EMPLOYEE BENEFITS PROGRAMS COMMITTEE

The Employee Benefits Programs Committee has statutory jurisdiction over legislative measures that affect retirement, health insurance, and retiree health insurance programs of public employees. Under North Dakota Century Code (NDCC) Section 54-35-02.4, the committee is required to consider and report on legislative measures and proposals over which it takes jurisdiction and which affect, actuarially or otherwise, retirement programs and health and retiree health plans of public employees. The committee is allowed to solicit draft measures from interested persons during the interim and is required to make a thorough review of any measure or proposal it takes under its jurisdiction, including an actuarial review. A copy of the committee's report must accompany any measure or amendment affecting a public employees retirement program, health plan, or retiree health plan which is introduced during a legislative session. The statute provides that any legislation enacted in contravention of these requirements is invalid and benefits provided under that legislation must be reduced to the level in effect before enactment. In addition, Section 54-52.1-08.2 requires the committee to approve terminology adopted by the Public Employees Retirement System Board to comply with federal requirements, and Section 18-11-15 requires the committee to receive notice from a firefighters' relief association concerning service benefits paid under a special schedule.

The Legislative Council assigned to the committee a study of public employee health insurance benefits and to receive a report from the Office of Management and Budget and the Public Employees Retirement System concerning pension portability.

Committee members were Representatives Francis J. Wald (Chairman), James O. Coats, Glen Froseth, Leland Sabby, and Allan Stenehjem and Senators Karen K. Krebsbach, Ed Kringstad, Elroy N. Lindaas, and Carolyn Nelson.

The committee submitted this report to the Legislative Council at the biennial meeting of the Council in November 1998. The Council accepted the report for submission to the 56th Legislative Assembly.

CONSIDERATION OF RETIREMENT AND HEALTH PLAN PROPOSALS

The committee established April 1, 1998, as the deadline for submission of retirement, health, and retiree health proposals. The deadline provided the committee and the consulting actuary of each affected retirement, health, or retiree health program sufficient time to discuss and evaluate the proposals. The committee allowed only legislators and those agencies entitled to the bill introduction privilege to submit retirement, health, and retiree health proposals for consideration.

The committee reviewed each submitted proposal and solicited testimony from proponents; retirement and health program administrators; interest groups; and other interested persons.

Under NDCC Section 54-35-02.4, each retirement, insurance, or retiree insurance program is required to pay, from its retirement, insurance, or retiree health benefits fund, as appropriate, and without the need for a prior appropriation, the cost of any actuarial report required by the committee which relates to that program.

The committee referred every proposal submitted to it to the affected retirement or insurance program and requested the program to authorize the preparation of actuarial reports. The Public Employees Retirement System used the actuarial services of The Segal Company in evaluating proposals that affected retirement programs, and the actuarial services of Deloitte & Touche, LLP, in evaluating proposals that affected the public employees health insurance program. The Teachers' Fund for Retirement Board used the actuarial services of Watson Wyatt and Company in evaluating proposals that affected the Teachers' Fund for Retirement.

The committee obtained written actuarial information on each proposal. In evaluating each proposal, the committee considered the proposal's actuarial cost impact; testimony by retirement and health insurance program administrators, interest groups, and affected individuals; the impact on state general or special funds and on the affected retirement program; and other consequences of the proposal or alternatives to it. Based on these factors, each proposal received a favorable recommendation, unfavorable recommendation, or no recommendation.

A copy of the actuarial evaluation and the committee's report on each proposal will be appended to the proposal and delivered to its sponsor. Each sponsor is responsible for securing introduction of the proposal in the 1999 Legislative Assembly.

Teachers' Fund for Retirement

Former NDCC Chapter 15-39 established the teachers' insurance and retirement fund. This fund, the rights to which were preserved by Section 15-39.1-03, provides a fixed annuity for full-time teachers whose rights vested in the fund before July 1, 1971. The plan was repealed in 1971 when the Teachers' Fund for Retirement was established with the enactment of Chapter 15-39.1. The plan is managed by the board of trustees of the Teachers' Fund for Retirement.

The Teachers' Fund for Retirement became effective July 1, 1971. The Teachers' Fund for Retirement is administered by a board of trustees. A separate state investment board is responsible for the investment of the trust assets, although the Teachers' Fund for Retirement Board establishes the asset allocation policy. The Retirement and Investment Office is the administrative agency for the Teachers' Fund for Retirement. The Teachers' Fund for Retirement is a qualified governmental defined benefit retirement plan. For governmental accounting standards board purposes, it is a cost-sharing multiple employer public employee retirement system.

All certified teachers of any public school in North Dakota participate in the Teachers' Fund for Retirement. This includes teachers, supervisors, principals, and administrators. Noncertified employees such as teacher's aides, janitors, secretaries, and drivers are not allowed to participate in the Teachers' Fund for Retirement. Eligible employees become members at their date of employment.

All active members contribute 7.75 percent of their salary per year. The employer may "pick up" the member's assessments under the provisions of Internal Revenue Code Section 414(h). The member's total earnings are used for salary purposes, including overtime, and included nontaxable wages under an Internal Revenue Code Section 125 plan, but excluding certain extraordinary compensation, such as fringe benefits or unused sick and vacation leave.

The district or other employer which employs a member contributes 7.75 percent of the member's salary. Employees receive credit for service while a member. A member may also purchase credit for certain periods, such as time spent teaching at a public school in another state or by paying the actuarially determined cost of the additional service. Special rules and limits govern the purchase of additional service.

Members are eligible for a normal service retirement benefit at age 65 with credit for five years of service, or when the sum of the member's age and service is at least 8552;the Rule of 85. The monthly retirement benefit is 1.75 percent of final average compensation, defined as the average of the member's highest three-plan year salaries with monthly benefits based on one-twelfth of this amount, times years of service. Benefits are paid as a monthly life annuity, with guarantee that if the payments made do not exceed the member's assessments plus interest, determined as of the date of retirement, the balance will be paid in a lump sum to the member's beneficiary.

A member may retire early after reaching age 55 with credit for five years of service. In this event, the monthly benefit is 1.75 percent of final average compensation times years of service, multiplied by a factor which reduces the benefit six percent for each year the employee's retirement age is earlier than 65.

Members are eligible for disability retirement benefits provided the member has credit for at least one year of service. The monthly disability retirement benefit is 1.75 percent of final average compensation times years of service with a minimum 20 years of service. The disability benefit commences immediately upon the member's retirement. The benefits cease upon recovery or reemployment. Disability benefits are payable as a monthly life annuity with a guarantee, at the member's death, the sum of the member's assessments plus interest as of the date of retirement will be paid in a lump sum to the member's beneficiary. All alternative forms of payment are also permitted in the case of disability retirement. Disability benefits are converted to normal retirement benefits when the member reaches normal retirement age or age 65, whichever is earlier. Members with at least five years of service who do not withdraw their contributions from the fund are eligible for deferred termination benefits. The deferred termination benefit is a monthly benefit of 1.75 percent of final average compensation times years of service. Both final average compensation and service are determined at the time the member leaves active employment. Benefits may commence unreduced at age 65 or when the Rule of 85 is met. Reduced benefits may commence at or after age 55 if the member is not eligible for an unreduced benefit. The form of payment is the same as for normal retirement.

All members leaving covered employment with less than five years of service are eligible to withdraw or receive a refund benefit. Optionally, vested members, those with five or more years of service, may withdraw their assessments plus interest in lieu of the deferred benefits otherwise due. The member who withdraws receives a lump sum payment of that person's employee assessments, plus the interest credited on those contributions. Interest is credited at six percent.

To receive a death benefit, death must have occurred while the member was an active or inactive, nonretired member. Upon the death of a nonvested member, a refund of the member's assessments and interest is paid. Upon the death of a vested member, the beneficiary may elect the refund benefit; payment for 60 months of the normal retirement benefit, based on final average compensation and service determined at the date of death; or a life annuity of the normal retirement benefit, based on final average compensation and service as of the date of death, but without applying any reduction for the member's age at death.

There are optional forms of payment available on an actuarial equivalent basis. These include a life annuity payable while either the participant or the participant's beneficiary is alive, "popping-up" to the original life annuity if the beneficiary predeceases the member; a life annuity payable to the member while both the member and beneficiary are alive, reducing to 50 percent of this amount if the member predeceases the beneficiary, and "popping-up" to the original life annuity if the beneficiary predeceases the member; a life annuity payable to the member, with a guarantee that, should the member die before receiving 60 payments, the payments will be continued to a beneficiary for the balance of the five-year period; a life annuity payable to the member with a guarantee that, should the member die prior to receiving 120 payments, the payments will be continued to a beneficiary for the balance of the 10-year period; or a nonlevel annuity payable to the member, designed to provide a level total income when combined with the member's Social Security benefit. From time to time, the Teachers' Fund for Retirement statutes have been amended to grant certain postretirement benefit increases. However, the Teachers' Fund for Retirement has no automatic cost of living increase features.

