

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2264

2005 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2264

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2264

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1-25-05

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|-----------|
| 3 | xx | | 1000-4900 |
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| | | | |
| Committee Clerk Signature <i>Lisa Van Berkom</i> | | | |

Minutes: **Chairman Mutch** opened the hearing on SB 2264. All Senators were present.

SB 2264 relates to the definition of wages and salaries for purposes of the public employees retirement system; and to provide an appropriation.

Senator Espegard introduced the bill.

Senator Espegard : I'm here today to talk about SB 2264. This is a constituents bill brought forward, it's been here before. I brought it forward to get more dialogue on it. The bill just says, talking about the North Dakota Mill and Elevator, the wages to be used for retirement calculations, all wages are to include the overtime. What's the difference between overtime? The state departments don't get overtime. The situation is different at the North Dakota Mill and Elevator. The situation there is a process company that runs four days on and three days off, or twelve hours on and twelve hours off, but there is always scheduled overtime, in every work shift. In other words, a good portion of their income every year is overtime. Twenty to thirty percent. So the income that they are making is their base plus their overtime. It's scheduled

overtime. That's the difference. So the mill doesn't want to pay overtime and those benefits, so we will change our scheduling, we'll hire more people. What I would contend to that if they did, if you do that, then you will have to pay retirement on all of those wages too. And you are going to have more people and insurance. The people want the overtime, it's a good work incentive because of the extra income. All this bill says is that's fine, but then that overtime should be included in the retirement.

Senator Krebsbach: This bill will also be reviewed tomorrow when we have a scheduled meeting of the employee benefits committee.

Chairman Mutch : So they put in more than forty hours a week?

Senator Espegard : They regularly schedule overtime with the shift work.

Dave Kemnitz, President of the North Dakota AFL-CIO, spoke in support of the bill.

Dave: The mill employees asked me to speak on their behalf. Overtime is a fact of life at the mill. The advantage to the mill, like overtime, rather than hiring more workers and changing the work schedule, is that they have fewer workers with less overhead. The mill employees and the managers have negotiated this matter, or in labor management discussed to try to figure out a way to it. At one time in collective bargaining it was said, "well we can't do anything about this unless you change the law". So the employees came to you in several different sessions and said they need an adjustment. They wanted to allow the overtime hours to be put into the pension category.

Chris Runge, Executive director of the North Dakota Public Employees Association, stated support for the bill.

Sparb Collins, Executive Director of the North Dakota Public Employees Retirement

System, spoke in from a neutral position on the bill, and to offer amendments. See attached.

Senator Nething : I'm thinking along the lines of putting together a flat amount of how much these employees earn, whether it be overtime or not. A bottom line. How do we treat, as far as the percentage, other employees, if we go by your amendment?

Sparb: The contribution rate to PERS is a total of 8.12 percent, or .12 from the employer and four percent from the employee. We assume that the actuary does the projections and comes up with a liability, we do assume that an employee's salary is going to increase at a certain rate of time over their working career. The actuary calculates it after determining all of the variables.

Senator Nething : Is that unfair to the employee, to have them pay that, for the benefit they are going to get, and have the employer share in that portion of it, related to other employees?

Sparb: We proposed these amendments in a way that the cost of this amendment would be paid by all of our employers or in the second amendment by the Mill and Elevator. The four percent employee contribution isn't going up here.

Senator Nething : I'd just like to find a way to make it work. I think there's a situation up there that is just an anomaly, unusual, and yet we have our state employees that we like to treat collectively the same.

Senator Espegard : How this gets paid for is visible, but it goes back to the issue of the fairness of this. These employees are working fifty to sixty hours, and they love that, but I think that we are going to have to pay for it somehow. They aren't \$30,000 employees, they are \$45,000 employees, they wouldn't work there for \$30,000.

Chris Runge: I know that within the PERS system we have a separate system for the judiciary and highway patrol, would that be a possibility to explore, is to carve out it's own system with the Mill and Elevator?

Chairman Mutch : Once you start that, you have so many other state employees that want similar treatment.

Chairman Mutch allowed opposition to the bill.

Vance Taylor, President and General Manager of the North Dakota Mill and Elevator, spoke in opposition. See attached testimony.

Senator Krebsbach: I know that during a certain period of time, during construction on the elevator, there was a huge increase in the amount of overtime, and looking at the overtime report, it seems consistent, however, is it basically the same individuals that are subject to the overtime as it has been in the past?

Vance: Overtime has dropped slightly since the project days, but most of the overtime occurs in certain departments. Not a lot in the elevator and maintenance, but in the milling department which operates constantly.

Senator Espegard : Have you ever looked at different types of supplemental retirement for these employees, other than the PERS program?

Vance: I don't think we have the ability to offer anything like that. We have looked at options to the old retirement. It's difficult to do because it's a seven day week and we wouldn't be able to offer enough hours to that employee to retain that employee. We have looked at a scenario where employees would work four, twelve hour shifts one week and three the next.

Chairman Mutch : The bargaining to begin with, the employees understood all of this overtime business, did they not?

Vance: Yes. All flour mills operate with a lot of overtime. We explain that to every employee that we hire.

Chairman Mutch : So you would be marketing a change when they renegotiate their contract?

Vance: We try to do what we can for our employees, but at the same time, remain competitive that of the industry. The pension we have at the mill pays almost fifty percent more than almost every mill in the country.

Senator Espegard : Taking away the overtime from the employees, you would have to have a lot more employees. That's a considerable cost.

Vance: When you go to a four shift operation and eliminate overtime, a lot of cost goes away because we aren't paying for the time and half and double time.

Senator Espegard : It's about a push of twenty employees. You would have a lot of turn over. What's the base pay?

Vance: In the \$35,000 a year range.

Senator Klein : One of the suggestions you made was giving a flexibility for your own retirement, would you please address that one more time.

Vance: Our preference would be to leave it as is. It really does need to be part of our contract negotiations.

Senator Espegard : Who are your competitors?

Vance: People like ADM, and General Mills, etc.

Senator Espegard : And their pension plans are less than what you are doing?

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Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2264

Hearing Date 1-25-05

Vance: Most of those companies use a dollar amount times the years of service.

Senator Espegard : Do they offer a 401K?

Vance: Yes. They do.

Senator Espegard: Do you?

Vance: We offer the 357 plan.

Senator Espegard : How much do you match there?

Vance: There is no company match.

The hearing was closed. No action was taken.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2264

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 2-02-05

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|---------|
| 1 | xxx | | 0-843 |
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| Committee Clerk Signature <i>Lisa VanBerkom</i> | | | |

Minutes: **Chairman Mutch** opened the committee discussion on SB 2264. All senators were present. SB 2264 relates to the definition of wages and salaries for purposes of the public employees retirement system.

