NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

EMPLOYEE BENEFITS PROGRAMS COMMITTEE

Monday, December 17, 2001
Harvest 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, Joe Kroeber, Wayne W. Tieman; Senators Ralph L. Kilzer, Karen K. Krebsbach, Stanley W. Lyson, Tim Mathern

Members absent: Representatives Glen Froseth, Francis J. Wald

Others present: See Appendix A

Concerning the minutes of the August 21, 2001, committee meeting, committee counsel said the 2001 Benefits Survey Final Report prepared for the city of Bismarck by Fox Lawson and Associates was distributed by Ms. Connie Sprynczynatyk, Executive Director, North Dakota League of Cities, rather than Ms. Deborah Ness, Chief, Bismarck Police Department.

It was moved by Senator Mathern, seconded by Representative Tieman, and carried that the minutes of the August 21, 2001, committee meeting be approved as corrected.

TEACHERS' FUND FOR RETIREMENT

At the request of Chairman Grande, committee counsel distributed copies of the September 2001 State Investment Board newsletter *Your Vested Interest*, December Teachers' Fund for Retirement newsletter *Report Card*, and December Teachers' Fund for Retirement newsletter *Retirement Today*, copies of which are on file in the Legislative Council office.

Chairman Grande called on Mr. Chris Conradi, Enrolled Actuary and Senior Consultant, Gabriel, Roeder, Smith and Company, Dallas, Texas, who presented the July 1, 2001, actuarial valuation of the Teachers' Fund for Retirement. A copy of the actuarial valuation is on file in the Legislative Council office, and a copy of the overheads used by Mr. Conradi in his presentation is attached as Appendix B. As of July 1, 2001, he said, there were 10,239 active members and 4,777 retired members in the Teachers' Fund for Retirement. He said the ratio of active members to retired members was 2 to 1, nearly the same as it was on June 30, 1991. He said the active payroll of the Teachers' Fund for Retirement is $342.2 million and has averaged a 3.8 percent annual increase during the last 10 years. He said the average annual salary of members is $33,421 and the average annual benefit for beneficiaries is $11,935. He said the actuarial value of assets was $1,414.7 million and the market value of assets was $1,290.7 million as of June 30, 2001. He said the average annual increase in actuarial value during the last 10 years was 12.1 percent and the average annual increase in market value during the last 10 years was 10.2 percent. He said the actuarial value of assets is 109.6 percent of the market value. He said the market yield for the fiscal year ending June 30, 2001, was a negative 7.6 percent while the actuarial yield was a positive 8.6 percent. He said the contributions for the fiscal year ending June 30, 2001, were $54.5 million while benefits and refunds paid were $62 million. He said the Teachers' Fund for Retirement is a mature defined benefit pension system and thus it is not unusual for benefits paid out by the system to exceed contributions. He said the external cashflow as a percentage of market value is a negative .6 percent and the unfunded actuarial accrued liability of the Teachers' Fund for Retirement is $53 million. He said the GASB No. 25 funded ratio, the actuarial value of assets to the actuarial accrued liability, is 96.4 percent. He said the required contribution rate for the plan year ending June 30, 2001, was 3.99 percent. Thus, he said, the available margin is 3.76 percent or 7.75%, the statutory contribution rate, - 3.99% = 3.76%.

Mr. Conradi said if the market return for next year is 8 percent, the projected margin is 3.02 percent. If the market return is 0 percent, he said, the expected margin is 2.46 percent; if the market return is a negative 8 percent, the expected margin is 1.90 percent; and if the market return for the fiscal year ending June 30, 2002, is a negative 16 percent, the expected available margin is 1.33 percent. He said if the market return for fiscal year 2002 is 8 percent and the market return after fiscal year 2002 is 8 percent for each year, the available margin on June 30, 2006, would be a negative .4 percent. If the market return is 0 percent next year and the market return after fiscal year 2002 is 8 percent for each year, he said, the available margin on June 30, 2006, would be a negative 3.65 percent. If the market return for fiscal year 2002 is a negative 8 percent or a negative 16 percent, and the market return after fiscal year 2002 is 8 percent for each year, he said, then the available margin on June 30, 2006, would be a negative 6.9

percent and a negative 10.16 percent, respectively. Concerning the conditional annual benefit adjustment scheduled for July 1, 2002, he said, the .75 percent retiree benefit increase will go into effect.

