 1.7 percent, from $342.2 million to $348.1 million. He said payroll has increased an average of 3.3 percent per year over the last 10 years. Concerning membership in the Teachers' Fund for Retirement, he said, average pay for active members increased 4.9 percent, from $33,421 to $35,052. He said the average age of active members is 44.5 years, compared to an average of 44.4 years last year and an average of 41.7 years 10 years ago. He said the average years of service are 14.4, compared to an average of 14.4 years last year and 12.8 years of service 10 years ago. He said there are also 1,223 inactive vested members and 225 inactive nonvested members. He said the number of retirees increased by 277 from July 1, 2001, to July 1, 2002, from 4,777 to 5,054, an increase of 5.8 percent. He said this number includes service retirees, disabled retirees, and beneficiaries receiving benefits. Over the last 10 years, he said, the number of retirees has grown an average of 1.9 percent per year and the average annual retiree benefit is $13,829. He said there are just under 2.0 active members for each retiree, but this ratio is slowly decreasing as it was 2.3 for each retiree 10 years ago.

Concerning system assets, Mr. Conradi said the fair market value of the Teachers' Fund for Retirement decreased from $1,290 million to $1,165 million. Concerning the asset allocation of the Teachers' Fund for Retirement, he said, 68 percent of the fund is invested in equities, 9 percent in real estate, and 23 percent in cash and fixed income. He said total contributions were $56.4 million, which compared to $54.5 million in fiscal year 2001. However, he said, total distributions, which are comprised of benefit payments, refunds, and administrative expenses, total $71.3 million. Thus, he said, net external cashflow was -$14.9 million or -1.3 percent of market value of assets at the end of the year. He said this means the cashflow coming in from contributions is less than the cashflow going out for benefit payments and thus a portion of the investment income of the fund is being used to pay benefits. However, he said, this is typical for a mature pension plan. He said the investment return for fiscal year 2002 was approximately -8.6 percent which compares to -7.6 percent for fiscal year 2001. He said the average investment return for the last 10 years was a positive 7.9 percent but the significant investment losses of the past two years have reduced the average return for the last 10 years below the 8.0 percent assumed investment rate of return. If this trend continues, he said, the Teachers' Fund for Retirement Board of Trustees will have to consider lowering its assumed rate of return. To understand the actuarial impact of a market return of -8.6 percent, he said, the return must be compared to the 8.0 percent assumed rate of return. He said a return of -8.6 percent means a loss of 16.6 percent, phased in over five years. To offset a year this bad, he said, the fund must earn at least 24.6 percent or the assumed rate of return of 8 percent plus 16.6 percent. In the 1990s, he said, the highest return was approximately 18.5 percent.

Mr. Conradi said all actuarial calculations are based on the actuarial value of the fund's assets, not its market value. He said the actuarial value of the Teachers' Fund for Retirement is now $1,443 million, which compares to $1,415 million last year. He said the actuarial rate of return was 3.0 percent for fiscal year 2002, as compared to 8.6 percent for fiscal year 2001. He said the average rate of return on the actuarial value of assets has been 9.9 percent over the last 10 years. He said the actuarial value is 123.9 percent of fair market value and there is $278.1 million in deferred losses which is not yet recognized. Concerning the conditional annual benefit adjustment, he said, the second .75 percent adjustment became effective in July 2002. He said this benefit was conditioned on an actuarial test that had to be passed for the benefit to be granted. He said this test was passed because the margin in the prior actuarial valuation was 3.76 percent. He said there were no changes made to the actuarial assumptions or methods. However, he said, Gabriel, Roeder, Smith and Company has been monitoring assumed investment return rates and based on consensus capital market assumptions for 2002 and based on the Teachers' Fund for Retirement asset allocation policy, the 8 percent assumed rate of return is still reasonable. However, he said, investment consulting firms have already significantly lowered their expected return assumptions for 2002, especially for equities, and if more decreases occur, it may ultimately be necessary to decrease the actuarially assumed rate of return.

