NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

EMPLOYEE BENEFITS PROGRAMS COMMITTEE

Tuesday, October 26, 2004
Harvest Room, State Capitol
Bismarck, North Dakota

Senator Karen K. Krebsbach, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Karen K. Krebsbach, Richard Brown, Ralph L. Kilzer, Carolyn Nelson; Representatives Bill Amerman, Al Carlson, Jim Kasper, Francis J. Wald

Member absent: Representative Mike Grosz

Others present: See Appendix A

Concerning the minutes of the September 8, 2004, meeting, committee counsel said the fourth paragraph under the heading **STATE INVESTMENT BOARD** on page 1 which reads "In response to a question from Representative Kasper, Mr. Cochrane said information received by the Retirement and Investment Office pursuant to obtaining criminal background checks would be confidential," should be revised to read "In response to a question from Representative Kasper, Mr. Cochrane said he would have to seek the advice of legal counsel to determine how the laws relating to confidentiality may apply to information received by the Retirement and Investment Office pursuant to obtaining criminal background checks."

It was moved by Representative Carlson, seconded by Senator Brown, and carried on a voice vote that the minutes of the September 8, 2004, meeting be approved as corrected.

EMPLOYEE BENEFITS PROGRAMS COMMITTEE BILLS

At the request of Chairman Krebsbach, committee counsel presented a memorandum entitled *Employee Benefits Programs Committee Bills* describing the statutory responsibilities of the committee and summarizing the bill drafts that had been submitted to the committee for review. He also distributed a copy of the September 2004 issue of *Your Vested Interest* published by the State Investment Board. A copy of this newsletter is on file in the Legislative Council office.

STATE INVESTMENT BOARD

Chairman Krebsbach called on Mr. Steve Cochrane, Executive Director, Retirement and Investment Office, who reviewed Employee Benefits Programs Committee Bill No. 51 [50051.0200]. A copy of Mr. Cochrane's written comments concerning the bill draft is attached as Appendix B. Mr. Cochrane said the bill draft empowers the executive director of the Retirement and Investment Office to conduct an employee criminal history record investigation on any employee hired after July 31, 2005. He said the State Investment Board has been advised by the Attorney General's office that there is a comprehensive bill being prepared which would include the provisions requested in Employee Benefits Programs Committee Bill No. 51. Therefore, he said, the State Investment Board is requesting that Employee Benefits Programs Committee Bill No. 51 be withdrawn.

In response to a question from Senator Nelson, committee counsel said the bill draft being prepared by the Attorney General's office would not need to be submitted to the Employee Benefits Programs Committee. He said Employee Benefits Programs Committee Bill No. 51 was submitted to the committee because it was agency-specific in that it only applied to the State Investment Board. Also, he said, the State Investment Board has determined the bill draft would have had no actual impact on any of the funds invested by the State Investment Board nor cause any significant cost to be incurred by the Retirement and Investment Office. Thus, he said, it appears that a similar bill that would apply to all state agencies would also not impact the State Investment Board, Retirement and Investment Office, Teachers' Fund for Retirement, or Public Employees Retirement System.

It was moved by Representative Wald, seconded by Representative Carlson, and carried on a roll call vote that Employee Benefits Programs Committee Bill No. 51 [50051.0200] be withdrawn. Senators Krebsbach, Brown, Kilzer, and Nelson and Representatives Amerman, Carlson, Kasper, and Wald voted "aye." No negative votes were cast.

TEACHERS' FUND FOR RETIREMENT

Chairman Krebsbach called on Mr. Chris Conradi, Enrolled Actuary and Senior Consultant, Gabriel, Roeder, Smith and Company, Dallas, Texas, who reviewed the July 1, 2004, actuarial valuation of the Teachers' Fund for Retirement. A copy of the overheads used in his presentation is attached as Appendix C and a copy of the actuarial valuation is on file in the Legislative Council office. He said the actuarial valuation of the Teachers' Fund for Retirement was prepared as of June 30, 2004, using member data, financial data, benefit and contribution provisions, and actuarial assumptions and methods. He said the purposes of an actuarial valuation are to measure the actuarial liabilities of the pension fund under review; determine the adequacy of current statutory contributions; provide other information for reporting purposes, including GASB No. 25 and Comprehensive Annual Financial Report financial reporting information; explain changes in the actuarial condition of the Teachers' Fund for Retirement; track changes over time; and warn about possible future problems and issues. Key changes and issues identified since the last actuarial valuation was performed on July 1, 2003, he said, include an increase in the negative margin from a negative 1.19 percent to a negative 3.59 percent; a decrease in the funding ratio from 85.1 to 80.3 percent; an increase in the funding period from 43.6 years to infinity; a partial offset in actuarial asset losses from fiscal years 2001, 2002, and 2003 by an actuarial rate of return of 18.9 percent in fiscal year 2004; and a decrease in active membership for the third consecutive year. He said the negative margin is expected to increase further in the future and that the decrease in the funding ratio is expected to continue for another year or two. He said no changes to actuarial assumptions or methods or to benefit or contribution structure which affected liabilities or costs were made since the last actuarial valuation.