Chairman Mutch passes out amendments for the bill, turning the bill into a study of the overtime.

Senator Espegard moved to amend the bill.

Senator Klein seconded.

Senator Heitkamp: Are the workers okay with this amendment?

Senator Espegard : We are really two years away from it. They have another contract coming up and they are talking about.

Roll Call Vote: 7 yes. 0 no. 0 absent.

Senator Espegard moved a DO PASS AS AMENDED.

Senator Klein seconded.

Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2264

Hearing Date 2-02-05

Roll Call Vote: 7 yes. 0 no. 0 absent.

Carrier: Senator Espegard

FISCAL NOTE

Requested by Legislative Council
02/07/2005

Amendment to: SB 2264

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 2003-2005 Biennium | | 2005-2007 Biennium | | 2007-2009 Biennium | |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | | | | | |
| Expenditures | | | | | | |
| Appropriations | | | | | | |

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

| 2003-2005 Biennium | | | 2005-2007 Biennium | | | 2007-2009 Biennium | | |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| | | | | | | | | |

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

No fiscal implications.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

| | | | |
|----------------------|---------------|-----------------------|------------|
| Name: | Sparb Collins | Agency: | PERS |
| Phone Number: | 328-3901 | Date Prepared: | 02/10/2005 |

FISCAL NOTE
Requested by Legislative Council
01/20/2005

Bill/Resolution No.: SB 2264

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 2003-2005 Biennium | | 2005-2007 Biennium | | 2007-2009 Biennium | |
|-----------------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | | | | | |
| Expenditures | | | | \$213,000 | | \$213,000 |
| Appropriations | | | | \$213,000 | | \$213,000 |

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

| 2003-2005 Biennium | | | 2005-2007 Biennium | | | 2007-2009 Biennium | | |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| | | | | | | | | |

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill was reviewed by the PERS actuary who determined that the cost of the proposed enhancement is .04% of payroll for PERS. Since the PERS fund has no margins to support long term benefit improvements new enhancements need to be supported by an increase in contributions. Consequently the employer contribution should be increased from 4.12% to 4.16%. The cost of this additional contribution requirement for the 2005-2007 biennium is estimated to be \$86,507 in general funds and \$312,378 in other funds. The bill as proposed does not provide this funding and therefore it is not shown above.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The above fiscal note reflects additional expenditures by the Mill and Elevator budget to pay the additional retirement contributions on the overtime payments (\$205,000 in other funds authority). Secondly, the bill provides an appropriation to PERS to make some administrative changes to implement the bill (\$8,000 in other funds authority).

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Provides the necessary appropriation to support the expenditures.

| | | | |
|----------------------|---------------|-----------------------|------------|
| Name: | Sparb Collins | Agency: | PERS |
| Phone Number: | 328-3901 | Date Prepared: | 01/23/2005 |

Date: 2-2-1
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2264

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Amend to Study

Motion Made By

Klein

Seconded By

Espgaard

| Senators | Yes | No | Senators | Yes | No |
|------------------------------|-----|----|-------------------|-----|----|
| Senator Mutch, Chairman | X | | Senator Fairfield | X | |
| Senator Klein, Vice Chairman | X | | Senator Heitkamp | X | |
| Senator Krebsbach | X | | | | |
| Senator Nething | X | | | | |
| Senator Espgaard | X | | | | |
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Total (Yes) 7 No 0

Absent 0

Floor Assignment

Espgaard

If the vote is on an amendment, briefly indicate intent:

Date: 2-2-01
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2264

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DPAM

Motion Made By Espesgaard Seconded By Klein

| Senators | Yes | No | Senators | Yes | No |
|------------------------------|-----|----|-------------------|-----|----|
| Senator Mutch, Chairman | X | | Senator Fairfield | X | |
| Senator Klein, Vice Chairman | X | | Senator Heitkamp | X | |
| Senator Krebsbach | X | | | | |
| Senator Nething | X | | | | |
| Senator Espesgaard | X | | | | |
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Total (Yes) 7 No 0

Absent 0

Floor Assignment Espesgaard

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2264: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2264 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative council study of including payments for overtime and bonuses earned by employees for purposes of determining public employees retirement system contributions and benefits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY - OVERTIME PAYMENTS FOR PURPOSES OF PUBLIC EMPLOYEES RETIREMENT SYSTEM CONTRIBUTIONS AND BENEFITS. The legislative council shall consider studying, during the 2005-06 interim, including payments for overtime and bonuses earned by employees for purposes of determining public employees retirement system contributions and benefits. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly."

Renumber accordingly

2005 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2264

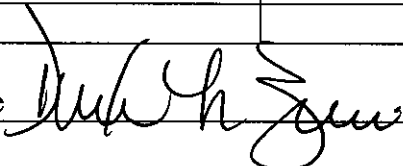
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2264

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 2/25/05

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|----------|
| 1 | | x | 45.6-end |
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| Committee Clerk Signature  | | | |

Minutes: SB 2264 Payments for overtime and bonuses earned by employees for purpose of determining public employees retirement system contributions and benefits.

Chairman Haas: We will open the hearing on SB 2264 and will ask the clerk to read the title, thank you. Welcome Senator Espgaard.

Senator Duane Espgaard-District 43-Introducing the bill-Testimony Attached

Rep. Froseth: We have had this same issue last session or the session before, it was in testimony by the employee group, they told the committee that rather than hiring more people to eliminate the overtime, because it is kind of specialized work that they do, they preferred to work the hours and collect the overtime, rather than hiring more staff and eliminating the over time. Is that basically still true today?

Senator: That is a very important point, the workers want the overtime, they understand they are in a different type of business. When they hire on they understand that they have different hours

and this not about working overtime, they want to work overtime. In fact they would be very disappointed if more employees were hired and they didn't get the overtime.

Rep. Boehning: Thirty to forty percent overtime, is that an industry high, typically a lot of people I worked for, don't want you to work more then a few hours overtime, because it costs you a lot more money in the end. Is it a good business practice to run thirty to forty percent overtime?

Senator: Yes, the management of the North Dakota Mill and Elevator understands and fully endorse these kind of work hours, because this works best for shift work they are doing. I think they work twelve hours a day, seven days a week, 24-7.

Chairman Haas: Any further questions, thank you Senator. Is there additional testimony on SB 2264.

David L. Kemnitz-North Dakota AFL-CIO-Testimony Attached-For asked by the workers of the plant to come in and represent them on this issue.

Rep. Sitte: Is there a move by other state employees that have this implemented.

David: I would think they, if there was a study, could be in a study.