Concerning the actuarial results for the Teachers' Fund for Retirement, Mr. Conradi said the unfunded actuarial accrued liability increased from $53 million to $132.3 million. He said the funded ratio, actuarial assets divided by actuarial accrued liability, decreased from 96.4 to 91.6 percent. He said the funded ratio using the market value of assets is 74 percent. He said the required contribution rate for the plan year is 6.09 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% - 6.09% = 1.66% of covered payroll. He said more of the deferred losses from fiscal year 2001 and 2002 will be recognized in the actuarial valuation next year which will increase the unfunded actuarial accrued liability and decrease the funded ratio and available margin. He said if the market return is 10 percent next year, the expected margin will be -.29 percent and if the market return is -10 percent, the expected margin will be -1.50 percent. He said if the market return for fiscal year 2003 is between a positive 10 percent and a negative 10 percent and the market return for the first five years after fiscal year 2003 is a positive 8 percent, the projected margins for the next five years will still be negative.

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, reviewed the cost of the specific proposal, and received public comment on the proposal, it has then given the proposal either a favorable, unfavorable, or no recommendation.

Ms. Fay Kopp, Deputy Executive Director, Retirement and Investment Office, reviewed Employee Benefits Programs Committee Bill No. 52 [30052.0200]. She said the bill draft is being proposed to clarify Teachers' Fund for Retirement statutes, allow the plan to be administered more efficiently, add benefit payment options, and incorporate various federal tax law changes to increase contribution limits and expand portability as authorized by the Economic Growth and Tax Relief Reconciliation Act of 2001. She said there is no measurable actuarial cost to the bill.

It was moved by Senator Mathern, seconded by Senator Lyson, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 52 [30052.0200] a favorable recommendation. Representatives Grande, Froseth, Kroeber, and Wald and Senators Kilzer, Lyson, and Mathern voted "aye." No negative votes were cast.

PUBLIC EMPLOYEES RETIREMENT SYSTEM

Ms. Leslie L. Thompson, Senior Vice President and Consulting Actuary, The Segal Company, Englewood, Colorado, presented the July 1, 2002, actuarial valuations of the Public Employees Retirement System main 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 C, and copies of the actuarial valuations are on file in the Legislative Council office. She said the judges' retirement system, National Guard retirement system, Highway Patrolmen's retirement system, and the retiree health benefits fund have positive contribution margins while the main system has a negative contribution margin. She said the return on valuation assets exceeded the return on the market value of assets, which is the smoothing mechanism at work. She said the funded ratio is above 100 percent for all of the plans except the retiree health benefits fund and the Highway Patrolmen's retirement system. She said the funded ratio for the retiree health benefits fund improved from 37.8 percent to 38.3 percent. She said the ratio of the actuarial value of assets to the market value of assets has increased from 98.3 percent to 109.8 percent and thus the actuarial value of assets exceeds the market value by $106 million. She said the National Guard retirement plan has three active members and 12 members currently serving in the military. She said this fact may have implications for those who return and are reinstated in the National Guard retirement plan and the Public Employees Retirement System Board may wish to consider holding assets in reserve for this contingency.

Ms. Thompson said the assets of the Public Employees Retirement System and the Highway Patrolmen's retirement system are $1.08 billion at market value and $1.19 billion at actuarial value. Thus, she said, the actuarial value of assets is 110 percent of the market value of the system's assets. She said the rate of return on actuarial value was 3.91 percent, which is 4.09 percent less than the 8 percent actuarially assumed rate of return. She said the 10-year average rate of return is 10.55 percent. She said the employer cost rate increased from 3.83 percent to 4.42 percent as of July 1, 2002, and thus the available margin in the main system is -.30 percent or 4.12% (the statutory contribution rate) - 4.42% = -.30% of payroll. For the judges' retirement system, she said, the employer cost rate increased from 9.03 percent to 10.29 percent as of July 1, 2002. Thus, she said, the available margin in the judges' retirement system is 4.23 percent or 14.52% (the statutory contribution rate) - 10.29% = 4.23%. She said the contribution rate for the National Guard retirement system is 8.33 percent, which is set by the Public Employees Retirement System Board. She said the employer cost rate for 2002 is zero and thus the available margin in the National Guard retirement system is 8.33 percent or 8.33% - 0 = 8.33%. However, she cautioned, this may change significantly when the 12 members on military duty return to the system. She said the significant factor affecting the employer cost rate for the main system was loss on investments or the actual rate of return underperforming the actuarially assumed rate of return. For the retiree health benefits fund, she said, the statutory contribution rate is 1.00 percent and the employer cost rate for 2002 is .98 percent. Thus, she said, the available margin is .02 percent or 1.00% - .98% = .02%. She said the retiree health benefits fund has assets of $23.7 million at market value or $26.4 million at actuarial value. Thus, she said, the actuarial value of assets is 112 percent of the market value of assets in the retiree health benefits fund. She said the market value rate of return was -6.68 percent and the actuarial value rate of return was 3.6 percent which is 4.4 percent less than the 8 percent actuarially assumed rate of return.