In response to a question from Representative Grande, Mr. Conradi said the conditional annual benefit adjustment is already actuarially accounted for and thus it will have no actuarial impact on the Teachers' Fund for Retirement.

PUBLIC EMPLOYEES RETIREMENT SYSTEM

Chairman Grande called on Ms. Leslie L. Thompson, Enrolled Actuary and Vice President and Consulting Actuary, The Segal Company, Denver, Colorado, who presented the July 1, 2001, actuarial valuation of the Public Employees Retirement System main system, judges' retirement fund, National Guard retirement fund, Highway Patrolmen's retirement fund, and the retiree health benefit fund. The actuarial valuation reports for these funds are on file in the Legislative Council office and a copy of the overheads used by Ms. Thompson in her presentation is attached as Appendix C. Concerning the July 1, 2001, actuarial valuations, she said, all systems have positive contribution margins. She said the return on valuation assets exceeded the return on the market value of assets and the funded ratio was above 100 percent for all plans except the retiree health insurance credit fund. However, she said, the funded ratio for the retiree health insurance credit fund improved from 36.5 percent to 37.8 percent. She said the ratio of the actuarial value of assets to the market value of assets increased from 86 percent to 98.3 percent.

Concerning the main system, Ms. Thompson said, there were 16,694 active members as of July 1, 2001, an increase of 2.3 percent from June 30, 2000. She said the average age of active members is 45.2 years, an increase of four months from 2000, and the average annual salary is $25,696, an increase of 3.6 percent. She said the total payroll for the main system is $429 million, an increase of 5.9 percent from June 30, 2000.

Concerning the judges' retirement fund, Ms. Thompson said, the total number of active members declined by one from June 30, 2002, to June 30, 2001, from 48 to 47. She said the average age of active members is 53.9 years, an increase of two months, and the average annual salary is $83,282, a .5 percent increase. She said the total payroll of the judges' retirement fund is $3.9 million, a decrease of 2.5 percent due to the reduction in membership.

Concerning the National Guard retirement fund, Ms. Thompson said, the total number of active members increased from 13 to 15 and the average age of active members is 36.5 years, a decrease of 14 months. The average annual salary, she said, is $32,508, a 2.0 percent increase, and the total payroll is $487,614, an 18 percent increase.

Concerning the July 1, 2001, actuarial valuation for the Public Employees Retirement System and the Highway Patrolmen's retirement system, Ms. Thompson said, the market value of assets was $1.17 billion while the actuarial value was $1.15 billion. Thus, she said, the actuarial value of assets is 98.3 percent of market value. She said the rate of return on actuarial value was 9.36 percent, 1.3 percent higher than the 8 percent assumed rate of return. She said the 10-year average rate of return has been 10.88 percent. She said the employer cost rate for 2001 for the main system is 3.83 percent while the statutory contribution rate is 4.12 percent. Thus, she said, the available margin as of July 1, 2001, is .29 percent or 4.12% - 3.8% = .29%. She said the employer cost rate for the judges' retirement fund is 9.03 percent and the statutory contribution rate is 14.52 percent. Thus, she said, the available margin of the judges' retirement fund is 5.49 percent or 14.52% - 9.03% = 5.49%. Concerning the National Guard retirement system, she said, the employer cost rate for 2001 is 3.30 percent while the statutory contribution rate is 8.33 percent. Thus, she said, the available margin is 5.03 percent or 8.33% - 3.30% = 5.03%.

Concerning the retirement health insurance credit fund, Ms. Thompson said, the total number of active members increased from 16,720 to 17,110, an increase of 2.3 percent. She said the average age of active members is 45.2 years, an increase of five months from June 30, 2000, and the average annual salary is $26,132, a 5.5 percent increase from last year. The total payroll under the retiree health insurance credit fund is $447 million, she said, an increase of 8 percent from June 30, 2000. She said the market value of assets was $24.6 million and the actuarial value of assets was $24.8 million or 101 percent of market value. She said the employer cost rate was .99 percent while the statutory contribution rate is 1.00 percent. Thus, she said, the available margin is .01 percent or 1.00% - .99% = .01%. She noted that the funded ratio for the retiree health insurance credit fund has increased from 18.6 percent in 1993 to 37.8 percent in 2001.