Concerning membership, Mr. Conradi said the number of active members decreased by 90, from 9,916 to 9,826. He said this is a decrease of .9 percent. Over the last 10 years, he said, active membership has increased an average of .2 percent per year. He said payroll for active members increased 2.3 percent, from $367.9 million to $376.5 million. Payroll has increased, he said, an average of 3.7 percent per year over the last 10 years. He said the average pay for active members increased 3.3 percent, from $37,105 to $38,321. He said the average age of active members is 44.9 years, compared to 44.8 years last year and to 42.2 years 10 years ago. The average years of service, he said, is 14.7 years, compared to 14.6 last year and to 13.3 ten years ago. He said there are also 1,346 inactive vested members and there are 175 inactive nonvested members.

Mr. Conradi said the number of retirees increased by 196, from 5,177 to 5,373, an increase of 3.8 percent. He noted this number includes service retirees, disabled retirees, and beneficiaries receiving benefits. Over the last 10 years, he said, the number of retirees has grown by an average of 2.1 percent per year. He said the average annual retirement benefit is $15,057 and there are 1.8 active members for each retiree. He noted that the ratio of active members to retired members is decreasing, as 10 years ago there were 2.2 active members for each retiree. He said the ratio for the North Dakota Teachers' Fund for Retirement is the second lowest among systems for which he provides actuarial services.

In response to a question from Representative Kasper, Mr. Conradi said a defined benefit plan with a declining membership can still sustain itself provided the benefit is properly funded. He said this is unlike the federal Social Security system in which active members are paying for the benefits of current retirees.

In response to a further question from Representative Kasper, Mr. Conradi said the decline in membership will have a negligible impact on the long-term viability of the Teachers' Fund for Retirement.

Mr. Conradi said the fair market value of assets increased from $1,175 million to $1,375 million. He said currently 71 percent of the fund is invested in equities, 8 percent in real estate, and 21 percent in cash and fixed income assets. He said members and employers both contribute 7.75 percent of salary and employers contributed $29.6 million and members contributed $34 million during the most recent fiscal year. He said the member contributions include service purchases. He said total contributions were $63.7 million as compared to $60.2 million in fiscal year 2003. Total distributions, he said, including benefit payments, refunds, and administrative expenses, totaled $84.5 million. Therefore, he said, net external cashflow was a negative $20.8 million or negative 1.5 percent of market value of assets at the end of the fiscal year. He said net external cashflow is normal for a mature pension system. He said the return on the market value of assets was approximately 18.9 percent in fiscal year 2004. He said it was 2.1 percent in fiscal year 2003 and -8.6 percent in fiscal year 2002. The average return for the last 10 years was 8.4 percent, he said, just about the assumed 8 percent investment rate of return. The 15-year average return, he said, was also 8.4 percent.

In response to a question from Representative Kasper, Mr. Cochrane said the Teachers' Fund for Retirement Board of Trustees adopts an asset allocation in consultation with its advisors. He said this asset allocation is forwarded to the State Investment Board which implements it. He said the asset allocation is one based on a long-term strategic investment horizon and not designed to time the market or to make tactical decisions based on short-term market movements.

Concerning assets of the Teachers' Fund for Retirement, Mr. Conradi said all actuarial calculations are based on the actuarial value of assets, not market value. He said the actuarial value of assets of the Teachers' Fund for Retirement is $1,446 million, compared to $1,438 million last fiscal year. He said the actuarial rate of return was 1.9 percent in fiscal year 2004 compared to 18.9 percent on a market value basis. He said the average rate of return on actuarial return over the last 10 years has been 8.5 percent. He said the actuarial value of assets is

105 percent of the fair market value of assets which was 122 percent last year. He said there are still $70.9 million in deferred losses that have not yet been recognized. He said there were $263.2 million in unrealized losses last fiscal year.

Concerning changes in benefit structure, actuarial assumptions, and methods, Mr. Conradi said there were no changes made to the benefit or contribution structure, 22 Department of Public Instruction employees transferred from the Teachers' Fund for Retirement to the Public Employees Retirement System during the year, and there were no changes made to the actuarial assumptions or methods. He said his firm continues to monitor the assumed investment return rates and that currently, based on the consensus of capital market assumptions and based on the Teachers' Fund for Retirement asset allocation policy, the 8 percent assumed rate of return is reasonable. He said investment consulting firms have significantly lowered their expected return assumptions, especially for equities. He said the unfunded actuarial accrued liability increased from $251.9 million to $354.8 million. The funded ratio, he said, actuarial assets divided by actuarial accrued liability, decreased from 85.1 to 80.3 percent. He said the funded ratio using the market value of assets is 76.4 percent. Thus, he said, the negative margin increased from a negative 1.19 percent to a negative 3.59 percent. He said the funding period based on a 7.75 percent employer contribution rate is now infinite. He said the actuarial losses were primarily due to investment return and liabilities.