Since 1991 there have been several plan changes in the Teachers' Fund for Retirement. Effective July 1, 1991, the benefit multiplier was increased from 1.275 percent to 1.39 percent for all future retirees. The Legislative Assembly also provided a postretirement benefit increase for all annuitants receiving a monthly benefit on June 30, 1991. The monthly increase was the greater of a 10 percent increase or a level increase based on years of service and retirement date of $3 per year of service for retirements before 1980, $2 per year of service for retirements from 1980 to 1983, and $1 per year of service for retirements from 1984 through June 30, 1991. The minimum increase was $5 per month, and the maximum increase was $75 per month.

In 1993 the benefit multiplier was increased from 1.39 percent to 1.55 percent for all future retirees. The Legislative Assembly also provided a postretirement benefit increase for all annuitants receiving a monthly benefit on June 30, 1993. The monthly increase was the greater of a 10 percent increase or a level increase based on years of service and retirement date of $3 per year of service for retirements before 1980, $2.50 per year of service for retirements from 1980 to 1983, and $1 per year of service for retirements from 1984 through June 30, 1991. The minimum increase at this time was $5 per month and the maximum increase was $100 per month. The minimum retirement benefit was increased to $10 times years of service up to 25, plus $15 times years of service greater than 25. Previously, it had been $6 up to 25 years of service plus $7.50 over 25 years of service. The disability benefit was also changed at this time to 1.55 percent of final average compensation times years of service using a minimum of 20 years of service. In 1997 the benefit multiplier was increased from 1.55 percent to 1.75 percent for all future retirees, the member assessment rate and employer contribution rate were increased from 6.75 percent to 7.75 percent, and a $30 per month benefit improvement was granted to all retirees and beneficiaries.

The latest available report of the consulting actuary was dated July 1, 1998. The consulting actuary reported that the primary purposes of the valuation report are to determine the adequacy of the current employer contribution rate, to describe the current financial condition of the Teachers' Fund for Retirement, and to analyze changes in the fund's condition. Concerning the financing objectives of the Teachers' Fund for Retirement Board of Trustees, the consulting actuary reported that the member and employer contribution rates are intended to be sufficient to pay the fund's normal cost and to amortize the fund's unfunded actuarial accrued liability in level payments over a period of 20 years from the valuation date. The funding period is set by the board of trustees, and is considered reasonable by the actuary.

As of July 1, 1998, the employer contribution rate needed in order to meet these goals was 4.78 percent. This is less than the 7.75 percent rate currently required by law, so the current contribution rate is adequate. The margin between the rate mandated by law and the rate necessary to fund the unfunded actuarial accrued liability in 20 years is 2.97 percentage points. This margin increased from 1.38 percentage points on July 1, 1997, mainly because the actual investment return rate was greater than the assumed rate of eight percent. If a 7.75 percent contribution rate remains in place, and all actuarial assumptions are exactly realized, then the unfunded actuarial accrued liability will be completely amortized in 6.9 years from July 1, 1998. The funded ratio, the ratio of the actuarial value of assets to the actuarial accrued liability, increased from July 1, 1997. The funded ratio as of July 1, 1997, was 84.3 percent, while it was 89.8 percent as of July 1, 1998. This increase is mainly due to favorable investment performance.

Because of continued strong investment performance, during the plan year ending June 30, 1998, the margin increased from 1.38 percent, as of July 1, 1997, to 2.97 percent. The unfunded actuarial accrued liability decreased from $153.6 million to $105.1 million, and the funding period decreased from 12.3 years to 6.9 years. The funded ratio, the actuarial value of assets divided by the actuarial accrued liability, increased from 84.3 percent to 89.8 percent.

The fund's actuarial return was 12.6 percent, compared to the 8 percent investment return assumption. This is a smoothed return, the dollar-weighted market return was 13.2 percent. This decreased the unfunded actuarial accrued liability by over $37 million and increased the margin by 117 basis points. Other factors tending to increase the margin were the effect of using an "open" 20-year amortization period, employer contributions received at 7.75 percent rather than the previous year's 20-year rate, growth in payroll, and other liability factors, such as salary increases and demographic assumptions. The consulting actuary reported that overall the Teachers' Fund for Retirement remains in a strong actuarial position. If the funded position were measured using the market value of assets, rather than the five-year smoothed value, the Teachers' Fund for Retirement would have assets in excess of its actuarial accrued liability. The consulting actuary reported that even if the fund experiences realized and unrealized losses of $100 million in 1998-99, reversing the gains of the last fiscal year, because of the five-year smoothing approach to computing actuarial assets, and because of the large gains recognized in the last several years, the fund's actuarial return next year would still exceed the eight percent investment return assumption.

The fund had 15,781 total members on July 1, 1998. The total payroll was $298.4 million. The assets at market value were $1,133,500,000 with an actuarial value of $928 million.

The following is a summary of proposals affecting the Teachers' Fund for Retirement over which the committee took jurisdiction and the committee's action on each proposal:

Bill No. 54

Sponsor: Senator Carolyn Nelson

Proposal: Allows a retired member to return to teaching for up to one year without losing any benefits if at least 50 percent of the salary earned by that person is placed in a school district's educational foundation or a private educational foundation.

Actuarial Analysis: The consulting actuary believes that depending on the number of retired members who would take advantage of this provision, the proposal may have a measurable actuarial impact on the Teachers' Fund for Retirement. There is some potential for increased costs, because a member with long service who is already eligible for an unreduced benefit could continue to receive the same total income, between 50 percent of that person's regular pay and retirement benefit, while having the other 50 percent of pay going to the foundation. This could encourage employees to retire earlier than they would have otherwise. This could result in a reduction of the Teachers' Fund for Retirement margin, the amount of which would depend heavily on the number of members who utilize the provision. However, the consulting actuary noted that, the provision in the bill making it effective for only two years is intended to allow the Teachers' Fund for Retirement Board of Trustees to determine how many members are utilizing the provision and what the cost impact is.

Also, in a technical comment, the consulting actuary noted that the proposal could endanger the qualified status of the plan. Under qualified retirement plans, benefits are not taxable until they are received. If the plan loses its qualified status, accrued vested benefits become immediately taxable.

Committee Report: Favorable recommendation.

Bill No. 88

Sponsor: Board of Trustees

Proposal: Increases the benefit multiplier from 1.75 to 1.85 percent; provides a postretirement benefit increase of $50 per month.

The committee amended the proposal at the request of the board to increase the benefit multiplier from 1.85 to 1.88 percent and to provide a postretirement benefit increase equal to an amount calculated by taking $2 per month multiplied by the member's number of years of service credit plus $1 per month multiplied by the number of years since the member's retirement.

Actuarial Analysis: The reported actuarial cost of the proposal is 2.20 percent of total covered compensation. The reported actuarial cost of the proposal, as amended, is 2.87 percent of total covered compensation. Thus, if both Bill No. 88 and Bill No. 89 are enacted, the remaining margin in the Teachers' Fund for Retirement will be .05 percent (2.97 - (2.87 + .05) = .05).

Committee Report: Favorable recommendation.

Bill No. 89

Sponsor: Board of Trustees

Proposal: Changes the definition of beneficiary for purposes of the Teachers' Fund for Retirement to the person designated in writing by the member except that in the absence of such designation, if the member is married, the member's spouse must be the primary beneficiary, however, if the member is married, and if the member wishes to name an alternate beneficiary, the member's spouse must consent in writing to the member's designation; deletes the provision that salary received by a member in lieu of previously employer-provided fringe benefits must have been under an agreement between the member and participating employer that was entered into within 60 months before retirement to be excluded from salary; reduces the vesting period from five years to three years; provides that retirement benefit payments must be made over a period of time that does not exceed the life expectancy of the member or the joint life expectancy of the member and the beneficiary; provides that early retirement benefits must be reduced to the actuarial equivalent of the benefit credits earned to the date of early retirement from the earlier of age 65 or the age at which current service plus age equals 85; provides that before payment of a benefit claim, the member's surviving spouse, if any, must consent in writing to the member's choice of benefit payment option for any benefit payments commencing after June 30, 1999; requires a teacher to provide proof of eligibility under rules adopted by the board in order to purchase additional credit; deletes the requirement that a teacher must have completed five years of creditable service in this state before becoming eligible to purchase credit for years of teaching at an out-of-state school; deletes the requirement that service credit for a legislative session must be purchased within one year after the adjournment of that legislative session; deletes the requirement that service credit for a teacher who was elected president of a professional educational organization recognized by the board and who serves in a full-time capacity in lieu of teaching must be purchased within one year after the teacher leaves the position; allows a teacher who has at least five years of teaching service credit in the fund to purchase up to five years of credit not based on service for use toward retirement eligibility and benefits; and repeals NDCC Section 15-39.1-12.1, which provides for partial service retirements under the Teachers' Fund for Retirement.

Actuarial Analysis: The reported actuarial cost of the proposal is .05 percent of total covered compensation. Thus, if both Bill No. 89 and Bill No. 88 are enacted, the remaining margin in the Teachers' Fund for Retirement will be .05 percent (2.97 - (.05 + 2.87) = .05).