Concerning the Highway Patrolmen's retirement system, Ms. Thompson said, the total number of active members as of June 30, 2001, was 124, an increase of two from June 30, 2000. She said the average age of active members was 38.5 years, an increase of four months, and the average annual salary is $39,302. She said the available margin in the Highway Patrolmen's retirement system is 4.57 percent or 16.70%, the statutory contribution rate, - 12.13%, the employer cost rate, = 4.57%.

Chairman Grande called on Mr. John Garrett, Vice President and Consulting Actuary, The Segal Company, Denver, Colorado, who reviewed the projected margins from June 30, 2002, through June 30, 2006, based upon various market returns in fiscal year 2002 and an assumed rate of return of 8 percent for each year after fiscal year 2002. Based upon this projection, he said, if the market return for fiscal year 2002 is 10 percent, the projected margin as of June 30, 2006, will be a negative .71 percent; if the market rate of return for fiscal year 2002 is 8 percent, the June 30, 2006, margin will be a negative 1.07 percent. He said a 0 percent return in fiscal year 2002 will equate to a negative 2.52 percent margin on June 30, 2006, a negative 8 percent return in fiscal year 2002 will equate to a negative 3.97 percent margin on June 30, 2006, and a negative 16 percent return in fiscal year 2002 equates to a negative 5.42 percent margin on June 30, 2006.

In response to a question from Senator Mathern, Mr. Sparb Collins, Executive Director, Public Employees Retirement System, said the assumed actuarial rate of return is currently 8 percent and is set by the Public Employees Retirement System Board. He said the actuarial assumed rate of return is reviewed every five years and is based on historical rates of return as well as on what other public pension plans are using as their actuarial assumed rate of return.

Concerning general concepts governing public pension plans, Ms. Thompson said, the accepted standard is that if a public pension plan has a negative margin, it should stop making benefit enhancements. If assets continue to degrade over time and liabilities continue to grow, she said, the general rule is that if the amortization period is greater than 30 years, then the Legislative Assembly would have to consider increasing contribution rates to fund current benefits.

Chairman Grande called on Mr. Steve Cochrane, Executive Director, Retirement and Investment Office, who addressed the committee. Mr. Cochrane presented a schedule of capital market return projections with fiscal year 2001 asset allocations and comparative asset allocations for the Public Employees Retirement System, Teachers' Fund for Retirement, and the State Investment Board pension trusts, a copy of which is attached as Appendix D. One question that he is often asked, he said, is why the Public Employees Retirement System and the Teachers' Fund for Retirement have different asset allocations even though they are invested in the same pension trusts. The reason, he said, is each pension plan is controlled by a separate board and uses separate consultants to achieve objectives that may not be identical. He said that for fiscal year 2002 through the end of November the investment return of the Teachers' Fund for Retirement has been a negative 3.85 percent and the investment return of the Public Employees Retirement System fund has been a negative 2.80 percent but that they have actually recovered since the events of September 11, 2001. He said the asset allocation developed by the Public Employees Retirement System and Teachers' Fund for Retirement System Boards of Trustees is reviewed by the State Investment Board to ensure that it meets their fiduciary responsibilities and then if approved, implements it.