Ms. Thompson said the employer cost rate for the Highway Patrolmen's retirement system is 14.59 percent and the statutory contribution rate is 16.70 percent, leaving a margin of 2.11 percent or 16.70% - 14.59% = 2.11%. She said if the market return for the main system for fiscal year 2003 is within a range of a positive 10 percent to a negative 10 percent and the market return after fiscal year 2003 is 8 percent for the next four years, the projected margins for the next five years will always be negative.

PUBLIC EMPLOYEES RETIREMENT SYSTEM MAIN SYSTEM

Ms. Thompson reviewed the technical comments for Employee Benefits Programs Committee Bill No. 53 [30053.0200], a copy of which is attached as Appendix D. She said the bill draft makes several technical changes to the statutes governing the Public Employees Retirement System and clarifies that members or surviving spouses of members in the main system, Highway Patrolmen's retirement system, and Job Service North Dakota retirement system are eligible to receive benefits from the retiree health benefits fund on the date retirement benefits are effective, rather than on the date received. She said the actuarial impact of the proposal on the main system is minimal, but it would have a slight impact on the retiree health benefits fund since benefits from that fund would be paid at an earlier date than they are currently paid.

Chairman Grande recognized Mr. Sparb Collins, Executive Director, Public Employees Retirement System. Mr. Collins said the Public Employees Retirement System Board is proposing an additional amendment to Employee Benefits Programs Committee Bill No. 53 [30053.0200], a copy of which is attached as Appendix E. He said the amendment is necessary because the Internal Revenue Service is requesting additional changes to the statutes governing the Public Employees Retirement System concerning the issuance of a letter ruling on the pretax purchase of service credit.

It was moved by Representative Wald, seconded by Senator Mathern, and carried on a voice vote that the committee approve the amendment to Employee Benefits Programs Committee Bill No. 53 [30053.0200] requested by the Public Employees Retirement System Board.

It was moved by Representative Wald, seconded by Senator Lyson, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 53 [30053.0200], as amended, a favorable recommendation. Representatives Grande, Froseth, Kroeber, and Wald and Senators Kilzer, Lyson, and Mathern voted "aye." No negative votes were cast.

Ms. Thompson reviewed Employee Benefits Programs Committee Bill No. 54 [30054.0100] and the technical comments for the bill draft, a copy of which is attached as Appendix F. She said the bill draft provides a 2 percent postretirement increase for retirees and beneficiaries and prior service retirees who are receiving retirement benefits on July 31, 2003, and a 2 percent increase for those receiving benefits on July 31, 2004. She said the required contribution increase as a percentage of payroll to fund the benefit increase contained in Employee Benefits Programs Committee Bill No. 54 is .22 percent of payroll.

Ms. Thompson reviewed Employee Benefits Programs Committee Bill No. 55 [30055.0100] and the technical comments for the bill draft, a copy of which is attached as Appendix G. She said the bill draft provides a 2 percent postretirement increase for retirees and beneficiaries and prior service retirees under the judges' retirement system who are receiving retirement benefits on July 31, 2003, and an additional 2 percent increase for those receiving benefits on July 31, 2004. She said the required contribution increase to fund the benefit increase contained in the bill draft is .42 percent of payroll.