Committee Report: Favorable recommendation.

Bill No. 90

Sponsor: Board of Trustees

Proposal: Provides that persons receiving monthly benefits from the Teachers' Fund for Retirement are entitled to receive a monthly credit toward hospital and medical benefits coverage of $2.50 multiplied by the person's years of service; the program is funded by a state contribution equal to one percent of the salaries and wages of each teacher employed in the state, and the bill contains an appropriation of $6 million from the general fund to fund the teachers' retiree health benefits program.

Actuarial Analysis: The consulting actuary reported that the portion of all retirees and beneficiaries who choose to participate is called the utilization percentage. This is a key assumption in deciding whether the proposed one percent of salary contribution rate would be sufficient to support the program. Not all retirees would participate in the uniform group insurance program, even given the availability of a subsidy. Some are already receiving health insurance from the school district from which they retired; some will choose to purchase health insurance from other providers, such as the American Association of Retired Persons; some will have health insurance provided through a spouse or from other employment; and some will simply choose to rely on Medicare. According to the Teachers' Fund for Retirement membership survey, approximately 30 percent of retirees surveyed said they would be unlikely to participate in the uniform group insurance program, even if a monthly health care credit of $2 per year of service is provided. The table below shows the contribution rate required given various credit amounts and utilization rates. Contribution rates for credit amounts and utilization rates other than the ones shown can be calculated by a straight-line interpolation between the rates shown. The consulting actuary assumed a 60 percent utilization rate, based on early information on utilization under the program established for members of the Public Employees Retirement System. However, the consulting actuary learned that the Public Employees Retirement System is experiencing significantly higher utilization, especially among longer-service retirees who have larger benefits. Therefore, the Public Employees Retirement System weighted utilization rate is much greater than 60 percent. The Public Employees Retirement System currently assumes that the probability of utilization is a function of the member's service from a utilization rate of 50 percent at five years of service to 100 percent at 25 years of service. Thus, given the evidence of the Teachers' Fund for Retirement survey, the initial utilization rate might be close to 70 percent. Future utilization, though, would probably increase as current active members who are not already wedded to a particular insurance program join the ranks of the retired. Thus, the consulting actuary reported that it would be prudent for the Legislative Assembly to determine the initial credit level based on a 100 percent utilization level. This would allow the Legislative Assembly to increase the credit if actual utilization is lower. The consulting actuary reported that this is preferable to setting the initial credit level at $2.50 and then discovering that actual utilization is at 75 or 80 percent, requiring an increase in the contribution rate or a decrease in the credit. Using a 100 percent utilization level, only a credit of $1.50 per year of service can be provided by a one percent contribution rate. It would require a 1.55 percent contribution rate to support the $2.50 credit with 100 percent utilization. The first year's payment, assuming the $2.50 multiplier with 75 percent utilization, would be about $2.9 million, and the first year's contributions would total approximately $3.1 million. However, if utilization were heavier, for example 85 percent, the credits paid would be about $3.3 million, more than the contributions collected.

Cost for Teachers' Retiree Health Fund Under Various Alternatives As of July 1, 1998					
	Cost As Percent of Teachers' Salaries				
	Monthly Credit Per Year of Service				
Utilization Rate	**$1.00**	**$1.50**	**$2.00**	**$2.50**	**$3.00**
50%	0.31%	0.47%	0.62%	0.78%	0.93%
60%	0.38%	0.56%	0.74%	0.93%	1.12%

75%	0.47%	0.70%	0.93%	1.16%	1.40%
100%	0.62%	0.93%	1.24%	1.55%	1.86%

Note: Contribution rates are equal to normal cost plus a 40-year amortization of unfunded actuarial accrued liability.

Committee Report: No recommendation.

Public Employees Retirement System

The Public Employees Retirement System is governed by NDCC Chapter 54-52 and includes the Public Employees Retirement System main system, judges' retirement system, and National Guard retirement system; Highway Patrolmen's retirement system; and retiree health benefits fund. The plan is supervised by the Retirement Board and covers most employees of the state, district health units, and the Garrison Diversion Conservancy District. Elected officials and officials first appointed before July 1, 1979, can choose to be members. Officials appointed to office after that date are required to be members. Most Supreme Court and district court judges are members of the plan but receive benefits different from other members. A county, city, or school district may choose to participate on completion of an employee referendum and on the execution of an agreement with the Retirement Board. The Retirement Board also administers the uniform group insurance, life insurance, flexible benefits, deferred compensation, and Chapter 27-17 judges' retirement programs. The NDCC Chapter 27-17 judges' retirement program is being phased out of existence except to the extent its continuance is necessary to make payments to retired judges and their surviving spouses and future payments to judges serving on July 1, 1973, and their surviving spouses as required by law.

Members of the main system and judges are eligible for a normal service retirement benefit at age 65 or when age plus service is equal to at least 8552;the Rule of 85. Members of the National Guard retirement system are eligible for a normal service retirement at age 55 and five consecutive years of service. The retirement benefit for members of the main system is 1.77 percent of final average salary multiplied by years of service. The retirement benefit for members of the judges' retirement system is 3.5 percent of final average salary for the first 10 years of service, 2.8 percent for the next 10 years of service, and 1.25 percent for service in excess of 20 years. The retirement benefit for members of the National Guard retirement system is 1.77 percent of final average salary multiplied by years of service. Members of the main system and judges' retirement system are eligible for an early service retirement at age 55 with five years of service and members of the National Guard retirement system are eligible for an early service retirement at age 50 with five years of service. The retirement benefit for members who elect early service retirement is the normal service retirement benefit; however, a benefit that begins before age 65, or Rule of 85, if earlier, is reduced by one-half of one percent for each month before age 65. The early service retirement benefit for members of the National Guard retirement system is the normal service retirement benefit; however, a benefit that begins before age 55 is reduced by one-half of one percent for each month before age 55. Members with six months of service who are unable to engage in any substantial gainful activity are eligible for a disability benefit of 25 percent of the member's final average salary at disability with a minimum of $100 per month. Members are eligible for deferred vested retirement at five years of service. For members of the main system and judges' retirement system, the deferred vested retirement benefit is the normal service retirement benefit payable at age 65 or the Rule of 85, if earlier. Reduced early retirement benefits may be elected upon attainment of age 55. The deferred vested retirement benefit for members of the National Guard retirement system is the normal service retirement benefit payable at age 55. Reduced early retirement benefits may be elected upon attainment of age 50.

The surviving spouse of a deceased member who had accumulated at least five years of service is entitled to elect one of three forms of preretirement death benefits. The preretirement death benefit may be a lump sum payment of accumulated contributions; the member's accrued benefit payable for 60 months; or 50 percent of the member's accrued benefit, not reduced on account of age, payable for the spouse's lifetime. If a member dies in active service after normal retirement age, the benefit is the amount that would have been paid to the surviving spouse if the member had retired and had elected a 100 percent joint and survivor annuity. If the deceased member had accumulated less than five years of service, or if there is no surviving spouse, a death benefit equal to the member's accumulated contributions is paid in a lump sum.

In lieu of a monthly retirement benefit, terminating vested members may elect to receive their accumulated member contributions with interest. Terminating nonvested members receive a refund of their accumulated employee contributions. The standard form of payment is a monthly benefit for life with a refund of the remaining balance, if any, of accumulated member contributions. Optional forms of payment are a 50 percent joint and survivor annuity; 100 percent joint and survivor annuity, with "popup" feature; five-year certain and life annuity; 10-year certain and life annuity; or a level Social Security income annuity. The monthly benefit amount is adjusted under the optional forms of payment so the total value of benefits is actuarially equivalent. Final average salary is the average of the highest salary received by a member for any 36 months employed during the last 120 months of employment.

Except for the employer contribution rate for the National Guard, contribution rates are specified by statute. The contribution rate for members of the main system is 4 percent, and the employer contribution is 4.12 percent. The contribution rate for members of the judges' retirement system is 5 percent, and the employer contribution is 14.52 percent. The contribution rate for members of the National Guard retirement system is 4 percent, and the employer contribution is 8.33 percent. For many employees, no deduction is made from pay for the employee's share. This is a result of 1983 legislation that provided for a phased-in "pickup" of the employee contribution in lieu of a salary increase at that time.

In 1989 the Legislative Assembly established a retiree health insurance credit fund account with the Bank of North Dakota for the purpose of prefunding hospital benefits coverage and medical benefits coverage under the uniform group insurance program for retired members of the Public Employees Retirement System and the Highway Patrolmen's retirement system receiving retirement benefits or surviving spouses of those retired members who had accumulated at least 10 years of service. The employer contribution under the Public Employees Retirement System was reduced from 5.12 percent to 4.12 percent, under the judges' retirement system from 15.52 percent to 14.52 percent, and under the Highway Patrolmen's retirement system from 17.70 percent to 16.70 percent or one percent of the monthly salaries or wages of participating members, including participating Supreme Court and district court judges, and those moneys were redirected to the retiree health insurance credit fund.