Concerning the next year, Mr. Conradi said more of the net deferred losses from fiscal years 2001, 2002, and 2003 will be recognized in actuarial assets, which will be partially offset by recognition of part of the fiscal year 2004 gain. He said this will further increase the unfunded actuarial accrued liability and it will further decrease the funded ratio and the margin, absent a favorable experience. If the Teachers' Fund for Retirement earns 8 percent for fiscal year 2005, he said, the market value and actuarial value will be almost equal. Assuming an 8 percent annual market rate of return for all future years and a .5 percent annual decrease in active membership, he said, the funded ratio based on the actuarial value of assets will be 77 percent in the year 2019, the funded ratio based on the market value of assets will be 77 percent, and the margin will be a negative 8.02 percent. Assuming an 8.45 percent annual market rate of return for all future years and a .5 percent annual decrease in active membership, he said, the funded ratio on the actuarial value of assets in 2019 will be 84 percent, the funded ratio on the market value of assets will be 85 percent, and the margin will be a negative 4.23 percent.

In response to a question from Representative Carlson, Mr. Conradi said the trend of teachers retiring at a younger age is leveling off. He said increasing costs of health insurance is affecting this trend as employees are finding it difficult to retire before age 65 and afford to pay for health insurance.

In response to a question from Senator Krebsbach, Mr. Conradi said the Teachers' Fund for Retirement Board of Trustees has discussed increasing the employer contribution but has not made a final decision on this issue. He said investment returns by themselves will not return the Teachers' Fund for Retirement to a positive margin in a reasonable period of time.

In response to a question from Representative Wald, Mr. Conradi said the Teachers' Fund for Retirement Board of Trustees has discussed implementing benefit changes, such as decreasing the multiplier, changing eligibility requirements for retirement, as well as others. He said legal research conducted by attorneys for the Teachers' Fund for Retirement seems to indicate that it would be impermissible to reduce the multiplier for current members of the Teachers' Fund for Retirement but that the multiplier could be reduced for future hires.

In response to a question from Representative Wald, Mr. Conradi said there is no discernible trend of defined benefit plans converting to defined contribution plans. He said several states, including Florida and South Carolina, have provided defined contribution options for members of their public pension systems but none have converted to a complete defined contribution system. In fact, he said, one system--Nebraska--has reconverted from a defined contribution system to a defined benefit system.

In response to a question from Representative Kasper, Mr. Conradi said a teacher with a final average salary of $40,000 who has 20 to 25 years of service will receive a pension of $20,000 to $24,000 per year.

In response to a question from Representative Kasper, Mr. Conradi said whether an individual would receive higher benefits under a defined benefit or a defined contribution pension system depends upon a number of factors, including how old the individual was when the individual began participating, how long the individual worked, the rate of pay increases, as well as a number of other variables.

In response to a question from Representative Kasper, Mr. Conradi said Gabriel, Roeder, Smith and Company could compare a defined contribution type plan to the current Teachers' Fund for Retirement defined benefit plan. However, he cautioned, the normal cost for new members for the Teachers' Fund for Retirement is 10.29 percent and not 15.50 percent. The balance, he said, is used to fund the unfunded liability of the Teachers' Fund for Retirement.

In response to a question from Representative Wald, Mr. Conradi said the Teachers' Fund for Retirement is sound and will be able to pay all accrued benefits for the foreseeable future.

In response to a question from Senator Nelson, Mr. Conradi said a .25 percent increase in the employer contribution and employee contribution would not have a large impact on the Teachers' Fund for Retirement.

In response to a question from Representative Wald, Mr. Conradi said the 7.75 percent employee contribution is the second highest rate among the 38 teacher retirement plans that responded to a recent survey. The only higher rate, he said, was the 9.5 percent employee contribution rate paid by members of the Rhode Island teachers' retirement system. He said the 7.75 percent employer contribution is approximately midrange among employer contribution rates for employers responding to the survey.

Chairman Krebsbach recognized Ms. Fay Kopp, Deputy Executive Director, Retirement and Investment Office, who reviewed Employee Benefits Programs Committee Bill No. 50 [50050.0100]. She said the bill draft updates federal tax law changes for federal Internal Revenue Code compliance purposes and modifies retiree reemployment provisions by requiring employer and employee contributions on salary earned by reemployed retirees. A copy of her comments is attached as Appendix D.

Ms. Kopp said the Teachers' Fund for Retirement Board of Directors is requesting that the bill draft be amended to remove the provisions requiring employer and employee contributions when retirees return to covered employment. As amended, she said, the bill draft still contains the federal Internal Revenue Code qualification language and still deletes the July 31, 2005, expiration date relating to retirees returning to work in critical shortage areas.

Mr. Conradi said the bill draft has no actuarial impact on the Teachers' Fund for Retirement.