Ms. Thompson reviewed Employee Benefits Programs Committee Bill No. 56 [30056.0100] and the technical comments for the bill draft, a copy of which is attached as Appendix H. She said the bill draft would change the default form of retirement benefits for National Guard security officers and firefighters from a single life annuity to a level Social Security option, with the level Social Security option not being reduced to an actuarially equivalent amount but being subsidized by the system. That is, she said, under the level Social Security option the amount of monthly retirement benefits would be increased prior to the age the participant would receive Social Security benefits to account for the estimated amount of the Social Security benefits but would not be reduced below the original single life annuity amount once the participant reaches the age he or she would receive Social Security benefits. She said the actuarial impact of this proposal is neutral.

Chairman Grande recognized Mr. Collins. In light of the July 1 actuarial valuations and the cost impacts of these bill drafts, Mr. Collins said, the Public Employees Retirement System Board is withdrawing Employee Benefits Programs Committee Bill Nos. 54 [30054.0100], 55 [30055.0100], and 56 [30056.0100] from further consideration by the committee. He said the board will not be submitting these proposals to the 2003 Legislative Assembly.

Ms. Thompson reviewed Employee Benefits Programs Committee Bill No. 60 [30060.0200] and the technical comments for the bill draft, a copy of which is attached as Appendix I. She said the bill draft transfers administration of the retirement plan established in 1961 and frozen to new entrants in 1980 for employees of Job Service North Dakota to the Public Employees Retirement System. She said the bill draft would not have an actuarial impact on the defined benefit plan.

It was moved by Senator Mathern, seconded by Representative Froseth, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 60 [30060.0200] a favorable recommendation. Representatives Grande, Froseth, Kroeber, and Wald and Senators Kilzer, Lyson, and Mathern voted "aye." No negative votes were cast.

At the request of Chairman Grande, committee counsel reviewed Employee Benefits Programs Committee Bill No. 28 [30028.0200]. He said the bill draft provides that payments for overtime earned by employees of the Mill and Elevator Association must be included as wages and salaries for purposes of calculating benefits under the Public Employees Retirement System. He said the committee amended the bill draft at the request of the sponsor to provide an appropriation of $205,000 from the mill and elevator fund to the Mill and Elevator Association to pay the additional retirement contributions required by the bill draft.

Ms. Thompson reviewed the technical comments for the bill draft, a copy of which is attached as Appendix J. She said the cost of the proposal is .07 percent of payroll.

Senator Lyson said if overtime earned by employees of the Mill and Elevator Association is included in determining retirement benefits, it should be included for all state employees.

In response to a question from Representative Kroeber, Ms. Karlene Fine, Executive Director, Industrial Commission, said the Mill and Elevator Association is actively seeking to fill its vacant positions. However, concerning overtime, she said, the use of overtime is standard practice in the milling industry and all potential employees are made aware of the use of overtime by the association. She said the Mill and Elevator Association currently has three unfilled full-time equivalent positions.

It was moved by Representative Wald, seconded by Senator Kilzer, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 28 [30028.0200] an unfavorable recommendation. Representatives Grande, Froseth, and Wald and Senators Kilzer and Lyson voted "aye." Representative Kroeber and Senator Mathern voted "nay."

HIGHWAY PATROLMEN'S RETIREMENT SYSTEM

Ms. Thompson reviewed Employee Benefits Programs Committee Bill No. 57 [30057.0200] and the technical comments for the bill draft, a copy of which is attached as Appendix K. She said the bill draft makes several administrative changes to the statutes governing the Highway Patrolmen's retirement system, replaces the Rule of 80 with a service requirement of 25 years for normal retirement benefits, and provides a 2 percent postretirement increase for retirees and beneficiaries who are receiving retirement benefits on July 31, 2003, and an additional 2 percent increase for those receiving benefits on July 31, 2004. She said the required contribution increase to fund the 25-year service retirement benefit is 18.21 percent of payroll and the required contribution increase to fund the 2 percent postretirement increase is 1.27 percent of payroll, and the total required contribution increase to fund both the 25-year service retirement and the 2 percent postretirement increase is 19.69 percent of payroll.