The latest available report of the consulting actuary is dated July 1, 1998. According to the report, on that date the combined net assets of the Public Employees Retirement System and Highway Patrolmen's retirement system were $1,034,038,611 at market value. The combined actuarial value of these funds was $829,437,505. Of the combined valuation assets, $801,290,448 is allocated to the Public Employees Retirement System main system, including the judges' retirement system and the National Guard retirement system, and $28,147,057 is allocated to the Highway Patrolmen's retirement fund. The actuarial value as a percent of market value is 80.21 percent. Total active membership was 16,035 (15,954 persons other than judges or members of the National Guard retirement system, 49 judges, and 32 members of the National Guard retirement system). The report indicated that an employer contribution of 2.51 percent of payroll is necessary to meet the normal cost associated with nonjudge members. This means statutory contributions exceed the actuarial requirements of the Public Employees Retirement System, and the margin available in the main system is 1.61 percent of payroll.

The report for the judges' retirement system indicated that an employer contribution of 7.35 percent of payroll is required to fund the system. The statutory employer contribution rate is 14.52 percent of salary. This results in an actuarial margin of 7.17 percent of payroll.

The report for the National Guard retirement system indicated that an employer contribution of 3.44 percent of payroll is required to fund the system. The contribution rate set by the Retirement Board is 8.33 percent of salary. This results in an actuarial margin of 4.89 percent of salary.

Members of the Highway Patrolmen's retirement system are eligible for a normal service retirement at age 55 with at least 10 years of eligible employment or with age plus service equal to at least 8052;the Rule of 80. The normal service retirement benefit is 3.25 percent of final average salary for the first 25 years of service and 1.75 percent for service in excess of 25 years. Members are eligible for an early service retirement at age 50 with 10 years of eligible employment. The early service retirement benefit is the normal service retirement benefit; however, a benefit that begins before age 55 or the Rule of 80, if earlier, is reduced by one-half of one percent for each month before age 55. Members are eligible for a disability benefit at six months of service and an inability to engage in substantial gainful activity. The disability benefit is 70 percent of the member's final average salary at disability less workers' compensation, with a minimum of $100 per month. Members are eligible for deferred retirement benefits upon 10 years of eligible employment. The deferred retirement benefit is the normal service retirement benefit payable at age 55 or the Rule of 80, if earlier. Vested benefits are indexed at a rate set by the retirement board based upon the increase in final average salary from date of termination to benefit commencement date. Reduced early retirement benefits may be elected upon attainment of age 50.

Preretirement death benefits are available to a surviving spouse of a deceased member who had accumulated at least 10 years of service in one of three forms, a lump sum payment of accumulated contributions; monthly payment of the member's accrued benefit for 60 months; or 50 percent of the member's accrued benefit, not reduced on account of age, for the spouse's lifetime. If the deceased member had accumulated less than 10 years of service or if there is no surviving spouse, then a death benefit equal to the member's accumulated contribution is paid in a lump sum.

The normal form of benefit is a monthly benefit for life with 50 percent of the benefit continuing for the life of the surviving spouse, if any. Optional forms of payment are a 100 percent joint and survivor annuity, five-year certain and life annuity, or 10-year certain and life annuity. The monthly benefit amount is adjusted under the optional forms of payment so the total value of benefits is actuarial equivalent.

Final average salary is the highest salary received by the member for any 36 consecutive months employed during the last 120 months of employment and the member's contribution is 10.3 percent of monthly salary. The state contributes 16.7 percent of the monthly salary for each participating member.

The latest available report of the consulting actuary for the Highway Patrolmen's retirement fund is dated July 1, 1998.

According to the report, on that date the Highway Patrolmen's retirement fund had net assets with an actuarial value of $28,147,057 and a market value of $35,090,219. Total active membership was 121, and an employer contribution of 11.99 percent of payroll was necessary to meet the normal cost of the Highway Patrolmen's retirement fund. The statutory contribution rate is 16.70 percent of payroll. Thus, the actuarial margin is 4.71 percent of payroll.

The latest available report of the consulting actuary for the retiree health insurance credit fund is dated July 1, 1998. According to the report, on that date the fund had net assets with an actuarial value of $16,273,221 and a market value of $20,281,319. Thus, the actuarial value as a percentage of market value is 80.24 percent. Total active membership was 16,156 (6,602 men and 9,554 women). An employer contribution of 1.02 percent of payroll is required to fund the plan. The statutory contribution rate is 1.00 percent of payroll. This results in an actuarial margin of -.02 percent of payroll. The current benefit amount is $4.50 times years of service.

The following is a summary of the proposals affecting the Public Employees Retirement System over which the committee took jurisdiction and the committee's action on each proposal:

Public Employees Retirement System Main System Bill No. 60

Sponsor: Representative Francis J. Wald

Proposal: Establishes a defined contribution retirement plan for nonclassified state employees; provides that participating members would direct the investment of their accumulated employer and employee contributions and earnings to one or more investment choices within available categories of investment provided by the Public Employees Retirement System Board; provides that a participating member is immediately 100 percent vested in that member's contributions and vests in 50 percent of the employer's contributions upon completion of two years of service, 75 percent of the employer's contributions upon completion of three years of service, and 100 percent of the employer's contributions upon completion of four years of service.

The committee amended the proposal at the request of the sponsor to remove the general fund appropriation for the purpose of administering the Act.

Actuarial Analysis: The consulting actuary estimated costs under two scenarios, whether five percent of eligible employees elect to participate in the new plan or 30 percent of eligible employees elect to participate in the new plan. The consulting actuary assumed that of the total elections, 43 percent would be over age 40 and 57 percent under age 40, similar to the election results for the recently implemented newly defined contribution plan for the state of Michigan. Based on the July 1, 1998, valuation results, which show the market value of assets equal to 138 percent for the main system and 141 percent for the National Guard retirement system of actuarial accrued liabilities, the consulting actuary assumed that the transfer on behalf of each employee would be 138 percent and 141 percent, respectively, of the value of the employee's accrued benefit. The consulting actuary noted that if the Public Employees Retirement System Board elected to use a different measurement of funding surplus, e.g., the actuarial value instead of market value of assets, the results would differ. Using the market value of assets provides a more conservative estimate of the possible cost impact of the proposal. The actuarial cost impact of the proposed changes to the Public Employees Retirement System and the National Guard retirement system is summarized in the following tables:

Main System	If 5% Elect	If 30% Elect
Number of employees	161	967
Assets transferred	$2.9 million	$17.6 million
Pension liability released	$3.5 million	$21.1 million
Reduction in actuarial required contribution rate	0.02%	0.12%

National Guard	If 5% Elect	If 30% Elect
Number of employees	2	10
Assets transferred	$62,000	$68,000
Pension liability released	$80,000	$353,000

Reduction in actuarial required contribution rate	0.72%	2.08%

Committee Report: No recommendation.

Bill No. 80

Sponsor: Representative William E. Kretschmar

Proposal: Provides that payments for overtime must be included as wages and salaries for purposes of calculating benefits under the Public Employees Retirement System.

Actuarial Analysis: The reported actuarial cost impact of the proposal is .12 percent of payroll, $600,000 for fiscal year 1999. The proposal would not affect the benefits paid under the retiree health insurance credit fund, but spreading the cost over the larger payroll would reduce the actuarial contribution requirement by 0.01 percent, from 1.02 percent to 1.01 percent. The consulting actuary noted in a technical comment that the proposal creates an opportunity for employees to elect to work larger amounts of overtime during the final average salary determination period as a means of increasing retirement benefits. This backloading of benefit accruals at the end of a working career does not allow adequate actuarial funding of the member's retirement benefit. Also, the bill creates new cash flow and based upon the overtime rate of $346 per person for those state employees in Central Personnel, the anticipated overtime pay for the entire system would be $5,363,000. This translates into an annual contribution of $214,520 for employees, $220,956 for employers, and $53,630 for the retiree health insurance credit fund for a total of $489,106.

Committee Report: Unfavorable recommendation.

Bill No. 101

Sponsor: Retirement Board

Proposal: Includes vested employer contributions for purposes of determining a member's "account balance"; reduces the vesting requirement from five years to three years for nonjudge members of the Public Employees Retirement System main system; increases the benefit multiplier from 1.77 to 1.90 percent; provides that the fund may accept rollovers from other qualified plans for the purchase of additional service credit; provides a postretirement adjustment of nine percent of the present benefit; provides a disability adjustment of nine percent of the present benefit; provides a prior service adjustment of nine percent of the present benefit; provides that a nonjudge member's account balance includes vested employer contributions equal to the member's contributions to the deferred compensation plan of $25 or one percent of the member's monthly salary for months 1 through 12 of service credit, $25 or two percent of the member's monthly salary for months 13 through 24 of service credit, $25 or three percent of the member's monthly salary for months 25 through 36 of service credit, and $25 or four percent of the member's monthly salary for service exceeding 36 months with a minimum contribution of $25 and a maximum vested employer contribution of four percent of the member's monthly salary.