Rep. Sitte: What happens in private industries, power plants they work a lot of overtime. Does that overtime count in there retirement?

David: My understanding is that they are paid by the hour. Your pension is part of your hourly.

Rep. Boehning: They are working ten and half hours of overtime a week, is that correct. That is over 800 hours of overtime a week?

David: That is what the mill has indicated.

Rep. Boehning: You could hire 15 employees to pick up some of that slack, couldn't we?

David: That question has been asked, because of the additional health care and the other payroll taxes, it is beneficial to keep it this way.

Rep. Kasper: If I recall the employee benefits committee had a bill like this and it came out as unfavorable recommendation.

David: I can't answer that question.

Rep. Kasper: The bill says shall consider studying, legislative council is going to have the choice of whether not they select this of the study, it is not a mandate, correct.

David: That is correct.

Rep. Froseth: The average work time is about 30 years, so if they are going to get 25 to 30 per cent credit for there overtime, they would be retiring any where from eight to nine years earlier, so at age 55 they could retire. They would be retiring at 46 years old, we would have the youngest retired work force in the nation.

David: I think they are better working, I don't think they could retire, because of the benefits.

Chairman Haas: Anything else for David? Thank you David. Any further testimony on SB 2264.

Chris Runge-Executive Director of the North Dakota Public Employees Association- We are standing in support of a study on this matter.

Chairman Haas: Any further questions for Chris, thank you Chris, Any further testimony in favor of SB 2264. Is there any opposition testimony on SB 2264. If not we will close the hearing on SB 2264.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2264

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 2/25/05

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|-----------|
| 2 | x | | 12.1-13.2 |
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| | | | |
| Committee Clerk Signature <i>Dale H. Zueri</i> | | | |

Minutes: SB Payments for overtime and bonuses earned by employees for purpose of determining public employees retirement system contributions and benefits.

Chairman Haas: Lets look at SB 2264, about the study, looking at overtime for state employees, at the mill and Rep. Sitte mentioned it not only happens at the mill. What do you want to do, suggesting to Legislative Council that it be studied. Rep. Conrad moves a DO PASS motion, is there a second, seconded by Rep. Potter, is there any discussion.

Rep. Froseth: I am going to oppose a Do Pass motion, I think we are on the threshold of opening up the flood gates of setting new policy, probably state wide and it might go further, but paying overtime for time and half has been the standard for years and years. In this case the workers encourage, they welcome the over time hours for extra money. If they are concerned about retirement they should take that overtime pay and buy themselves a good saving plan that would built up there retirement plan when they do retire. If they give them credit for overtime they are going to be retiring when they are 46, 47 or 50 years old, they need another job then, why don't

they take that overtime money and buy themselves a good retirement annuity plan or something and feel secure about it that way. I think we are opening up the flood gates to make a state wide policy for any state worker.

Rep. Kasper: We had this bill, in the employees benefits committee and had a very thorough hearing, I believe it was a unanimous vote to not support it. The impact that Rep. Froseth said and some of the other things that you view down the road are very deep and the committee looked at it very close and I urge the committee to not support the bill.

Rep. Sitte: I do agree with you, but for a different reason, as Chris Runge told us the retirement is not based on months of service, but what would happen, it would increase the amount of there retirement. I think for a number of reasons we would be opening the flood gates.

Chairman Haas: Any further discussion, if not we will have the clerk take the roll on a DO PASS motion on engrossed SB 2264.

VOTE: YES 7 NO 7 ABSENT 0

Chairman Haas: With a 7-7 tie it fails, my understanding is that anybody could make a motion to reconsider, because everybody voted on the prevailing side, so we will leave it at a 7-7-0.

Rep. Kasper: I would like to move a DO NOT PASS.

Chairman Haas: We can do that, is there a second to the DO NOT PASS motion, seconded by Rep. Froseth, is there any further discussion. If not we will have the clerk take the roll on a DO NOT PASS motion on SB 2264.

VOTE: YES 7 NO 7 ABSENT 0 DO NOT PASS ON SB 2264 Fails

Chairman Haas: Declared that the bill will go to the floor without committee recommendation based upon the tie vote for a DO PASS and a tie vote for a DO NOT PASS.

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House Government and Veterans Affairs Committee

Bill/Resolution Number SB 2264

Hearing Date 2/25/05

CHAIRMAN HAAS WILL CARRY THE BILL.

Date: 2/25/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2264

House House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Conrad Seconded By Rep. Potten

| Representatives | Yes | No | Representatives | Yes | No |
|---------------------------------|-----|----|-----------------------|-----|----|
| Chairman C.B. Haas | ✓ | | Rep. Bill Amerman | ✓ | |
| Bette B. Grande - Vice Chairman | | ✓ | Rep. Kari Conrad | ✓ | |
| Rep. Randy Boehning | | ✓ | Rep. Louise Potter | ✓ | |
| Rep. Glen Froseth | | ✓ | Rep. Sally M. Sandvig | ✓ | |
| Rep. Pat Galvin | | ✓ | | | |
| Rep. Stacey Horter | ✓ | | | | |
| Rep. Jim Kasper | | ✓ | | | |
| Rep. Lawrence R. Klemin | ✓ | | | | |
| Rep. Lisa Meier | | ✓ | | | |
| Rep. Margaret Sitte | | ✓ | | | |
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Total (Yes) 7 No 7

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2/25/05
Roll Call Vote #: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2264

House House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Rep Kasper Seconded By Rep. Froseth

| Representatives | Yes | No | Representatives | Yes | No |
|---------------------------------|-----|----|-----------------------|-----|----|
| Chairman C.B. Haas | | ✓ | Rep. Bill Amerman | | ✓ |
| Bette B. Grande - Vice Chairman | ✓ | | Rep. Kari Conrad | | ✓ |
| Rep. Randy Boehning | ✓ | | Rep. Louise Potter | | ✓ |
| Rep. Glen Froseth | ✓ | | Rep. Sally M. Sandvig | | ✓ |
| Rep. Pat Galvin | ✓ | | | | |
| Rep. Stacey Horter | | ✓ | | | |
| Rep. Jim Kasper | ✓ | | | | |
| Rep. Lawrence R. Klemin | | ✓ | | | |
| Rep. Lisa Meier | ✓ | | | | |
| Rep. Margaret Sitte | ✓ | | | | |
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Total (Yes) 7 No 7

Absent Ø

Floor Assignment Chairman Haas

If the vote is on an amendment, briefly indicate intent:

FAILED

REPORT OF STANDING COMMITTEE (410)
February 25, 2005 12:44 p.m.