Chairman Grande recognized Mr. Collins who said the Public Employees Retirement System Board is requesting an amendment to delete the benefit enhancement provisions from the bill draft and to add a provision clarifying the pretax purchase of service credit similar to that proposed for Employee Benefits Programs Committee Bill No. 53 [30053.0200]. A copy of the amendment requested by the retirement board is attached as Appendix L. With the requested amendments, he said, there will be no cost to the bill.

It was moved by Representative Wald, seconded by Representative Froseth, and carried on a voice vote to approve the amendments requested by the Public Employees Retirement System Board.

It was moved by Representative Wald, seconded by Senator Lyson, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 57 [30057.0200], as amended, a favorable recommendation. Representatives Grande, Froseth, Kroeber, and Wald and Senators Kilzer, Lyson, and Mathern voted "aye." No negative votes were cast.

DEFINED CONTRIBUTION RETIREMENT PLAN

Ms. Thompson reviewed the technical comments for Employee Benefits Programs Committee Bill No. 18 [30018.0100], a copy of which is attached as Appendix M. She said the bill draft provides that all state employees except Supreme or district court judges or employees of the State Board of Higher Education and state institutions under the jurisdiction of the board who are eligible to participate in the alternative retirement program established under North Dakota Century Code Section 15-10-17(13) are eligible to participate in the defined contribution retirement plan. The technical comments discuss benefits policy issues, funding policy issues, and administrative issues. She said the actuarial cost analysis was determined in a separate study conducted by Gabriel, Roeder, Smith and Company.

Mr. Conradi reviewed the actuarial analysis of the bill draft, a copy of which is attached as Appendix N. He said the past two years of economic downturn change the picture significantly compared to a similar study conducted by the firm in 2000. He said the contribution rate climbs above 4.12 percent with or without the optional defined contribution plan, the unfunded actuarial accrued liability increases in either case, and the funded ratio levels out at around 90 percent. However, based on assumptions and methods, he said, the defined benefit plan is not harmed by the optional defined contribution program. He said contribution rates must increase to a higher level with the optional defined contribution plan, 8.25 percent versus 7.28 percent, but total contributions are somewhat less with a defined contribution plan, 6.86 percent versus 7.28 percent. He said external cashflow may become an issue in 15 to 20 years but still will not force significant changes to allocation or assumed investment returns in the near future. Finally, he said, this picture would not have been as pessimistic if the firm had not assumed 2 percent annual ad hoc postretirement benefit increases.

In response to a question from Representative Kroeber, Mr. Collins said the Public Employees Retirement System Board has not taken a position on the bill draft.

Senator Mathern said the bill draft may cause a disparity in retirement benefits between members who remain in the defined benefit plan and those who elect to become members of the defined contribution retirement plan.

Representative Wald said the bill draft merely provides an additional opportunity or option for state employees who elect to participate in the defined contribution retirement plan and does not mandate that members of the defined benefit plan leave that plan and transfer to the defined contribution retirement plan. He said the defined contribution plan may be better for younger employees and employees who do not intend to spend their entire careers with the state.

Senator Mathern said there are opportunities under the current system for employees to enhance their benefits or take on a portion of the risk of retirement, such as participating in the deferred compensation program.

Representative Grande said the defined benefit plan is still available to any employee who wants to make that election, nothing is being taken away from employees, and additional options are being provided for employees.

It was moved by Representative Wald, seconded by Representative Froseth, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 18 [30018.0100] a favorable recommendation. Representatives Grande, Froseth, and Wald and Senator Kilzer voted "aye." Representative Kroeber and Senators Lyson and Mathern voted "nay."

Ms. Thompson reviewed Employee Benefits Programs Committee Bill No. 26 [30026.0100] and the technical comments for the bill draft, a copy of which is attached as Appendix O. She said the bill draft would, effective January 1, 2003, allow members of the Legislative Assembly to participate in the defined contribution plan, with contributions based on a special definition of salary which includes per diem compensation and monthly compensation, annualized pursuant to board rule and excludes expense allowances. She said the cost of the proposal is .01 percent of payroll.