It was moved by Senator Nelson, seconded by Representative Wald, and carried on a voice vote that the committee approve the amendment to Employee Benefits Programs Committee Bill No. 50 [50050.0100] requested by the Teachers' Fund for Retirement Board of Trustees.

It was moved by Representative Wald, seconded by Representative Carlson, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 50 [50050.0100], as amended, a favorable recommendation. Senators Krebsbach, Brown, Kilzer, and Nelson and Representatives Amerman, Carlson, Kasper, and Wald voted "aye." No negative votes were cast.

Mr. Conradi reviewed the actuarial and technical comments for Employee Benefits Programs Committee Bill No. 165 [50165.0200]. A copy of the actuarial report is attached as Appendix E. Mr. Conradi said the actuarial cost of the proposal is negligible.

Senator Brown said the bill draft will allow school districts to hire non-Teachers' Fund for Retirement members to teach summer school which may have a detrimental impact on the fund and school district hiring practices.

Senator Nelson noted that teachers can apply for a refund if they do not wish to remain a member of the Teachers' Fund for Retirement.

Chairman Krebsbach called on Ms. Kopp. A copy of her written comments concerning the bill draft is attached as Appendix F. She said the Teachers' Fund for Retirement Board of Trustees has not taken a formal position on the bill draft but has expressed serious concerns about the potential for future negative financial implications to the Teachers' Fund for Retirement, if the bill is enacted.

It was moved by Representative Wald, seconded by Representative Carlson, and failed on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 165 [50165.0200] a favorable recommendation. Senator Brown and Representatives Carlson, Kasper, and Wald voted "aye." Senators Krebsbach, Kilzer, and Nelson and Representative Amerman voted "nay."

It was moved by Senator Nelson, seconded by Senator Kilzer, and failed on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 165 [50165.0200] an unfavorable recommendation. Senators Krebsbach, Kilzer, and Nelson and Representative Amerman voted "aye." Senator Brown and Representatives Carlson, Kasper, and Wald voted "nay."

It was moved by Senator Brown, seconded by Representative Kasper, and failed on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 165 [50165.0200] no recommendation. Senators Krebsbach, Brown, and Kilzer and Representative Kasper voted "aye." Senator Nelson and Representatives Amerman, Carlson, and Wald voted "nay."

Committee counsel said that although the committee failed to make a recommendation on the bill draft, that by default the bill draft will be given no recommendation and that information will be reported to the sponsor.

PUBLIC EMPLOYEES RETIREMENT SYSTEM

Chairman Krebsbach recognized Ms. Leslie L. Thompson, Senior Vice President and Consulting Actuary, The Segal Company, Englewood, Colorado, who presented the July 1, 2004, actuarial valuations of the Public Employees Retirement System main system, the Highway Patrolmen's retirement system, the retirement plan for employees of Job Service North Dakota, and the retiree health benefits fund. A copy of the overheads used in her presentation is attached as Appendix G, and copies of the actuarial valuations are on file in the Legislative Council office.

Ms. Thompson said the judges, National Guard, law enforcement with prior main service, Job Service, and retiree health insurance credit fund have positive contribution margins. She said the main system, law enforcement without prior main service, and Highway Patrolmen's retirement system have negative contribution margins. She said the funded ratio is 100 percent for the judges, National Guard, law enforcement without prior main service, and Job Service systems but below 100 percent for the main, retiree health insurance credit fund, law enforcement with prior main service, and Highway Patrolmen's retirement systems. The ratio of the actuarial value of assets to the market value of assets for the Public Employees Retirement System and the Highway Patrolmen's retirement system combined, she said, has decreased from 106 to 94.4 percent. She said the market value of assets exceeds the actuarial value of assets by $73 million. She said two new plans--law enforcement, with or without prior main service--are included in the valuation. She said the plan with prior service has a positive contribution margin of .43 percent of payroll while the plan without prior service has a 1.92 percent negative contribution margin. She said salaries for active employees in the Public Employees Retirement System increased 3.2 percent, creating an actuarial gain. Other than the investment experience loss, she said, there were no other significant gains or losses. She said for the main; judges; and law enforcement, without prior main service retirement systems, the normal cost is in excess of the statutory contribution rate. She said this means that these systems will be relying on an actuarial surplus for the statutory rates to cover the actuarial cost of the plans.

In response to a question from Representative Kasper, Mr. Sparb Collins, Executive Director, Public Employees Retirement System, said the state comprises approximately 55 percent of the client base of the Public Employees Retirement System main system and thus the salary increase is due to participation by political subdivisions in the Public Employees Retirement System. In addition, he said, non-Teachers' Insurance and Annuity Association of America - College Retirement Equities Fund employees of the higher education system did receive salary increases and they are members of the Public Employees Retirement System.