Module No: HR-35-3686
Carrier: Haas
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2264: Government and Veterans Affairs Committee (Rep. Haas, Chairman)
recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION**
(7 YEAS, 7 NAYS, 0 ABSENT AND NOT VOTING). SB 2264 was placed on the
Fourteenth order on the calendar.

2005 TESTIMONY

SB 2264

**REPORT OF THE LEGISLATIVE COUNCIL'S
EMPLOYEE BENEFITS PROGRAMS COMMITTEE
SENATE BILL NO. 2264**

Sponsor: Senator Duaine C. Espegard

Proposal: Includes payments for overtime earned by employees of the Mill and Elevator Association within the definition of "wages" and "salaries" under the defined benefit plan and the defined contribution plan for purposes of contributions and benefits. Overtime payments would be reported and annualized under rules adopted by the Public Employees Retirement System Board.

Actuarial Analysis: The consulting actuary reported that the actuarial cost of the proposal is .04 percent of payroll.

Committee Report: Unfavorable recommendation.



Legislative Committee Hearing
January 25, 2005
Senate Bill No. 2264
North Dakota Mill & Elevator Association

Chairman Mutch and Senators:

My name is Vance Taylor and I am President and General Manager of the North Dakota Mill and Elevator Association. I am appearing today in opposition to Senate Bill No. 2264.

The State Mill is fortunate to have a hard working group of employees that function well together as a team. They are a key part of the business and strive to produce a high quality product. However, it is important to remember that the Mill operates in a highly competitive marketplace.

The State Mill's pension plan in its present form is already superior to what is typically provided by our competitors in the flour milling industry. Most of our competitors calculate pension benefits by using a multiplier (in collective bargaining agreements across the country \$35, or less, is common) times years of service. An employee, retiring after 30 years of service, working for a competitor with a base salary of \$30,000 per year, would receive a pension benefit of \$1,050 per month (30 years Times \$35 per year). A State Mill employee, retiring after 30 years of service, with a base salary of \$30,000 per year, would receive a pension benefit of \$1,500 per month under our present pension plan. The annual cost to the State Mill to fund this pension is \$2,736 per year vs. our competitor's cost of approximately \$2,000 per year. This is a comparison using our present plan. The proposed improvement would add more than \$800 per year per employee to the State Mill's cost to fund future pension liability that, as mentioned earlier, is already substantially higher than our competitors.

Senate Bill No. 2264 would require the inclusion of overtime payments for calculation of future contributions to the Public Employees Retirement System. This would necessitate additional State Mill contributions of an

estimated \$100,000 per year going forward. Passage of this Bill would also dramatically increase existing pension liability by over \$2.8 million. This is due to increased pension payments to existing employees who retire at the proposed higher calculated wage base. It is unclear who would pay for these increases in existing pension liabilities, which would total about \$270,000 per year. If the State Mill was asked to pay for all increases in existing and future liabilities for this improved pension plan it would increase plant costs by about \$370,000 per year or \$740,000 per biennium.

It is my understanding that no other State agency includes overtime in wages used to calculate pension contributions. It would appear that the cost to the State of North Dakota would be quite high if other agencies followed suit with this proposed change in future years.

The employees who work most of the overtime at the North Dakota Mill are members of the American Federation of Grain Millers International Union Local No. 135. We are currently in the last year of a two-year collective bargaining agreement, which expires on June 30, 2005. Our agreement included wage increases totaling 4% over the two years (2% per year). Increases of this magnitude would not likely have been negotiated had the costs of the proposed improvement to the pension plan been taken into account.

Our primary concern is the increased costs to the State Mill associated with Senate Bill No. 2264. It is critical for the State Mill to keep plant costs in check to be able to compete in a very difficult market place. We respectfully request that you not approve this change to the North Dakota Century Code.

If you believe this type of benefit should be considered, I would request amendments that would give the North Dakota Mill the authority to offer an improved pension plan but not require the Mill to do so. This will allow us the option to discuss improvements to the pension plan in the next union contract negotiations. Attached are the proposed amendments for your consideration (Exhibit A).

Also attached is a report on overtime hours worked at the State Mill from 1999 to present, (Exhibit B) and a report showing calculated pension cost increases with overtime wages included (Exhibit C). The last page illustrates the impact of the change in pension payments and the potential shortfall of funds, for two employees at the mill (Exhibit D).

Thank you for your attention. I will be happy to answer any questions you may have at this time.

Proposed Amendments to Senate Bill No. 2264

Page 1, line 11, after "association" insert "if authorized in writing by the mill and elevator association"

Page 1, line 15, after "association" insert "if authorized in writing by the mill and elevator association"

Page 1, line 20, replace "Overtime" with "If the mill and elevator association authorized overtime to be included in the salary as provided above, overtime pay"

Page 2, line 6, after "association" insert "if authorized in writing by the mill and elevator association"

Page 2, line 10, after "association" insert "if authorized in writing by the mill and elevator association"

North Dakota Mill Overtime Report

| Fiscal Year | Overtime Hrs. | Plant Employees | Avg OT per Year | Avg OT per Week |
|-------------|---------------|--------------------|--------------------|--------------------|
| 1999 | 33,822 | 80.00 | 422.8 | 8.1 |
| 2000 | 46,647 | 81.00 | 575.9 | 11.1 |
| 2001 | 51,562 | 81.00 | 636.6 | 12.2 |
| 2002 | 46,963 | 80.00 | 587.0 | 11.3 |
| 2003 | 40,684 | 80.00 | 508.6 | 9.8 |
| 2004 | 46,622 | 79.00 | 590.2 | 11.3 |
| YTD 2005 | 23,942 | 79.00 | 303.1 | 11.6 |

1. Plant employees consists of all hourly union employees and electricians.
2. YTD 2005 is through December 31, 2004; 183 days or 26.1 weeks.