The committee amended the proposal at the request of the retirement board to reduce the increase in the benefit multiplier from 1.90 percent to 1.89 percent, reduce the postretirement adjustment from 9 percent to 8 percent of the present benefit, reduce the disability adjustment from 9 percent to 8 percent of the present benefit, and reduce the prior service retiree adjustment from 9 percent to 8 percent of the present benefit.

Actuarial Analysis: The reported actuarial cost impact of the original proposal is 1.64 percent of covered payroll for the Public Employees Retirement System main system, 1.41 percent of covered payroll for the National Guard retirement system, and less than 0.01 percent for the retiree health insurance credit fund.

The actuarial cost impact of the original proposal is summarized in the following table:

	Change As a Percent of Covered Payroll	
Proposed Change	**Main**	**National Guard**
Three-year vesting and retirement eligibility	Less than 0.01%	Less than 0.01 %
1.9% multiplier	1.07%	1.12%

9% retiree increase	0.39%	0.14%
Rollover to purchase service credit	0.00%	0.00%
9% prior service increase	Less than 0.01%	N/A
Section 457 matching benefit	0.20%	0.16%
Total estimated cost	1.64%	1.41%

The reported actuarial cost impact of the proposal, as amended, is 1.58 percent of covered payroll for the Public Employees Retirement System main system, 1.32 percent of covered payroll for the National Guard retirement system, and less than 0.01 percent for the retiree health insurance credit fund. The actuarial cost impact of the proposal, as amended, is summarized in the following table:

Proposed Change	Change As a Percent of Covered Payroll	
	Main	National Guard
Three-year vesting and retirement eligibility	Less than 0.01%	Less than 0.01%
1.89% multiplier	0.99%	1.03%
8% retiree increase	0.35%	0.11%
Rollover to purchase service credit	0.00%	0.00%
8% prior service increase	Less than 0.01%	N/A
Section 457 matching benefit	0.25%	0.19%
Total estimated cost	1.58%	1.32%

Thus, if this bill is enacted, the remaining margin in the Public Employees Retirement System main system will be .03 percent (1.61 - 1.58 = .03), and the remaining margin in the National Guard retirement system will be 3.57 percent (4.89 - 1.32 = 3.57).

Committee Report: Favorable recommendation.

Bill No. 102

Sponsor: Retirement Board

Proposal: Provides that participants in the judges' retirement system are entitled to receive a two percent postretirement adjustment in their present monthly benefit and allows the board to suspend the increase for an upcoming year if it determines that the increase is not actuarially prudent; provides that disability retirement benefits for Supreme and district court judges are 70 percent of final average salary reduced by the member's primary Social Security benefits and by any workers' compensation benefits; provides that a surviving spouse of a Supreme or district court judge may select a lump sum payment of the member's retirement account as of the date of death or payments as calculated for the deceased member as if the member were of normal retirement age at the date of death, payable until the spouse dies.

Actuarial Analysis: The reported actuarial cost impact of the proposal is 6.55 percent of covered payroll. The following table summarizes the actuarial cost impact of the proposed changes:

Plan Provision	Cost As a Percentage of Payroll	Additional Cost As a Percentage of Payroll
Current plan	7.35%	N/A

Disability benefit	7.56%	0.21%
Preretirement death benefit	8.58%	1.23%
Automatic 2% COLA	12.18%	4.83%
All improvements	13.9%	6.55%

Thus, if this bill is enacted, the remaining margin in the judges' retirement system will be .62 percent (7.17 - 6.55 = .62).

Committee Report: Favorable recommendation.

Bill No. 122

Sponsor: Representative Francis J. Wald

Proposal: Reduces the vesting period from five years to three years for nonjudge members of the Public Employees Retirement System; provides that except for Supreme and district court judges, a member's account balance includes 75 percent of vested employer contributions if the member has less than three years of service and 100 percent of vested employer contributions if the member has three years or more of service.

Actuarial Analysis: The consulting actuary reported that the cost impact of changing the vesting and benefit eligibility requirement from five years to three years is minimal. The consulting actuary assumed that the allocation of vested employer contributions to member account balances would serve to increase the lump sum payment available to a spouse or beneficiary upon the death of a member; increase the account balance available to a member upon termination of employment, including current inactive vested members for whom the system has retained account balances; and increase any residual payment that may be due in the event the account balance exceeds payments to a retired member or the member's spouse or beneficiary. Currently, the employer's actuarial contribution requirements are 2.51 percent for the main system and 4.89 percent for the National Guard retirement system. The additional member account balance would increase the contribution for the main system by 2.33 percent of payroll, $9 million for fiscal year 1999, and for the National Guard retirement system by 5.84 percent, $1 million for fiscal year 1999. The cost impact of the proposed changes on the retiree health insurance credit fund would be less than 0.01 percent.

Committee Report: Unfavorable recommendation.

Highway Patrolmen's Retirement System Bill No. 103

Sponsor: Retirement Board

Proposal: Increases the benefit multiplier from 3.25 to 3.40 percent of final average salary for the first 25 years of service; provides a postretirement increase in the benefit multiplier from 3.25 to 3.40 percent of final average salary.

Actuarial Analysis: The reported actuarial cost impact of the proposal is 2.86 percent of covered payroll. The statutory contribution rate is 16.70 percent of payroll, and the cost of the current plan is 11.99 percent of payroll. Thus, if the proposal is enacted, the remaining margin in the Highway Patrolmen's retirement system will be 1.85 percent (16.70 - 11.99 = 4.71; 4.71 - 2.86 = 1.85). The consulting actuary noted that the Highway Patrolmen's retirement system currently provides that, if a contributor has less than 10 years of service at termination of employment, a refund is payable on the application of the contributor, or automatically in January of the following calendar year. The proposed legislation would allow refunds to be made within 30 days following termination of employment rather than the January following termination of employment. To the extent that the trust fund earns investment income in excess of any interest paid on the contributions refunded, there would be a slight cost to the system for paying refunds earlier than the current legislation provides. Alternatively, if the interest paid on contributions refunded exceeds the investment income of the trust fund, there will be a savings to the system for earlier refunds of contributions. However, given the size of the Highway Patrol group, the consulting actuary anticipated the savings or cost of this provision to be minimal. The following table summarizes the actuarial cost impact of the proposed change:

Plan Provision	Cost As a Percentage of Payroll	Additional Cost As a Percentage of Payroll
Current plan	11.99%	N/A

Benefit multiplier	14.85%	2.86%

Committee Report: Favorable recommendation.

Uniform Group Insurance Program Bill No. 104

Sponsor: Retirement Board

Proposal: Provides that the rate for a non-Medicare retiree single plan is 150 percent of the active member's single plan rate; provides that the rate for a non-Medicare retiree family plan of two people is twice the non-Medicare retiree single plan rate; and provides that the rate for a non-Medicare retiree family plan of three or more persons is two and one-half times the non-Medicare retiree single plan rate for purposes of determining health insurance premiums for retired public employees not eligible for Medicare.

Actuarial Analysis: The actuarial consultant reported that the proposed methodology ties the determination of the rates to that of the active employees. The actuarial costs of the retiree group not eligible for Medicare are approximately 150 percent of the active group. Therefore, a strong case can be made for indexing the rates as proposed. In addition, the tying of rates to the active group will provide for rate stability since the active pool is much larger and more credible than the non-Medicare retiree pool. As a result, the rates for this retiree subgroup will follow the trends of the larger active group and will not be subject to potentially large swings in rates due to the small size of the enrolled population.

Committee Report: Favorable recommendation.

Bill No. 114

Sponsor: Senator Tim Mathern

Proposal: Allows 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.

Actuarial Analysis: The actuarial consultant reported that based upon the assumption that the Health Insurance Portability and Accountability Act accessibility requirements do not apply to the groups contemplated by the proposal, the proposed legislation would not have a negative impact on the Public Employees Retirement System uniform group health insurance program. However, if the state, the retirement board, or the United States Department of Labor were to take the position that the Health Insurance Portability and Accountability Act requirements do apply to the uniform group insurance program, the proposed legislation would have a negative impact on the program's financial status.

Committee Report: Unfavorable recommendation.Other Retirement Plans and Proposals

The committee considered several proposals dealing with changes to other retirement plans, including the Old-Age and Survivor Insurance System and alternate firefighters relief association plans. In addition, the committee reviewed the Uniform Management of Public Employee Retirement Systems Act.

Old-Age and Survivor Insurance System (OASIS) Bill No. 53

Sponsor: Representative Francis J. Wald

Proposal: Allows employers to pay Public Employees Retirement System employee contributions from the old-age and survivor insurance levy authorized by NDCC Section 57-15-28.1(5).

Actuarial Analysis: The proposal has no actuarial cost impact on the Public Employees Retirement System.

Committee Report: Favorable recommendation.Bill No. 58

Sponsor: Job Service North Dakota

Proposal: Increases primary insurance benefits under the Old-Age and Survivor Insurance System fund by $66.66 per month, an increase of $50 per month for beneficiaries, and repeals the old-age and survivor insurance tax trigger.

Actuarial Analysis: Job Service North Dakota reported that the fund has sufficient assets to pay for the proposed increase and similar future increases through the end of the program.