Ms. Thompson said the total number of active members increased from 17,101 on July 1, 2003, to 17,522 on July 1, 2004, an increase of 2.5 percent. She said the average age of active members increased from 46 to 46.4 years, an increase of four months, and that the average annual salary increased from $27,751 to $28,223, an increase of 1.7 percent. She said the total number of active members in the judges' system decreased from 47 to 46 and the average age of active members increased from 55 to 55.3 years. She said the average annual salary for judges increased from $95,993 to $95,998, an insignificant increase. For the National Guard retirement system, she said, the total number of active members increased from 12 to 17 while the average age of members decreased from 40.5 to 38.1 years and the average annual salary decreased from $35,395 to $33,519. She said this is due to the return of active duty members to the system and that the system is returning to more normative levels.

Concerning the 2004 actuarial valuation for the Public Employees Retirement System and the Highway Patrolmen's retirement system, Ms. Thompson said the market value of assets now totaled $1.31 billion and the actuarial value of assets totaled $1.24 billion, or 94 percent of market value. She said the market rate of return was 16.65 percent, while the actuarial rate of return was 3.16 percent, 4.84 percent lower than the 8 percent assumed rate of return. She said the 10-year rate of return on an actuarial value basis was 9.39 percent. She said the employer cost rate for the main system increased from 5.51 percent in 2003 to 6.30 percent in 2004. Thus, she said, the available margin in the main system is -2.18 percent of covered payroll or 4.12 percent, the statutory contribution rate, - 6.30 percent, the employer cost rate, = -2.18 percent. She said the employer cost rate for the judges' system increased from 12.10 percent in 2003 to 12.44 percent in 2004. However, she said, the statutory contribution rate is 14.52 percent and thus the available margin is 2.08 percent or 14.52% - 12.44% = 2.08%. For the National Guard retirement system, she said, the employer cost rate increased from 2.76 percent in 2003 to 3.25 percent in 2004. However, she said, the contribution rate established by the Retirement Board exceeds the employer cost rate of 3.25 percent and thus the available margin is 5.08 percent or 8.33% - 3.25% = 5.08%.

Concerning the funded ratio, the ratio of assets to liabilities, Ms. Thompson said the funded ratio for the main system is 94 percent. She said the average funded ratio reported in the survey of public funds, a survey of 125 public statewide retirement systems, is 88.2 percent. Thus, she said, the funded ratio is well above the national average. In addition, she said, the funded ratio using the market value of assets is 99 percent. She said the funded ratio for the judges' retirement system is 113 percent and the funded ratio for the National Guard retirement system is 120 percent. The funded ratio for the law enforcement plan with prior main service is 87 percent, she said, and the funded ratio for the law enforcement plan without prior main service is 109 percent.

Concerning the retiree health benefits fund, Ms. Thompson said assets at market value totaled $30.2 million and assets at actuarial value totaled $29 million, or 96 percent of market value. She said the market value rate of return for the last year was 15.19 percent, while the actuarial value rate of return was 2 percent, 6 percent less than the 8 percent investment return assumption. She said the employer cost rate increased from .98 percent in 2003 to .99 percent in 2004. She said the statutory contribution rate of 1 percent covers the employer cost rate and thus the available margin is .01 percent.

Concerning the Highway Patrolmen's retirement system, Ms. Thompson said the total number of active members increased from 131 in 2003 to 132 in 2004. She said the average age of active members decreased from 38.4 to 37.7 years and the average annual salary also decreased from $40,928 to $40,857, a decrease of .2 percent. She said the employer cost rate for 2003 was 16.96 percent, which increased to 19.03 percent in 2004. She said the statutory contribution rate is 16.07 percent and thus the available margin is a negative 2.33 percent. She said the funded ratio for the Highway Patrolmen's retirement system is 90 percent.

Concerning the Job Service retirement plan, Ms. Thompson said it is a frozen plan with declining membership and assets cover the entire obligation of the system. She said there are 60 active members in the Job Service retirement plan with an average age of 54 years and an average salary of $40,992. She said the funded ratio for the Job Service retirement plan is 109 percent.

Ms. Thompson and Mr. Collins distributed a table summarizing the benefit improvements contained in the Employee Benefits Programs Committee bills submitted by the Public Employees Retirement System Board. A copy of the table is attached as Appendix H. Ms. Thompson said providing on-hold of a 13th retirement check, which is contained in Employee Benefits Programs Committee Bill No. 53 [50053.0100], would cost .85 percent for the main, judges, and National Guard systems and .29 percent for the Highway Patrolmen's retirement system. She said the cost of Employee Benefits Programs Committee Bill No. 55 [50055.0200] is a negative .30 percent to the retiree health credit fund. She said providing credit for a 3 percent final average salary increase, which is contained in Employee Benefits Programs Committee Bill No. 53 [50053.0100] would cost .56 percent for the main system, 1.26 percent for the judges' system, 1.57 percent for the National Guard system, .70 percent for the law enforcement with prior main service system, .35 percent for the law enforcement without prior main service system, and 1.48 percent for the Highway Patrolmen's retirement system. She said expanding the definition of disability for the Highway Patrolmen's retirement system, which is contained in Employee Benefits Programs Committee Bill No. 52 [50052.0300], would cost the Highway Patrolmen's retirement system .38 percent.