It was moved by Representative Wald, seconded by Representative Froseth, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 26 an unfavorable recommendation. Representatives Grande, Froseth, Kroeber, and Wald and Senators Kilzer, Lyson, and Mathern voted "aye." No negative votes were cast.

UNIFORM GROUP INSURANCE PROGRAM

Mr. Collins reviewed the actuarial comments prepared by Deloitte & Touche, the Public Employees Retirement System Board's actuarial consultants for the uniform group insurance program, for Employee Benefits Programs Committee Bill No. 59 [30059.0200], a copy of which is attached as Appendix P. He said the bill draft increases the minimum number of weekly hours eligibility requirement from 17.5 hours to 20 hours for new employees hired after August 1, 2003. He said the bill draft also mandates that any retiree who has met the eligibility requirements and continually paid the required premiums may continue to remain eligible for the uniform group insurance program. Traditionally, he said, members are part of defined benefit plans, but there are members who are part of the defined contribution plan. In the latter instance, he said, there is the potential that these individuals may run out of money and lose their eligibility under the uniform group insurance program. He said the bill draft removes the provision allowing political subdivisions to determine the amount of the employer's monthly contribution toward the monthly premium. In addition, he said, the bill draft has been amended to change the definition of eligibility from five months to 20 weeks to be consistent with that used for the retirement programs; grants the board authority to solicit competitive bids from the marketplace at its direction; and grants the board authority to establish a self-insured health plan at its discretion and without a time limit and contract with a third-party administrator to provide administrative services or self-administer the plan and create whatever full-time staff equivalent is needed to implement and administer the program, and develop a provider network by contracting directly with health care providers and associations. He said the bill draft also grants the board authority to develop an employer-based wellness program with the appropriate financial incentives to encourage employer participation, updates the confidentiality statute to reflect compliance with federal Health Insurance Portability and Accountability Act requirements, and appropriates funds to the retirement board for one full-time staff person who will be responsible for overseeing the health plan and contracting process and the employer-based wellness program. As originally proposed, he said, the actuarial consultants did not believe the bill draft would have any significant adverse financial impact on the program, but under the amended bill draft the actuarial consultants identified the self-administration of a self-insured health program, development and maintenance of a provider network, and implementation of an employer-based wellness program as issues to be considered by the retirement board.

In response to a question from Representative Wald, Mr. Collins said the bill draft is only intended to apply to hospital and medical benefits coverage and not to life insurance benefits, employee assistance program services, vision plans, dental plans, or long-term care plans and the bidding process should still apply to those plans. He said the retirement board will revise the bill draft to address Representative Wald's concerns.

It was moved by Representative Wald, seconded by Representative Froseth, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 59 [30059.0200], to be revised by the retirement board to address the committee's concerns, a favorable recommendation. Representatives Grande, Froseth, Kroeber, and Wald and Senators Kilzer, Lyson, and Mathern voted "aye." No negative votes were cast.

Mr. Collins reviewed the actuarial comments for Employee Benefits Programs Committee Bill No. 25 [30025.0100], a copy of which is attached as Appendix Q. He said the bill draft would extend the benefits of the uniform group insurance program to allow retirees covered by the retirement plans of certain political subdivisions to elect to participate in the uniform group insurance program. He said the actuarial consultants for the uniform group insurance program noted that the bill draft could subject the uniform group insurance health plan to significant adverse selection depending on the level of benefits and premium cost available to retirees under the political subdivisions compared to those offered through the uniform group insurance program. To the extent this proves true, he said, the premiums for all participants who remain in the plan will increase. He said this occurs because if the retirees of the affected political subdivisions have the option of two different plans, they are likely to choose the plan that benefits them the most. He said it is likely that those who choose the Public Employees Retirement System plan will have greater than average claims, thereby increasing the overall claims' cost for all participants. An additional adverse financial impact to the state, he said, occurs as the result of the premium structure. The current premium structure is such that the non-Medicare retiree individual rate is equal to 1.5 times the active rate. He said expected actuarial experience would indicate the actual claim relativity to non-Medicare retirees to actives to be approximately 2:1. He said the implication is that the actives are currently subsidizing the non-Medicare retirees. He said the proposed bill draft allows for the retirees of political subdivisions to join the Public Employees Retirement System plan without also requiring the actives of the political subdivisions to join as well. Due to the inherent subsidization in the current rating structure of a potentially substantial increase in the number of retirees, the rates of the current active population would need to increase to reflect the additional cost not fully reflected in the retiree premiums, he said.