LAW ENFORCEMENT AND CORRECTIONAL OFFICER RETIREMENT PROGRAM STUDY

At the request of Chairman Grande, committee counsel reviewed a memorandum entitled *Law Enforcement and Correctional Officer Retirement Programs in Kansas, Nebraska, and Wyoming*, a memorandum entitled *State Agencies With Law Enforcement or Corrections Responsibilities - Number of Employees*, a memorandum entitled *Political Subdivision Law Enforcement and Correctional Officer Survey Results*, and a compilation of county benefit survey information for sheriffs' departments for the year 2001 compiled by the North Dakota Association of Counties, attached as Appendix E. The memorandum entitled *Law Enforcement and Correctional Officer Retirement Programs in Kansas, Nebraska, and Wyoming* discusses the Kansas Police and Firemen's Retirement System; the provisions of the Kansas Public Employees Retirement regular system that apply to correctional officers; the Nebraska State Patrol Retirement System; the Wyoming State Highway Patrol, Game and Fish Warden, and Criminal Investigator Retirement System; and the provisions of the Wyoming retirement main system that apply to political subdivision and University of Wyoming law enforcement personnel. The memorandum entitled *State Agencies With Law Enforcement or Corrections Responsibilities - Number of Employees* discusses the number of employees of various state agencies with law enforcement or corrections responsibilities that may be eligible for a separate law enforcement and correctional officer retirement plan. The memorandum identifies 416 employees that may be eligible for such a plan. The memorandum entitled *Political Subdivision Law Enforcement and Correctional Officer Survey Results* indicates that of the political subdivisions responding to the survey, an estimated 697.25 individuals are employed as peace and correctional officers in various political subdivisions. The 2001 county benefit survey information for sheriffs' departments reviews county health insurance coverage, retirement plans, leave policies, and salaries for county sheriffs' departments.

Chairman Grande called on Mr. Don Matejcek, Bismarck office Social Security Administration field representative, who addressed the committee concerning Social Security retirement benefits and their effect on state retirement benefits. He distributed a packet of material, including a fact sheet on Social Security benefits; state statistics concerning

Social Security; a snapshot of Social Security benefits; a publication concerning the government pension offset for workers of a federal, state, or local government if the worker did not pay Social Security taxes; and information relating to the windfall elimination provision and how it affects Social Security retirement or disability benefits. He also distributed booklets concerning understanding Social Security benefits, the basic facts of Social Security, and Medicare benefits under Social Security. A copy of the packet of materials is on file in the Legislative Council office.

In response to a question from Representative Grande, Mr. Collins said political subdivisions have the option of joining the Public Employees Retirement System main system. Under the plan design of the main system, he said, the normal retirement date is age 65 or the rule of 85 with Social Security benefits. Mr. Collins said the National Guard retirement system is a separate system within the Public Employees Retirement System and has a normal retirement date of age 55. He said this system is identical to the main system except individuals can retire at age 55 with three years of service. He said political subdivisions may not participate in the National Guard retirement system.

In response to a question from Senator Mathern, Mr. Collins said the Highway Patrol's retirement plan is designed for individuals who do not have Social Security while the National Guard retirement program is designed for individuals who participate in the federal Social Security system.

In response to a question from Senator Mathern, Mr. Collins said if law enforcement and correctional officers employed by political subdivisions that did not participate in the federal Social Security system were allowed to join the Highway Patrolmen's retirement system and law enforcement and corrections officers employed by political subdivisions that participate in the federal Social Security system were allowed to join the National Guard retirement system, precautions would have to be taken to ensure that they did so on an actuarially sound basis and that the current members of those systems were not adversely impacted by enlarging the group of eligible participants.

In response to a question from Senator Lyson, Mr. Collins said if law enforcement officers and correctional officers currently participating in the Public Employees Retirement System retirement plan are allowed to participate in a new plan or the National Guard plan with a normal retirement date of age 55 and are allowed to transfer their current years of service to the new plan, it would have an adverse actuarial impact on the plan.

Representative Grande requested that the Legislative Council staff prepare a bill draft to require law enforcement and correctional officers employed by the state and to allow political subdivisions employing law enforcement and corrections officers to participate in the National Guard retirement program. She said political subdivisions should have the option of electing to participate in the plan and eligible members should also have the option of participating in a defined benefit plan or an optional defined contribution plan. Thus, she said, these employees would be able to retire with normal retirement benefits at age 55.

Senator Lyson said that for purposes of the bill draft, the definition of law enforcement and correctional officer eligible to participate in the plan should be limited to licensed law enforcement officers and certified corrections officers.

No further business appearing, Chairman Grande adjourned the meeting at 2:30 p.m.

Jeffrey N. Nelson
Committee Counsel

ATTACH:5