North Dakota Mill

Calculation of Pension Cost on Overtime Paid

| | Hours | Dollars Pd | Pension Cost At 9.12% | Pension Cost as % Total \$ Pd |
|-----------------------|---------|--------------|-----------------------------|-------------------------------------|
| FY 2004 | | | | |
| Total hours | | | | |
| All Employees | 293,021 | \$ 5,530,255 | | |
| Union employees | 208,871 | \$ 3,685,309 | | |
| Overtime hours | | | | |
| All Employees | 46,622 | \$ 1,080,432 | \$ 98,535.40 | 1.78% |
| Union employees | 42,745 | \$ 1,011,644 | \$ 92,261.93 | 2.50% |
| FY 2003 | | | | |
| Total hours | | | | |
| All Employees | 287,951 | \$ 5,220,861 | | |
| Union employees | 206,255 | \$ 3,454,021 | | |
| Overtime hours | | | | |
| All Employees | 40,684 | \$ 917,601 | \$ 83,685.21 | 1.60% |
| Union employees | 37,986 | \$ 871,004 | \$ 79,435.56 | 2.30% |
| FY 2002 | | | | |
| Total hours | | | | |
| All Employees | 273,388 | \$ 4,676,896 | | |
| Union employees | 196,823 | \$ 3,044,127 | | |
| Overtime hours | | | | |
| All Employees | 46,963 | \$ 1,025,608 | \$ 93,535.47 | 2.00% |
| Union employees | 44,525 | \$ 985,803 | \$ 89,905.24 | 2.95% |
| FY 2001 | | | | |
| Total hours | | | | |
| All Employees | 294,899 | \$ 4,765,306 | | |
| Union employees | 217,051 | \$ 3,269,782 | | |
| Overtime hours | | | | |
| All Employees | 53,747 | \$ 1,152,386 | \$ 105,097.57 | 2.21% |
| Union employees | 51,562 | \$ 1,115,760 | \$ 101,757.36 | 3.11% |
| FY 2000 | | | | |
| Total hours | | | | |
| All Employees | 302,366 | \$ 4,919,199 | | |
| Union employees | 214,560 | \$ 3,100,985 | | |
| Overtime hours | | | | |
| All Employees | 51,321 | \$ 1,066,985 | \$ 97,309.03 | 1.98% |
| Union employees | 46,647 | \$ 1,023,578 | \$ 93,350.35 | 3.01% |

North Dakota Mill Pension Cost Calculation

Miller

| | Wages | Pension Exp |
|---------|---------------------|--------------------|
| regular | \$ 39,766.63 | \$ 3,626.72 |
| OT | 26,822.61 | 2,446.22 |
| Total | <u>\$ 66,589.24</u> | <u>\$ 6,072.94</u> |

| | | |
|------------------------|---------------------|---|
| Pension Pay without OT | \$ 23,859.98 | Based on 2% of 3 yr. avg wages, 30 years of service |
| Pension Pay with OT | 39,953.54 | Based on 2% of 3 yr. avg wages, 30 years of service |
| Incr in annual pension | <u>\$ 16,093.57</u> | |

Person retires in 4 years.

NDM makes \$ 9,784.88 of additional payments into PERS for pension.

Assuming that person is in retirement for 20 years, there will be a shortfall of \$ 312,086.44 that will need to be made up by the state retirement fund.

Bagger

| | Wages | Pension Exp |
|---------|---------------------|--------------------|
| regular | \$ 31,594.24 | \$ 2,881.39 |
| OT | 17,023.01 | 1,552.50 |
| Total | <u>\$ 48,617.25</u> | <u>\$ 4,433.89</u> |

| | | |
|------------------------|---------------------|---|
| Pension Pay without OT | \$ 18,956.54 | Based on 2% of 3 yr. avg wages, 30 years of service |
| Pension Pay with OT | 29,170.35 | Based on 2% of 3 yr. avg wages, 30 years of service |
| Incr in annual pension | <u>\$ 10,213.81</u> | |

Person retires in 4 years.

NDM makes \$ 6,210.00 of additional payments into PERS for pension.

Assuming that person is in retirement for 20 years, there will be a shortfall of \$ 198,066.12 that will need to be made up by the state retirement fund.

W/Amendments

**TESTIMONY OF
SPARB COLLINS
ON
SENATE BILL 2264**

Mr. Chairman, members of the committee my name is Sparb Collins. I am Executive Director of the North Dakota Public Employees Retirement System. I appear before you today neither in favor or opposed to SB 2264 but rather to offer some technical comments on the bill and offer several amendments.

The bill as proposed would provide an enhanced retirement benefit to employees of the State Mill and Elevator. Specifically, they would be allowed to have overtime counted in their salary for retirement purposes. Please note that overtime is not counted for any of our members. The reason it is not included is discussed in the attached letter from our actuary on page 2 under "General" comments. The significance of including overtime is that it would increase a member's final average salary for calculating their retirement benefit. Final average salary is a key variable in figuring a member's benefit. For example, if someone's final average monthly salary is \$3,000, their years of service is 25 and the multiplier is "2%" the calculation would be as follows:

$$\$3,000 \times 25 \times .02 = \$1,000$$

Therefore, if the member's final average salary increases by a certain percent due to their overtime being included so does their retirement benefit. Consequently, the provisions of this bill will have a positive effect on the retirement benefits for those members to whom it applies.

To determine the effect of this benefit on the retirement funds we referred this bill to our actuary for review. Attached to this testimony is their report. You will note that the actuary has determined that the cost of the proposed enhancement is .04%

of payroll for PERS. Since the PERS fund has no available funds to support long term benefit improvements such as this new enhancement, an additional contribution is needed. Consequently, the employer contribution needs to be increased from 4.12% to 4.16%. The cost of this additional contribution requirement is estimated to be \$86,507 in general funds and \$312,378 in other funds. I have prepared the following amendment to pay for this provision. Please note the amendment also includes the necessary additional appropriation authority for our participating state agencies to pay the higher contribution.

PROPOSED AMENDMENT TO SENATE BILL 2264

Page 1, line 1, after "54-52-01" insert ", sections 54-52-02.9 and 54-52-06,"

Page 1, line 3, after "system" insert "and to increase the employer contribution;"

Page 1, after line 23, insert the following:

SECTION 2. AMENDMENT. Section 54-52-02.9 of the North Dakota Century Code is amended and reenacted as follows:

54-52-02.9. Participation by temporary employees. A temporary employee may elect, within one hundred eighty days of beginning employment, to participate in the public employees retirement system and receive credit for service after enrollment. The temporary employee shall pay monthly to the fund an amount equal to eight and ~~twelve-sixteen~~ hundredths percent times the temporary employee's present monthly salary. The temporary employee shall also pay monthly to the retiree health benefit fund established under section 54-52.1-03.2 one percent times the temporary employee's present monthly salary. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee in the public employees retirement system until termination of employment or reclassification of the temporary employee as a permanent employee. A temporary employee may not purchase additional credit under section 54-52-17.4.