Committee Report: Favorable recommendation.

Alternate Firefighters Relief Association Plans Bill No. 29

Sponsor: Representative David Drovdal

Proposal: Allows cities with volunteer firefighter departments to form firefighters relief associations.

Actuarial Analysis: The proposal has no actuarial cost impact.

Committee Report: Favorable recommendation.

Bill No. 87

Sponsor: Senator Tony Grindberg

Proposal: Provides that a firefighters relief association may adopt an alternate pension plan for its members with a normal retirement age of 55 years, a service benefit of 2.33 percent of a first-class firefighter's salary at the time of the member's retirement multiplied by the number of years of service employment up to a maximum of 30 years, deferred vesting after 10 years, vesting of 10 years, and postretirement adjustments provided on an actuarially sound basis. The committee amended the proposal at the request of the sponsor to add an emergency clause.

Actuarial Analysis: The consulting actuary for the Fargo Firefighters Relief Association retirement plan reported that the margin of the fund is sufficient to fund the proposed benefit enhancements.

Committee Report: Favorable recommendation.

Uniform Management of Public Employee Retirement Systems Act (UMPERSA) Bill No. 49

Sponsor: Commission on Uniform State Laws

Proposal: Adopts the Uniform Management of Public Employee Retirement Systems Act.

Actuarial Analysis: The consulting actuary for the Teachers' Fund for Retirement reported that the fund may have a significant increase in administrative expenses to comply with the additional disclosures mandated by the bill. The consulting actuary for the Public Employees Retirement System reported that the bill would have no actuarial cost impact on the Public Employees Retirement System, Highway Patrolmen's retirement system, or the retiree health insurance credit fund.

Committee Report: No recommendation.

APPROVAL OF PUBLIC EMPLOYEES RETIREMENT SYSTEM BOARD TERMINOLOGY TO COMPLY WITH FEDERAL REQUIREMENTS AND NOTIFICATION OF IMPLEMENTATION OF ALTERNATE SCHEDULE OF BENEFITS BY A FIREFIGHTERS RELIEF ASSOCIATION

The committee received a report from representatives of the Public Employees Retirement System Board that no action on the part of the committee was required pursuant to NDCC Section 54-52.1-08.2 that requires the committee to approve terminology adopted by the Public Employees Retirement System Board to comply with federal requirements. The committee was not notified by any firefighters relief association pursuant to Section 18-11-15(5) that requires the Employee Benefits Programs Committee to be notified by a firefighters relief association if it implements an alternate schedule of monthly service pension benefits for members of the association.

PENSION PORTABILITY REPORT

Section 18 of 1997 Session Laws Chapter 15 requires the Office of Management and Budget and the Public Employees Retirement System to report to the interim Employee Benefits Programs Committee on pension portability. This section provides that the report should focus on issues of pension portability and how to balance the needs of long- and short-term employees within defined benefit or defined contribution plan concepts.

The committee received the report on February 2, 1998. Representatives of the Office of Management and Budget and the Public Employees Retirement System Board reported that in response to the study resolution they began work in June 1997. The study consisted of three main phases, data collection and literature search, analysis, and final consideration and report writing. The first phase involved collecting information and data. Specifically, a literature search of the issues relating to portability within the context of a defined benefit and defined contribution system was conducted. In addition, a review of the experiences and reports from other states relating their considerations or studies was also collected. The third work effort in this phase was to review the data available in the Public Employees Retirement System and Office of Management and Budget data bases. To facilitate analysis, the two data bases were merged and the various pay grades and job classes were examined in terms of length of service to determine if any major variances existed. The data bases also were examined to determine information on the average years of service at retirement and to determine the characteristics of terminating employees. This phase began in June 1997 and was completed in August 1997.

The second phase was the analysis of the data. This was done by Office of Management and Budget and Public Employees Retirement System staffs, as well as the Public Employees Retirement System benefits committee. Using this forum provided maximum involvement by all the members of the Public Employees Retirement System. The committee held three meetings to discuss the information and data in detail. These meetings were held on September 29, October 21, and November 13, 1997. This phase was completed in November 1997. The third phase was the final considerations and analysis of the Office of Management and Budget and Public Employees Retirement System, as well as report writing. This phase began in December 1997 and was completed in January 1998.

The pension portability study reviewed the history of the Public Employees Retirement System, economic benefits provided by the Public Employees Retirement System, and other public retirement plans. Next, the report reviewed design and supplemental plan activities in other states. In conducting their analysis of issues and options, the Office of Management and Budget and the Public Employees Retirement System retirement board reviewed current issues, identified and analyzed portability options, and reviewed the advantages and disadvantages of selected portability options. The issues reviewed included the prevalence of defined benefit and defined contributions plans, a comparison of defined benefit and defined contribution plans, mobility, portability, a demographic review of state employees, and conversion issues. In identifying and analyzing portability options, the report reviewed the attributes of a defined contribution plan, the issue of reduced vesting, the issue of salary indexing, automatic vesting in the employer contribution, incentive matching of the employer contribution, rollover provisions, cooperative agreements, purchase provisions, pretax purchase of service provisions, and early retirement reduction provisions. In studying the advantages and disadvantages of selected portability options, the report reviewed issues such as conversion to a defined contribution plan, reduced vesting, incentive matching of employer contributions, rollover provisions, and pretax purchase provisions.

In summary, the Office of Management and Budget and Public Employees Retirement System reported that historical data indicates that the Public Employees Retirement System has provided a stable contribution structure for the state of North Dakota since its inception, similar to a defined contribution plan. After review, it was noted the goals of the Public Employees Retirement System provide a sound base for a retirement plan. The Public Employees Retirement System planning mix is the existing defined benefit plan, the defined contribution plan (Section 457 plan) and, finally, Social Security. The report indicated that continuing to retain a retirement planning mix of both defined benefit and defined contribution traits was beneficial to the membership as it provides an opportunity to utilize both types of systems in their retirement planning and provides a sound foundation on which to accomplish this goal.

A review of the Public Employees Retirement System plan design history showed it has been beneficial to the membership and employers, in that it has been possible to enact benefit enhancements that have resulted in a 70 percent increase for the active and retired employees with no increase in employer contributions. This has maintained a stable funding structure for the employer and met the needs of both the active and retired employees.

It was noted one of the most important ingredients to an effective retirement plan is stability of the plan over a long period of time. The Public Employees Retirement System provides this stability within its existing structure. Any change would have a significant impact on that stability and potentially negatively affect the membership's retirement planning. It was felt the existing defined benefit plan provides economic benefits not only to the members but also to the state of North Dakota. The report noted that a defined contribution plan may not provide the full economic benefits the existing system does.

It was noted that the Public Employees Retirement System already provides for portability within its existing plan in several ways. These include portability of benefits by having one of the lowest vesting structures in the country in that members vest in five years. Further, it was noted that members vest in the disability benefit in only six months. It was also noted that the Public Employees Retirement System provides for partial asset portability. Finally, it was noted that the Public Employees Retirement System provides for service portability between all state employers, 180 political subdivisions, and coordinates with the 300 employer groups of the Teachers' Fund for Retirement. It was also noted that the Public Employees Retirement System has special portability provisions for the Teachers' Insurance and Annuity Association of America-College Retirement Equities Fund (TIAA-CREF) which allows transfers of not only the employee contribution but also the employer contribution. In recognition of these factors, it was determined that the Public Employees Retirement System provides a significant level of portability within its existing benefit structure.

The report reviewed information on the prevalence of defined contribution and defined benefit plans. Concerning private defined contribution plans, it was noted the number of plans increased by 34 percent from 1985 to 1992; the total number of participants increased by 23 percent while the average number of participants per plan decreased by over 10 percent. For private sector defined benefit plans, the total number of plans decreased by 50 percent; however, the total number of participants stayed the same which caused the average number of participants per plan to increase by 91 percent. However, it was determined that defined benefit plans for major employers have in fact increased in the past 10 years. Therefore, it was reported that it appears that the defined benefit plan remains the dominant type of plan among large employers. The Office of Management and Budget and the Public Employees Retirement System also reviewed the prevalence of defined benefit plans and defined contribution plans for public sector employers. This review showed that 91 percent of public sector employer plans are defined benefit plans while nine percent are defined contribution plans. The report noted there is no unfunded liability to be eliminated in the Public Employees Retirement System.

The report also reviewed data concerning short-term employees and employees who left the system with 10 or more years of service. This information revealed that 58 percent of those who left active employment cashed out of the retirement plan and forfeited the employer contribution. Seventy-six percent of these people had less than five years of employment. The report noted that if the Public Employees Retirement System were a defined contribution plan some of these members would have earned the right to take some, or all, of the employer contribution.

The Office of Management and Budget and Public Employees Retirement System staffs reviewed Public Employees Retirement System data concerning how members utilize the portability of assets provision relating to the employee contribution. It was discovered that of those people with five years or less of service, who terminate employment and cash out, 86 percent took the cash and only 14 percent did a plan-to-plan rollover into another qualified retirement plan. This indicates that allowing people to receive the employer contribution may not result in adequate retirement planning since many take the cash and do not provide for any ongoing retirement.