Mr. Collins distributed the technical comments for Employee Benefits Programs Committee Bill No. 52 [50052.0300] as well as several proposed amendments to the bill draft. A copy of the technical comments is attached as Appendix I and a copy of the amendment is attached as Appendix J. Mr. Collins said the bill draft allows employers in the Highway Patrolmen's retirement system, the main system, and the defined contribution plan to elect to pick up employee contributions for eligible military service credit for veterans returning after the effective date of the bill draft. If no election is made, he said, the default method requires employers to pick up the employee contribution for this service in the same manner as for regular employee contributions and allows employers to pay for eligible military service credit prior to the date of passage of the bill draft. He said the bill draft expands the definition of disability under the Highway Patrolmen's retirement system as being unable to perform the duties of a Highway Patrol officer, updates federal compliance provisions for the Highway Patrolmen's retirement system and the main system, eliminates the 5-year term certain option and adds a 20-year term certain option and partial lump sum option with a maximum amount of 12 months of payments to the Highway Patrolmen's retirement plan and the main system, and adds a joint and survivor option to the level income form in the main system plan. He said the bill draft provides record confidentiality rules under the Highway Patrolmen's retirement system to permit sharing of information with beneficiaries and the names of members with the public for the purpose of locating the members, allows employers in the Highway Patrolmen's retirement system to purchase service credit equal to unused sick leave at termination, provides for the Public Employees Retirement System to perform background checks on new employees of the Public Employees Retirement System, changes the eligibility requirement for the law enforcement retirement plan from 20 to 32 hours of employment per week for peace officers employed after August 1, 2005, and prohibits such employees from concurrently participating in any other Public Employees Retirement System-administered retirement plan, allows employees who change from permanent to temporary employee status to continue to participate in the defined contribution plan by filing an election to do so within 180 days of status change and making contributions to the plan and the retiree health benefits fund, and clarifies that nonspouse beneficiaries may receive a distribution from the defined contribution plan in a lump sum form only upon the death of the member. Mr. Collins said the amendment removes the expanded definition of disability under the Highway Patrolmen's retirement system because of the cost to the Highway Patrolmen's retirement system and deletes the employee background check provisions as they are being included in a comprehensive bill being prepared by the Attorney General's office.

It was moved by Senator Nelson, seconded by Senator Brown, and carried on a voice vote to approve the amendment to Employee Benefits Programs Committee Bill No. 52 [50052.0300] requested by the Public Employees Retirement System Board.

It was moved by Senator Nelson, seconded by Senator Brown, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 52 [50052.0300], as amended, a favorable recommendation. Senators Krebsbach, Brown, Kilzer, and Nelson and Representatives Amerman, Carlson, Kasper, and Wald voted "aye." No negative votes were cast.

Mr. Collins reviewed the technical comments and actuarial valuation for Employee Benefits Programs Committee Bill No. 53 [50053.0100]. A copy of the report is attached as Appendix K and a copy of a proposed amendment to the bill draft is attached as Appendix L. Mr. Collins said the bill draft changes the definition of final average salary applicable to the Highway Patrolmen's retirement system from the highest 36 consecutive months to the highest 36 months, effective for retirements on and after August 1, 2005, and from the highest 36 months in the last 120 months of employment to the last 180 months of employment effective for retirements on and after July 1, 2009. He said the bill draft also changes the definition of final average salary under the main system from the highest 36 months in the last 120 months of employment to the highest 36 months in the last 180 months of employment, effective for retirements on and after July 1, 2009. He said the bill draft increases by 3 percent the final average salary for individuals who are members of the main system or the Highway Patrolmen's retirement system effective August 1, 2005, and allows the Retirement Board to provide for a one-time postretirement payment equal to 50 percent of the member's current monthly benefit payment amount payable in January of either 2006 or 2007 if the trust fund's total annualized return on investments is at least 11.2 percent for the fiscal year ending June 2005 or June 2006, applicable to both the main system and the Highway Patrolmen's retirement system. He said this is a potential one-time payment during the biennium. He said the amendment deletes the provisions of the bill draft that have an actuarial cost.

In response to a question from Representative Carlson, Mr. Collins said the one-time postretirement payment is designed to provide a meaningful benefit to retirees without building the increase into the formula to make it permanent. He said the Public Employees Retirement System Board has not been able to provide a postretirement adjustment for retirees for the past four years.

In response to a question from Senator Brown, Mr. Collins said had this provision--the one-time 13th check--been in effect for fiscal year ending June 30, 2004, the provision would have become effective because the return on investment during the past year was above 11.2 percent.

It was moved by Senator Brown, seconded by Senator Nelson, and carried on a voice vote that the committee approve the amendment to Employee Benefits Programs Committee Bill No. 53 [50053.0100] requested by the Public Employees Retirement System Board.

It was moved by Senator Brown, seconded by Representative Amerman, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 53 [50053.0100], as amended, a favorable recommendation. Senators Krebsbach, Brown, Kilzer, and Nelson and Representatives Amerman, Carlson, Kasper, and Wald voted "aye." No negative votes were cast.