SECTION 3. AMENDMENT. Section 54-52-06 of the North Dakota Century Code is amended and reenacted as follows:

54-52-06. Employer's contribution to retirement plan. Each governmental unit shall contribute an amount equal to four and ~~twelve~~

sixteen-hundredths percent of the monthly salary or wage of a participating member. For those members who elect to exercise their rights under subsection 5 of section 54-52-17.4, the employing governmental unit, or in the case of a member not presently under covered employment the most recent employing governmental unit, shall pay the associated employer contribution. If the employee's contribution is paid by the governmental unit under subsection 3 of section 54-52-05, the employer unit shall contribute, in addition, an amount equal to the required employee's contribution. Each governmental unit shall pay the contribution monthly, or in the case of an election made pursuant to subsection 5 of section 54-52-17.4 a lump sum, into the retirement fund from its funds appropriated for payroll and salary or any other funds available for these purposes. Any governmental unit failing to pay the contributions monthly, or in the case of an election made pursuant to subsection 5 of section 54-52-17.4 a lump sum, is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due. In lieu of assessing a civil penalty or one percent per month, or both, interest at the actuarial rate of return may be assessed for each month the contributions are delinquent. If contributions are paid within ninety days of the date they became due, penalty and interest to be paid on delinquent contributions may be waived. An employer is required to submit contributions for any past eligible employee who was employed after July 1, 1977, for which contributions were not made if the employee would have been eligible to become vested had the employee participated and if the employee elects to join the public employees retirement system. Employer contributions may not be assessed for eligible service that an employee has waived pursuant to subsection 1 of section 54-52-05. The board shall report to each session of the legislative assembly the contributions necessary, as determined by the actuarial study, to maintain the fund's actuarial soundness.

Page 2, line 1, replace "2" with 4"

Page 2, line 17, replace "3" with "5"

Page 2, after line 25, insert the following:

SECTION 6. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from other funds derived from federal funds and other income, to the following departments for the purpose of defraying the cost of the additional retirement contributions necessary to pay the cost of the provisions of this bill, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

| Department | General | Other |
|--|----------|----------|
| Office of the Governor | \$314 | \$0 |
| Office of the Secretary of State | \$613 | \$17 |
| Office of Management and Budget | \$3,462 | \$871 |
| Information Technology Department | \$529 | \$7,964 |
| Office of the State Auditor | \$1,231 | \$556 |
| Office of the State Treasurer | \$155 | \$0 |
| Office of the Attorney General | \$3,919 | \$1,379 |
| Office of the Sate Tax Commissioner | \$3,638 | \$0 |
| Office of Administrative Hearings | \$0 | \$314 |
| Legislative Assembly | \$0 | \$0 |
| Legislative Council | \$792 | \$0 |
| Judicial Branch | \$8,721 | \$251 |
| Retirement and Investment Office | \$0 | \$582 |
| Public Employees Retirement System | \$0 | \$831 |
| Department of Public Instruction | \$887 | \$1,906 |
| State Land Department | \$0 | \$559 |
| State Library | \$541 | \$73 |
| School for the Deaf | \$689 | \$34 |
| N.D. Vision Services | \$219 | \$69 |
| Dept of Career and Technical Ed | \$180 | \$89 |
| North Dakota Department of Health | \$2,960 | \$6,106 |
| Veterans Home | \$1,196 | \$645 |
| Indian Affairs Commission | \$101 | \$0 |
| Department of Veterans Affairs | \$144 | \$0 |
| Department of Human Services | \$29,250 | \$21,670 |
| Protection and Advocacy Project | \$164 | \$537 |
| Job Service North Dakota | \$20 | \$7,784 |
| Office of the Insurance Commissioner | \$0 | \$1,170 |
| Industrial Commission | \$1,548 | \$249 |
| Office of the Labor Commissioner | \$179 | \$59 |
| Public Service Commission | \$913 | \$509 |
| Aeronautics Commission | \$0 | \$185 |
| Department of Financial Institutions | \$0 | \$958 |
| Office of the Securities Commissioner | \$252 | \$0 |
| Bank of North Dakota | \$0 | \$4,981 |
| North Dakota Housing Finance Agency | \$0 | \$1,130 |
| North Dakota Mill & Elevator Association | \$0 | \$2,737 |
| Workforce Safety & Insurance | \$0 | \$2,968 |
| Highway Patrol | \$1,116 | \$141 |
| Division of Emergency Management | \$454 | \$401 |
| Department of Corrections and Rehabilitation | \$14,117 | \$1,426 |
| Adjutant General | \$735 | \$1,946 |
| Department of Commerce | \$1,117 | \$496 |
| Department of Agriculture | \$972 | \$755 |
| State Seed Department | \$0 | \$687 |
| Upper Great Plains Transportation Institute | \$10 | \$31 |

| | | |
|----------------------------------|----------|-----------|
| Branch Research Centers | \$564 | \$28 |
| NDSU Extension Service | \$745 | \$234 |
| Northern Crops Institute | \$0 | \$0 |
| NDSU Main Research Center | \$1,180 | \$43 |
| Agronomy Seed Farm | \$0 | \$0 |
| State Historical Society | \$1,414 | \$174 |
| Council on the Arts | \$129 | \$0 |
| Game & Fish Department | \$0 | \$4,845 |
| Department of Parks & Recreation | \$1,120 | \$104 |
| State Water Commission | \$389 | \$2,420 |
| Department Of Transportation | \$0 | \$29,451 |
| Total | \$86,679 | \$110,366 |

Renumber accordingly

An alternative to the above amendment is to assess the cost of this improvement only to the employer whose employees benefit from the change. Specifically, since only the Mill and Elevator employees benefit from this change, the cost of the change would be paid for by the Mill and Elevator only instead of all the PERS employers whose employees do not benefit. The following amendment would accomplish this:

PROPOSED AMENDMENT TO SENATE BILL 2264

Page 1, line 1, after "54-52-01" insert ", section 54-52-06,"

Page 1, line 3, after the "system" insert "and to increase the employer contribution for the State Mill and Elevator;"

Page 1, after line 23, insert the following:

SECTION 2. AMENDMENT. Section 54-52-06 of the North Dakota Century Code is amended and reenacted as follows:

54-52-06. Employer's contribution to retirement plan. Each governmental unit except the State Mill and Elevator shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. The State Mill and Elevator shall contribute an amount equal to eight and thirty-four hundredths percent of the monthly salary or wage of a participating member. For those members who elect to exercise their rights under subsection 5 of section 54-52-17.4, the employing governmental unit, or in the case of a member not presently under covered employment the most recent employing governmental unit, shall pay the associated employer contribution. If the employee's contribution is paid by the governmental unit under

subsection 3 of section 54-52-05, the employer unit shall contribute, in addition, an amount equal to the required employee's contribution. Each governmental unit shall pay the contribution monthly, or in the case of an election made pursuant to subsection 5 of section 54-52-17.4 a lump sum, into the retirement fund from its funds appropriated for payroll and salary or any other funds available for these purposes. Any governmental unit failing to pay the contributions monthly, or in the case of an election made pursuant to subsection 5 of section 54-52-17.4 a lump sum, is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due. In lieu of assessing a civil penalty or one percent per month, or both, interest at the actuarial rate of return may be assessed for each month the contributions are delinquent. If contributions are paid within ninety days of the date they became due, penalty and interest to be paid on delinquent contributions may be waived. An employer is required to submit contributions for any past eligible employee who was employed after July 1, 1977, for which contributions were not made if the employee would have been eligible to become vested had the employee participated and if the employee elects to join the public employees retirement system. Employer contributions may not be assessed for eligible service that an employee has waived pursuant to subsection 1 of section 54-52-05. The board shall report to each session of the legislative assembly the contributions necessary, as determined by the actuarial study, to maintain the fund's actuarial soundness.