The Office of Management and Budget and Public Employees Retirement System staffs reviewed a second set of data that merged the Public Employees Retirement System data base and the Central Personnel Division data base to review job classes and pay grades. The result indicated there were no large group discrepancies.

The Office of Management and Budget and Public Employees Retirement System staffs reviewed a sample benefit accrual formula and noted that any change from a defined benefit to a defined contribution system may require an increase in state contributions to maintain the existing benefit level for long-term active employees. Since the state retirement contribution benefit levels are low compared to many other defined contribution plans, this could have a fiscal effect on the state of North Dakota.

The Office of Management and Budget and Public Employees Retirement System staffs reviewed survey data from the membership which indicated that the level of understanding of the membership relating to the various investment categories and investment classes was limited and, therefore, the membership's ability to effectively develop an asset allocation strategy would be limited unless a significant investment was made in education of all the members. This would require an incremental cost to the state. It was also noted that the average asset allocation many of the members would put into place would have a mix of fixed income and equities and produce an overall rate of return of approximately 8.9 percent. However, the actual mix selected by individual members varies considerably, with almost 19 percent of the members putting almost 100 percent in fixed income, and a little over 20 percent putting 100 percent in equities. These differing asset allocations would produce dramatically different retirement benefits for members.

The report states that if the Public Employees Retirement System defined benefit system were converted to a defined contribution system, several issues would need to be technically analyzed, financially assessed, and resolved. These include the effect on the existing state investment structure, assessment of the comparability of benefits, membership considerations, membership investment expertise, retiree health program and other Public Employees Retirement System programs, disability benefits, surviving spouse benefits, investment expenses, Rule of 85 benefits, retiree ad hoc adjustment methodology, and legal considerations.

The report also notes that a defined contribution plan eliminates the financial risk of investment returns for employers and transfers that risk to members and that the existing method of providing ad hoc adjustments to retirees would need to be changed.

Office of Management and Budget and Public Employees Retirement System staffs concluded there are certain concepts that improve portability and balance the needs of long- and short-term employees which would increase overall retirement savings which merit further consideration and review. Office of Management and Budget and Public Employees Retirement System staffs identified these concepts but reported that before any final decision could be made on whether they should be included in the existing defined benefit system, these concepts should undergo a full actuarial review by the Public Employees Retirement

System consultant and a review by the membership to determine their interest in including these provisions. Therefore, to further study these concepts, the Public Employees Retirement System Board prepared and submitted to the Employee Benefits Programs Committee a bill concerning portability concepts, Bill No. 101. It was noted that the submission of a bill would result in the necessary actuarial review and provide full opportunity for the members to review these concepts further. Concepts identified for further study included reducing the vesting schedule to three years, incentive matching of the employer contribution, including additional rollover provisions in the plan, and allowing for pretax purchase of service credit. It was noted that adding the above provisions would address the issue of portability for the Public Employees Retirement System defined benefit plan.

Finally, it was also concluded by Public Employees Retirement System and Office of Management and Budget staffs that retirees should receive an increase in benefits equal to the amount of providing the above portability provisions for the active members. This was suggested to maintain equity between the active members and the retirees relating to the use of the margin.

PUBLIC EMPLOYEE HEALTH INSURANCE BENEFITS STUDY

Section 19 of 1997 Session Laws Chapter 15 directed the Legislative Council to consider studying public employee health insurance benefits during the 1997-98 interim. This section was prioritized by the Legislative Council and assigned to the Employee Benefits Programs Committee for study.

Uniform Group Insurance Program

Health insurance benefits are offered to public employees under the provisions of a uniform group insurance program established by the 1971 Legislative Assembly and codified as NDCC Chapter 54-52.1. Previously, the Legislative Assembly had passed 1963 Senate Bill No. 176 (formerly codified as Chapter 52-12) which authorized any department, board, or agency of the state to act on its own behalf or in conjunction with other agencies to enter into a group hospitalization and medical care plan and group life insurance plan for state employees. The agencies were required to pay $5 per month for each participating employee's insurance premiums, and employees were required to pay the balance of the insurance premiums. An employee could elect to participate in a single plan or a family plan. The 1971 legislation establishing the uniform group insurance program repealed Chapter 52-12.

North Dakota Century Code Section 54-52.1-02 provides that the purpose of the uniform group insurance program is to promote the economy and efficiency of employment in the state's service, reduce personnel turnover, and offer an incentive to high-grade men and women to enter and remain in the service of state employment. This section provides hospital benefits coverage, medical benefits coverage, and life insurance benefits coverage to a uniform group of eligible and retired employees. Eligible employees include permanent employees who are employed by a governmental unit, including members of the Legislative Assembly; judges of the Supreme Court; paid members of state or political subdivision boards, commissions, or associations; full-time employees of political subdivisions; elected state officers; and disabled permanent employees who are receiving compensation from the North Dakota workers' compensation fund. A permanent employee is one whose services are not limited in duration, who is filling an approved and regularly funded position in a governmental unit, and who is employed at least 17.5 hours per week and at least five months each year.

North Dakota Century Code Section 54-52.1-04 requires the Public Employees Retirement System Board to receive bids for the provision of hospital benefits coverage, medical benefits coverage, and life insurance benefits coverage for a specified term, and to accept the bid of and contract with the carrier that in the judgment of the board best serves the interests of the state and its eligible employees. This section allows the board to utilize the services of consultants on a contract basis in order that the bids received can be uniformly compared and properly evaluated. In determining which bid, if any, will best serve the interests of eligible employees in the state, the board must give adequate consideration to the economy to be effected; the ease of administration; the adequacy of the coverages; the financial position of the carrier, with special emphasis as to its solvency; and the reputation of the carrier and any other information as is available tending to show past experience with the carrier in matters of claim settlement, underwriting, and services. Each uniform group insurance contract entered by the board is required by Section 54-52.1-05 to include as many optional coverages as deemed feasible and advantageous by the board, a detailed statement of benefits offered, including maximum limitations and exclusions, and other provisions the board deems necessary or desirable.

North Dakota Century Code Section 54-52.1-03 provides that a retiree who has accepted a retirement allowance from the Public Employees Retirement System, the Highway Patrolmen's retirement system, the TIAA-CREF for service credit earned while employed by North Dakota institutions of higher education, the retirement system established by Job Service North Dakota under Section 52-11-01, the judges' retirement system established under Chapter 27-17, or the Teachers' Fund for Retirement may elect to participate in the uniform group without meeting minimum requirements at age 65, when the member's spouse reaches age 65, upon receipt of a benefit, or when the spouse terminates employment. If a retiree or surviving spouse does not elect to participate at the times specified in this section, the retiree or surviving spouse must meet minimum requirements as established by the board. The retiree or surviving spouse must pay directly to the board the premiums in effect for the coverage then being provided.

Except for employees receiving retirement benefits, upon termination of employment an employee may not continue as a member of the uniform group. However, members or former members of the Legislative Assembly or that person's surviving spouse may elect to continue membership in the uniform group after either termination of eligible employment as a member of the Legislative Assembly or termination of other eligible employment or, for a surviving spouse, upon the death of the member or former member of the Legislative Assembly. The member or former member of the Legislative Assembly or that person's surviving spouse must pay the premium in effect for the coverage provided directly to the retirement board.

North Dakota Century Code Section 54-52.1-06 requires each department, board, or agency to pay to the board each month from its funds appropriated for payroll and salary amounts a state contribution in the amount as determined by the primary carrier of the group contract for the full single rate monthly premium for each of its eligible employees enrolled in the uniform group insurance program and the full rate monthly premium in an amount equal to that contributed under the alternate family contract, including major medical coverage, for hospital and medical benefits coverage for spouses and dependent children of its eligible employees enrolled in the uniform group insurance program. The board is then required to pay the necessary and proper premium amount for the uniform group insurance program to the carrier or carriers on a monthly basis. The combined health insurance premium for the 1997-99 biennium is $301.

North Dakota Century Code Sections 54-52.1-03.1 and 54-52.1-03.4 govern the participation by political subdivisions, employees of certain political subdivisions, and temporary employees in the uniform group insurance program. Section 54-52.1-03.1 provides that a political subdivision may extend the benefits of the uniform group insurance program to its permanent employees, subject to minimum requirements established by the retirement board and a minimum period of participation of 16 months. If the political subdivision withdraws from participation in the uniform group insurance program before completing 16 months of participation, the political subdivision must make a payment to the board in an amount equal to any expenses incurred in the uniform group insurance program that exceed income received on behalf of the political subdivision's employees as determined under rules adopted by the board. This section also provides that the political subdivision may determine the amount of the employer's monthly contribution toward the total monthly premium amount required of each eligible participating employee.