At the request of Chairman Krebsbach, committee counsel reviewed Employee Benefits Programs Committee Bill No. 201 [50201.0100]. Committee counsel said the bill draft was submitted by Senator O'Connell and relates to returning to employment after retirement under the Public Employees Retirement System. Committee counsel said the bill draft provides that an employee who is eligible for normal retirement who accepts a retirement benefit and who subsequently becomes employed with a participating employer may elect to permanently waive future participation in the retirement plan and maintain that employee's retirement status. Committee counsel said the bill draft was only recently submitted but suggested that the committee request the Public Employees Retirement System have its actuarial consultants prepare technical comments and an actuarial analysis of the bill draft in order that the information be available if the bill draft is introduced in the upcoming Legislative Assembly and the committee is required to meet.

Chairman Krebsbach requested the Public Employees Retirement System Board have its actuarial consultants prepare technical comments and an actuarial analysis of Employee Benefits Programs Committee Bill No. 201.

UNIFORM GROUP INSURANCE PROGRAM

Mr. Collins reviewed the analysis for Employee Benefits Programs Committee Bill No. 54 [50054.0100] prepared by Gallagher Benefit Services, Inc. A copy of the analysis is attached as Appendix M. Mr. Collins said the bill draft allows the Public Employees Retirement System Board to accept and expend funds from sources other than premiums, to negotiate with bidders on competitive bids after the submission of proposals, to self-administer the health insurance plan should the board decide to self-fund its health benefits, and to establish its own independent health provider network, which would be limited to Public Employees Retirement System-use only. He said the provision allowing the board to accept and expend funds from sources other than premiums is designed to allow the Public Employees Retirement System to accept any subsidies payable as a result of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. He said there is no cost to the bill draft.

In response to a question from Representative Carlson, Mr. Collins said the bill draft provides a mechanism for the Public Employees Retirement System Board to self-administer the uniform group health insurance plan.

In response to a question from Representative Kasper, Mr. Collins agreed that the Public Employees Retirement System is currently not in a position to self-administer the plan.

It was moved by Representative Wald, seconded by Representative Carlson, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 54 [50054.0100] a favorable recommendation. Senators Krebsbach, Brown, Kilzer, and Nelson and Representatives Amerman, Carlson, Kasper, and Wald voted "aye." No negative votes were cast.

Mr. Collins reviewed Employee Benefits Programs Committee Bill No. 55 [50055.0200]. A copy of the actuarial valuation prepared by The Segal Company is attached as Appendix N. Mr. Collins said the bill draft changes the statutory language to refer to the required monthly contribution to the retiree health benefits fund, rather than a specific contribution percentage; increases the required monthly contribution to the retiree health benefits fund from 1 percent of monthly salary to 1.45 percent of monthly salary; and increases the monthly retiree health credit from $4.50 per year of credited service to $5 per year of credited service. He said the bill draft has a positive impact on the fund because the contribution increase from 1 percent to 1.45 percent more than covers the increase in the credit. Thus, he said, if the bill draft is enacted, the margin in the retiree health benefits fund will increase from .01 to .31 percent of covered compensation. He said the Public Employees Retirement System Board has submitted the request for an increase in the employer contribution to fund the benefit enhancement to the Office of Management and Budget for inclusion in the executive budget.

In response to a question from Senator Kilzer, Mr. Collins said the Retirement Board has informed cities, counties, and school districts of the proposal but has not received a response from any of these political subdivisions.

In response to a question from Representative Wald, Mr. Collins said the proposal has a positive impact even with the benefit increase because of the increase in the employer contribution.

In response to a question from Representative Kasper, Mr. Collins said the retirement contribution was reduced from 5.12 to 4.12 percent to fund the retiree health benefits program.

In response to a question from Representative Carlson, Mr. Collins agreed that increasing the employer contribution may be viewed as an unfunded mandate by political subdivisions that participate in the Public Employees Retirement System and by the higher education system as well.

In response to a question from Senator Nelson, Mr. Collins said even with the increase in the employer contribution for the retiree health benefits fund, the total employer contribution under the Public Employees Retirement System is still below that for the Teachers' Insurance and Annuity Association of America - College Retirement Equities Fund.

It was moved by Representative Wald, seconded by Representative Carlson, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 55 [50055.0200] an unfavorable recommendation. Senators Krebsbach, Brown, and Kilzer and Representatives Carlson, Kasper, and Wald voted "aye." Senator Nelson and Representative Amerman voted "nay."

Mr. Collins reviewed the actuarial analysis for Employee Benefits Programs Committee Bill No. 11 [50011.0100], a copy of which is attached as Appendix O. He said the bill draft would allow the Retirement Board, to the extent permitted under federal law, to contract with one or more nondomestic pharmacy benefit managers to facilitate the purchase of eligible Canadian prescription drugs. As an incentive for active employees and retirees to use the proposed program, he said, the Retirement Board may forgive all or part of any prescription drug copayment. He said the proposal authorizes the Retirement Board to pay the pharmacy benefits manager for prescriptions obtained from eligible Canadian pharmacies.