Page 2, line 1, replace "2" with "3"

Page 2, line 17, replace "3" with "4"

Page 2, line 22, replace "\$205,000" with "\$612,000"

Renumber accordingly

Mr. Chairman, members of the committee, while PERS is neither in favor or opposed to this proposal, we do feel strongly that the benefit if adopted, needs to be paid for by increased contributions as shown by the PERS actuary. We would ask that one of the amendments be added to this bill to pay for the benefit proposed. Other funding approaches are available such as splitting the cost between the employer and employee but that would require additional changes to the PERS recordkeeping system and additional actuarial review. If the committee desires, we can explore those options but it would take some additional time.

Mr. Chairman, members of the committee this concludes my testimony.

DIRECT DIAL NUMBER
303-714-9936

E-MAIL ADDRESS
lthompson@segalco.com

January 21, 2005

Mr. Sparb Collins
Executive Director
State of North Dakota Public Employees'
Retirement System
400 East Broadway, Suite 505
Bismarck, ND 58502

Re: **Technical Comments-Senate Bill No. 2264**

Dear Sparb:

The following presents our analysis of the proposed changes found in Senate Bill No. 2264:

Systems Affected: North Dakota Public Employees Retirement System, Retiree Health Benefit Fund

Summary: The proposed legislation would include payments for overtime earned by employees of the Mill and Elevator Association within the definition of "wages" and "salaries" under the defined benefit plan and the defined contribution plan for purposes of contributions and benefits. Overtime payments must be reported and annualized under the rules adopted by the PERS Board.

Actuarial Cost Analysis: This bill would include payments for overtime earned by employees of the Mill and Elevator Association within the definition of "wages" and "salaries" under the defined benefit plan for purposes of benefit accrual. The bill's impact on the Main System's July 1, 2004 actuarial valuation results is as follows:

| | <u>Valuation Results</u> | <u>Senate Bill No. 2264</u> |
|--------------------------------|------------------------------|---------------------------------|
| Actuarial Accrued Liability | \$1,250,849,240 | \$1,252,920,502 |
| Normal Cost | 44,743,189 | 44,838,545 |
| Required Contribution | 31,157,298 | 31,350,296 |
| Required Contribution Increase | - | 192,998 |
| as a Percentage of Payroll | - | 0.04% |
| Payroll | 494,519,798 | 495,692,608 |

Mr. Sparb Collins
January 21, 2005
Page 2

The projected payroll for the Mill and Elevator Association employees as of July 1, 2004 is \$3.49 million without overtime and \$4.57 million with overtime. The required contribution increase of \$192,998 is 4.22% of projected payroll (with overtime) for the Mill and Elevator Association employees.

Technical Comments: Our comments on the bill are as follows:

General

Overtime is often excluded from covered compensation under a defined benefit plan for purposes of benefits in order to preclude employees from timing overtime work near retirement in order to maximize retirement benefits under a high average salary benefit formula. Such "benefits spiking" by employees can create higher levels of benefits that have not been adequately funded over the employee's service under the plan. The bill allows the PERS Board to establish rules for annualizing the amount of overtime reported in order to minimize these "benefits spiking" concerns.

Benefits Policy Issues

> **Adequacy of Retirement Benefits**

The bill would significantly enhance retirement benefits for Mill and Elevator Association employees who perform overtime work.

> **Benefits Equity and Group Integrity**

Only a small group of employees, Mill and Elevator Association employees, are provided the opportunity to have overtime pay included in covered compensation for retirement benefits. Therefore, the bill may create benefit inequities between similarly situated employees and employee classes other than Mill and Elevator Association employees who also receive overtime pay.

> **Competitiveness**

The bill may increase the benefits competitiveness of the System for Mill and Elevator Association employees only.

> **Purchasing Power Retention**

No impact.

> Preservation of Benefits

No impact.

> Portability

No impact.

> Ancillary Benefits

- ◆ The bill indirectly impacts other ancillary death or survivor benefits under the System that are based on final average salary for Mill and Elevator Association employees only.
- ◆ Social Security: No impact

Funding Policy Issues

> Actuarial Impacts

The bill creates the opportunity for Mill and Elevator Association employees to elect to work larger amounts of overtime during the final average salary determination period as a means of increasing retirement benefits. However, the actuarial impact will be lessened because of the annualization rules to be adopted by the Board and the fact that only a small group of employees are affected.

> Investment Impacts

- ◆ Asset Allocation: The bill does not create new investment asset allocation issues.
- ◆ Cash Flow Impacts: The bill does create new cash flow needs, but the impact on the System is minimal.

Administration Issues

> Implementation Issues

- ◆ The bill will require the establishment of meaningful administrative guidelines to ensure the appropriate recognition and funding of benefits resulting from overtime pay and to ensure that affected employers and employees are aware of the new contribution requirements and amounts.
- ◆ In addition, the PERS Board must establish rules regarding for reporting overtime compensation.

➤ Administrative Costs

The bill will have an impact on administrative resources. An appropriation of funds has been made to the Board to defray the expenses of administering the proposed changes.

➤ Needed Authority

- ◆ The bill does appear to clearly provide sufficient levels of administrative and governance authority to the PERS Board to control the "benefits spiking" risks resulting from overtime pay.
- ◆ The bill should provide an appropriation to the Mill and Elevator Association to pay for the additional contributions.

➤ Cross Impact on Other Plans


- ◆ Additional contributions on overtime pay for Mill and Elevator Association employees only will be made to the retiree health benefit fund. These additional contributions will be a gain to the retiree health benefit fund since no additional benefits will accrue.
- ◆ Should this be enacted, a conforming change would be required in the defined contribution plan so that the definition of compensation is the same in each plan. Such a change would increase the amount of contributions by employers in that plan.

➤ Employee Communications

Some additional employee communication effort may be needed to explain how overtime pay is recognized under the System.

Miscellaneous and Drafting Issues

- ◆ Affected employers will need to budget additional amounts to provide the increased contributions on overtime pay. An appropriation has been made for this purpose.
- ◆ PERS will need to determine whether affected employers need to continue to report pay without overtime for purposes of its other group benefit programs.
- ◆ Retroactive overtime pay settlements in the future under the Fair Labor Standards Act by covered employers will need to include applicable PERS contribution amounts.