North Dakota Century Code Section 54-52.1-03.4 provides that an employee of a county, city, school district, district health unit, or park district that is not participating in the uniform group insurance program pursuant to Section 54-52.1-03.1 and who is not eligible for any other employee group health plan may elect to participate in the uniform group insurance program by completing the necessary enrollment forms and qualifying under the medical underwriting requirements established by the retirement board. The board may use risk-adjusted premiums for individual insurance contracts to implement the provisions of this section. An employee participating in the uniform group insurance program under this section is required to pay monthly to the retirement board the premiums in effect for the coverage being provided.

Also, temporary employees may elect to participate in the uniform group insurance program by completing the necessary enrollment forms and qualifying under medical underwriting requirements of the program. Temporary employees utilizing this provision are required to pay monthly to the board the premiums in effect for the coverage being provided. This section prohibits political subdivisions, departments, boards, or agencies from making a contribution for coverage under this section.

North Dakota Century Code Section 54-52.1-04.3 requires the retirement board to establish under a self-insurance plan a contingency reserve fund to provide for adverse fluctuations in future charges, claims, costs, or expenses of the uniform group insurance program. Under this provision, the board is required to determine the amount necessary to provide a balance in the contingency reserve fund equal to three and one-half months of claims paid based on the average monthly claims paid during the 12-month period immediately preceding March 1 of each year. The board is authorized to arrange for the services of an actuarial consultant to assist the board in making this determination. All moneys in the contingency reserve fund are appropriated for the payment of claims and other costs of the uniform group insurance program during periods of adverse claims or cost fluctuations.

Under NDCC Sections 54-52.1-04.7, 54-52.1-04.8, and 54-52.1-04.9, the retirement board is authorized to establish a dental plan, a vision plan, a long-term care plan, and an employee assistance program and after June 30, 1999, is required to establish an employee assistance program available to persons in the medical and hospital benefits coverage group.

All funds necessary to pay the consulting fees and health insurance benefits related to the uniform group insurance program are appropriated from insurance premiums received by the board pursuant to NDCC Section 54-52.1-06.1.

Testimony

The committee received testimony from representatives of the Public Employees Retirement System comparing the basic, preferred provider organization, and exclusive provider organization plans. The North Dakota health program is fully insured with

Blue Cross Blue Shield of North Dakota. It is a triple-option plan consisting of a basic plan, preferred provider organization plan, and exclusive provider organization plan. Basic and preferred provider organization coverages are paid on a fee-for-service methodology while exclusive provider organization benefits are paid on capitation and target rate methodology. The deductible for nonphysician services for an individual plan is $150 under the basic and preferred provider organization plans and $100 under the exclusive provider organization plan. The deductible for nonphysician services for a family plan is $450 for the basic and preferred provider organization plans and $300 for the exclusive provider organization plan. Copayments are generally less under the preferred provider organization and exclusive provider organization plans. The coinsurance maximum for the basic plan is 20 percent while it is 10 percent for the preferred provider organization and exclusive provider organization plans. The total out-of-pocket dollar amount per benefit period is $1,350 for the single basic plan, $750 for the single preferred provider organization plan, and $650 for the exclusive provider organization plan. The total out-of-pocket dollar amount per benefit period for the family basic plan is $2,850, $1,650 for the preferred provider organization plan, and $1,400 for the exclusive provider organization plan.

The committee learned that inpatient claims, outpatient claims, and other claims were lower among members of the exclusive provider organization plan than the preferred provider organization plan. Representatives of the Public Employees Retirement System reported that the estimated membership for exclusive provider organizations in July 1997 was 4,440 members of AmeriCare in Fargo, 4,269 at Grand Forks clinic, 636 at the Medical Arts clinic in Minot, 138 at the Craven-Hagen clinic in Williston, and 2,254 at Medcenter One in Bismarck for a total exclusive provider organization enrollment 11,937 or 24 percent of the total Public Employees Retirement System membership. This compares to 13.4 percent in 1994, 18.6 percent in 1995, and 21.4 percent in 1996.

The billed health insurance premium for 1997-99 is $139.69 for a single plan and $345.32 for a family plan for a combined rate of $301. This compares to a combined rate of $265 for 1995-97 and $254 for 1993-95.

Representatives of the Public Employees Retirement System reported that the projected premium for 1997 based upon the medical care consumer price index for an average United States city was $364 while the actual premium is $301. The committee learned that the average rate of increase was 13.5 percent from 1980 through 1989 while the average rate of increase has been 2.7 percent since 1990. This average increase has been below the medical consumer price index.

The committee also reviewed a comparison of the cost of health insurance to the state among the 50 states. North Dakota ranked 46 in 1993, and 48 in 1994 and 1995.

The committee reviewed claims versus premiums paid for 1995 and 1996. The loss ratio was 86.9 percent for higher education in 1995 and 91 percent in 1996, 91.8 percent for state agencies in 1995 and 94.6 percent in 1996, and 98.9 percent for political subdivisions in 1995 and 100.9 percent in 1996.

The committee also reviewed the requirements for political subdivisions to join the uniform group health insurance program. The Public Employees Retirement System Board requires 45 to 60 days to enroll a group. All full-time employees must have a 31-day open enrollment period to apply for health insurance coverage. "Full-time" is defined as any employee who works at least 17 and one-half hours per week, five months per year in a fully funded position not of limited duration. All employees who meet this definition must be offered the opportunity to join the plan. Full-time employees have 31 days from the date of hire in which to enroll without any of the restrictions. If they waive coverage, they may enroll without restriction if they qualify for any of the special enrollment periods or they may enroll during the annual open enrollment but may be subject to a 12-month waiting period for preexisting conditions. Part-time and temporary employees have 31 days from their date of hire in which to enroll in the plan without any restrictions. If they waive coverage, they may enroll without restriction if they qualify for any of the special enrollments periods or they may enroll during the annual open enrollment but may be subject to the 12-month waiting period for preexisting conditions. The North Dakota Public Employees Retirement System bills these employees directly. Paid members of political subdivision boards, commissions, or associations are eligible to participate in the group health plan. The employer contribution may be nothing, or the employer contribution may be less than or equal to, but may not exceed the contribution the employer does pay for eligible employees. Employees declining participation must complete a waiver of health coverage application. There is no minimum number of participants required for an employer group to enroll in the plan. There is no minimum employer contribution required; however, any employer contribution must be applied to all eligible employees in the same manner. The only exception to this requirement is that the employer may prorate the premium contribution based on the number of hours worked. There may not be any monetary compensation for an employee who chooses not to enroll in the plan. Also, there can be no other group health plan offered in conjunction with the Dakota plan; however, supplemental plans such as dental or vision plans may be offered. Only active employees are allowed on the monthly group billing. The Public Employees Retirement System will accept the administration of all current and subsequent Comprehensive Omnibus Budget Reconciliation Act of 1986 contracts. However, any retirees previously allowed to remain on the active group billing must find other coverage. The participation agreement contains a five-year participation clause. Should a political subdivision decide to terminate the agreement prior to the end of that timeframe, an assessment will be made to determine if the claims for the group exceeded premiums and administration fees. If this is the case, the political subdivision will be responsible for refunding the difference to the Public Employees Retirement System.

The committee also received information comparing the uniform group health insurance program with other Blue Cross Blue Shield health insurance plans. The committee learned that the average employer cost for the North Dakota Employees Retirement System was $97.54 per member from July 1996 through June 1997. This compares with an average of $104.17 per member for other Blue Cross Blue Shield employer groups or 6.8 percent less than other employer groups.

The committee reviewed whether general fund savings may be realized if members of the uniform group insurance program were permitted to participate in health maintenance organizations where such organizations are available. Representatives of the Public Employees Retirement System reported that the board has reviewed this issue from time to time and has concluded that to allow a health maintenance organization to participate directly in the group insurance plan would raise the issue of adverse selection and potentially increase the cost to the uniform group's insurance program. The retirement board's consulting actuary for the uniform group health insurance program reported that it had reviewed the issue of participation of health maintenance organizations in the Public Employees Retirement System plan and identified their options and implications to the Public Employees Retirement System health plan. The consulting actuary studied several options, from allowing any willing health maintenance organization to participate through health maintenance organizations acting as subcontractors to the primary carrier, which is Blue Cross Blue Shield at the present time. This study showed that the most optimum level of participation would be to have health maintenance organizations act as subcontractors.

The committee also received information on the expected premiums for the group insurance plan for state active employees for the next biennium. The current state rate is $301 per month and the expected rate for the 1999-2001 biennium is $359 per month, an increase of approximately 19.3 percent or $58 per contract. The cost to fund the present plan for the next biennium, including the projected increase, is $15,845,000, of which $9,982,000 is general fund moneys. The rate increase is due to medical trends, less reserves, and funds being carried forward. Representatives of the Public Employees Retirement System noted that although the percent of increase for health insurance premiums is large, the percentage of total appropriations for the cost of health insurance has been decreasing. It has decreased from 2.57 percent of appropriations in 1989-91 to 2.07 percent in 1997-99. However, representatives of the Public Employees Retirement System also reported that they are concerned that the 19 percent increase may not be large enough to fully fund the plan design for the entire biennium. If recent trends continue, benefit reductions will be required even with the requested increase.

Conclusion

The committee makes no recommendation concerning the public employee health insurance benefits study.