In response to a question from Senator Brown, Mr. Collins said it is the understanding of the Gallagher Benefit Services, Inc., Corporate Compliance Department that drug reimportation is not legal under federal law.

In response to Mr. Collins' statement, Senator Nelson said the bill draft provides that the pharmacy benefits manager would only be used to the extent allowed under federal law and thus the bill draft does not conflict with federal law.

It was moved by Representative Carlson, seconded by Senator Brown, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 11 [50011.0100] an unfavorable recommendation. Senators Krebsbach, Brown, and Kilzer and Representatives Carlson, Kasper, and Wald voted "aye." Senator Nelson and Representative Amerman voted "nay."

Mr. Collins reviewed the actuarial analysis for Employee Benefits Programs Committee Bill No. 22

[50022.0100], a copy of which is attached as Appendix P. He said the bill draft expands participation in the uniform group insurance program by permitting permanent and temporary employees of private sector employers and uninsured private citizens to participate in the Public Employees Retirement System health insurance plan subject to certain underwriting conditions. He said Gallagher Benefit Services, Inc., the Retirement Board's health care consultant, has determined that the Health Insurance Portability and Accountability Act of 1996 restricts the use of medical underwriting and risk-adjusted premiums for health care coverage and thus the health insurance plan would be subject to adverse risk selection if this provision is enacted.

It was moved by Representative Wald, seconded by Senator Brown, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 22 [50022.0100] an unfavorable recommendation. Senators Krebsbach, Brown, Kilzer, and Nelson and Representatives Amerman, Carlson, Kasper, and Wald voted "aye." No negative votes were cast.

Mr. Collins reviewed the actuarial analysis for Employee Benefits Programs Committee Bill No. 43 [50043.0100], a copy of which is attached as Appendix Q. He said the bill draft allows any employee who terminated employment by retirement on or after achieving normal retirement age and who was vested in the employer plan at the time of retirement the option to continue in the uniform group health insurance program. He said the actuarial consultant was concerned that the proposal would expand access to the uniform group health insurance program to more pre-Medicare retirees which would be harmful to the overall financial health of the program.

It was moved by Representative Wald and failed for lack of a second that the committee give Employee Benefits Programs Committee Bill No. 43 [50043.0100] a favorable recommendation.

It was moved by Senator Brown, seconded by Senator Kilzer, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 43 [50043.0100] an unfavorable recommendation. Senators Krebsbach, Brown, Kilzer, and Nelson and Representatives Amerman and Kasper voted "aye." Representative Wald voted "nay."

OLD-AGE AND SURVIVOR INSURANCE SYSTEM

Mr. Collins reviewed the actuarial analysis for Employee Benefits Programs Committee Bill No. 56 [50056.0100], a copy of which is attached as Appendix R. He said the bill draft increases the monthly benefits provided by the Old-Age and Survivor Insurance System retirement system by $26.66 each year for the next two years and requests a $19,000 appropriation from the general fund to fund the benefit increase.

It was moved by Senator Nelson, seconded by Representative Wald, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 56 [50056.0200] a favorable recommendation. Senators Krebsbach, Brown, Kilzer, and Nelson and Representatives Amerman, Carlson, Kasper, and Wald voted "aye." No negative votes were cast.

HEALTH INSURANCE STUDY

Chairman Krebsbach recognized Mr. Dan Huffman, Assistant Superintendent for Business, Fargo Public School District. Mr. Huffman reviewed the health insurance plan for the Fargo Public School District. A copy of his PowerPoint presentation is attached as Appendix S. He said the Fargo Public School District health insurance plan is a self-funded group health and dental plan and the third-party administrator is Blue Cross Blue Shield of North Dakota. If present trends continue, he said, Fargo Public School District #1 will be incurring $280,820 in claims per week by the year 2010. Total health care costs, he said, would increase from $7 million to $14.5 million. To slow this trend, he said, Fargo Public School District #1 is expanding its wellness program, providing health care inventory program services, increasing deductibles and copayments, and exploring instituting health savings accounts.

In response to a question from Representative Amerman, Mr. Huffman said under the current plan, the employer pays 82.5 percent and the employee pays 17.5 percent of the health insurance premium. He said the premium for a family plan is $613. He said the deductible is $500 for the first person and $1,000 for the contract and the total out-of-pocket expenses are $2,000 for the first person and $4,000 for the contract.

In response to a question from Representative Wald, Mr. Huffman said the Fargo Public School District has a 100 percent employer-funded group disability plan, term life insurance with supplemental coverage options, and dental coverage. However, he said, the plan does not include vision coverage.

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

No further business appearing, Chairman Krebsbach adjourned the meeting at 3:00 p.m.

Jeffrey N. Nelson
Committee Counsel

ATTACH:19