Mr. Sparb Collins
January 21, 2005
Page 5



Please call if you have any questions or comments.

Sincerely,

Leslie L. Thompson, FSA, MAAA, EA
Senior Vice President and Actuary

cc: Melanie Walker, JD
 Wally Malles, ASA, MAAA, EA
 Susan Hogarth

139714/01640.004



GOVERNMENT AND VETERANS AFFAIRS COMMITTEE
REP. C. B. HAAS, CHAIRMAN
February 25, 2005

Good morning Mr. Chairman and members of the Committee, for the record my name is Sen. Duaine Espegard; I represent District 43 in the Southwest section of Grand Forks.

SB 2264 started out as a bill to recognize the overtime hours worked at the North Dakota Mill and Elevator in the retirement benefits of the workers.

The shift work at the mill necessitates the working of overtime on a regular basis. In fact each year the overtime amounts to between 30 to 40% of the total wages earned by the employees.

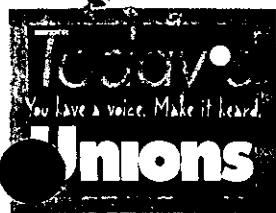
The employees know this when they are hired on at the mill and welcome the overtime as part of the conditions of the job. The original bill asked that the total wages including the overtime be used in the calculation of retirement benefits.

This bill has been introduced in the past with no resolution to this situation. The Senate gave the bill a good hearing and the result was a hog house of the bill and the original bill replaced with the engrossed bill you see before you today.

The Study of the overtime and bonuses of all state employees is suggested as there are other departments such as the Highway Department that have overtime as well.

Thank you for the consideration and I would be happy to answer any question you many have in regard to SB 2264

Sen. Duaine Espegard



NORTH DAKOTA AFL-CIO

1323 E. Front Ave., Suite 1 • Bismarck, ND 58504-6097
(701) 223-0784 • FAX (701) 223-9387



David L. Kemnitz
President

Chris Y. Runge
Secretary-Treasurer

Feb. 25, 2005

SB 2264

Overtime

Pension Credit

**for State Mill &
Elevator employees**

Testimony from

2001 & 2003 Sessions

To: House GVA

TRUSTEES

Terry N. Curl
Mark Hager
Gary Neuharth

VICE PRESIDENTS

AWIU

Bruce Bergson

BCTGM

Bill Tuttle

BOILERMAKERS

Terry N. Curl

BRICKLAYERS

Rodney A. Sletten

OP & CMIA

James A. Murray

CWA

Sue Boyd

IBEW

Dan Finnie

FIRE FIGHTERS

UFCW

AFGE

GCIU

IRON WORKERS

Lawrence D. Morris

LABORERS

Tim Forrest

TRUCK CARRIERS

Ron Huff

MACHINISTS

Barb May

BMWE

MINE WORKERS

Tom M. McLaughlin

OPEIU

IUOE

Jim McLaughlin

PAINTERS

PACE

Ken Hoover

PASS

POLICE ASSOCIATION

UA

Logan Dockter

APWU

SEIU

Gary Granzotto

SNWIA

Dan Calkins

STEELWORKERS

Gisele Thorson

AFSCME

James J. Weisenberger

AFT

Gerry Nies

SLOPE CLC

Donning

NORTHERN PLAINS UNITED LC

Barb Altman

NORTHERN VALLEY LC

Mark Froemke

GREATER NORTHWEST LC

Mark Hager

North Dakota Mill Overtime Report

| Fiscal Year | Overtime Hrs. | Plant Employees | Avg OT per Year | Avg OT per Week |
|-------------|---------------|--------------------|--------------------|--------------------|
| 1997 | 35,847 | 83 | 431.89 | 8.31 |
| 1998 | 32,360 | 83 | 389.88 | 7.50 |
| 1999 | 33,822 | 80 | 422.78 | 8.13 |
| 2000 | 46,647 | 81 | 575.89 | 11.07 |
| 2001 | 51,562 | 81 | 636.57 | 12.24 |
| 2002 | 48,389 | 80 | 604.86 | 11.63 |
| YTD 2003 | 25,936 | 80 | 324.20 | 10.59 |

1. Plant employees consists of all hourly union employees and electricians.
2. YTD 2003 is through January 31, 2003; 214 days or 30.6 weeks.

JULY 8 74

GOODMORNING MADAM CHAIRWOMEN AND SENATORS
OF THE GOVERNMENT AND VETERAN AFFAIRS
COMMITTEE,

MY NAME IS JEFF STOA RRI Box 80 BURT, N.
I'M HERE THIS MORNING ON THE BEHALF OF
MYSELF IN FAVOR OF SB 2362 WHICH
DEALS WITH OVERTIME COUNTING TOWARDS THE
N.D.A.K. PUBLIC EMPLOYEES RETIREMENT SYSTEM.
N.DAKOTA RANKS VERY HIGH WHEN YOU TALK
ABOUT RETIREMENTS, BUT, OVERTIME HAS NOT
BEEN A PART OF THE SYSTEM, AND I BELIEVE
IT SHOULD BE.

AS AN EMPLOYEE AT THE STATE MELL
ELEVATOR IN GRAND FORKS FOR 27 YEARS,
COME JULY, ALL THOSE YEARS OF OVERTIME
HAS NOT BEEN CREDITED TOWARDS MY
RETIREMENT. OVERTIME IS NOT AN OPTION
IT IS MANDATORY, THEREFORE I FEEL THE
OVERTIME HOURS ^{SHOULD} BE COUNED. ~~THEY~~

~~THE~~ EMPLOYEES COMMITTEE HAS DISCUSSED
THIS ISSUE WITH THE N.D. MELL MANY
TIME OVER THE YEARS, BUT WAS TOLD IN
ORDER TO RECEIVE OVERTIME TOWARDS
RETIREMENT, YOU HAVE TO GO THROUGH THE
LEGISLATOR AND GET A BILL PASSED, VOTED
ON AND BECOME A LAW.

Good Morning

My name is Greg Olimb and I have been an employee of the ND State Mill for 26 years. I am coming before you today to ask for your support for Senate ²⁰⁰³ Bill 2316. This bill is the legislators chance to change the way state workers are compensated. As a young person looks to make a career choice, this would be a significant motive for them to stay in the state. They would know that their legislators stand behind state workers and provide excellent benefits. I feel it would really show that the state of North Dakota is serious about keeping its young people. The cost is minimal and the dividends would be long term. This bill is the only fair and equitable response for all the hard work and many hours that are put in by State Mill workers.