It was moved by Representative Wald and failed for lack of a second that the committee give Employee Benefits Programs Committee Bill No. 25 [30025.0100] a favorable recommendation.

It was moved by Senator Mathern, seconded by Representative Froseth, and carried on a voice vote that the committee give Employee Benefits Programs Committee Bill No. 25 [30025.0100] no recommendation and recommend that the sponsor amend the bill to address the concerns of the Public Employees Retirement System Board.

Chairman Grande recognized Senator Mathern who reviewed Employee Benefits Programs Committee Bill No. 69 [30069.0100]. 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.

Mr. Collins reviewed the actuarial comments for the bill draft, a copy of which is attached as Appendix R. He said the actuarial consultant identified adverse risk selection as an issue that must be considered when changing eligibility requirements, but he noted that the bill draft provides for a number of safeguards against adverse risk selection, including minimum requirements as established by the Public Employees Retirement System Board and a minimum participation period of 60 months for private sector employer groups.

It was moved by Senator Mathern, seconded by Representative Kroeber, and defeated on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 69 [30069.0100] a favorable recommendation. Representative Kroeber and Senator Mathern voted "aye." Representatives Grande, Froseth, and Wald and Senators Kilzer and Lyson voted "nay."

It was moved by Representative Wald, seconded by Senator Kilzer, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 69 [30069.0100] an unfavorable recommendation. Representatives Grande, Froseth, and Wald and Senators Kilzer and Lyson voted "aye." Representative Kroeber and Senator Mathern voted "nay."

OLD-AGE AND SURVIVOR INSURANCE SYSTEM

At the request of Chairman Grande, committee counsel reviewed Employee Benefits Programs Committee Bill No. 61 [30061.0200]. He said the bill draft increases primary insurance benefits under the Old-Age and Survivor Insurance System (OASIS) fund. He said the committee amended the proposal at the request of Job Service North Dakota to transfer administration of the Old-Age and Survivor Insurance System from Job Service North Dakota to the Public Employees Retirement System Board.

In response to a question from Representative Grande, Mr. Collins said the Public Employees Retirement System Board is in agreement with the amendments.

It was moved by Senator Mathern, seconded by Senator Lyson, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 61 [30061.0200] a favorable recommendation. Representatives Grande, Froseth, Kroeber, and Wald and Senators Kilzer, Lyson, and Mathern voted "aye." No negative votes were cast.

LAW ENFORCEMENT AND CORRECTIONAL OFFICER RETIREMENT PROGRAM STUDY

At the request of Chairman Grande, committee counsel reviewed a bill draft relating to a law enforcement and correctional officer retirement program [30017.0300]. He said the bill draft had been amended as a result of the directives of the committee to add a Rule of 85 and include an appropriation of $878,526 in general fund money and $182,610 in other fund money to the state agencies that would have employees eligible to participate in the new law enforcement and correctional officer retirement program.

Senator Lyson said the City of Williston recently lost five law enforcement officers to the United States Customs Service and this bill draft will help state and local law enforcement agencies recruit and retain law enforcement and correctional officers.

It was moved by Senator Mathern, seconded by Senator Lyson, and carried on a roll call vote that the bill draft relating to a law enforcement and correctional officer retirement program be approved and recommended to the Legislative Council. Representatives Grande and Kroeber and Senators Kilzer, Lyson, and Mathern voted "aye." Representatives Froseth and Wald voted "nay."

It was moved by Senator Mathern, seconded by Senator Lyson, and carried on a voice vote 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, Chairman Grande adjourned the meeting at 3:45 p.m.

Jeffrey N. Nelson
Committee Counsel

John D. Olsrud
Director

ATTACH:18