# EMPLOYEE BENEFITS PROGRAMS COMMITTEE

The Employee Benefits Programs Committee has statutory jurisdiction over legislative measures that affect retirement, health insurance, and retiree health insurance programs of public employees. Under North Dakota Century Code (NDCC) Section 54-35-02.4, the committee is required to consider and report on legislative measures and proposals over which it takes jurisdiction and which affect, actuarially or otherwise, retirement programs and health and retiree health plans of public employees. Section 54-35-02.4 also requires the committee to take jurisdiction over any measure or proposal that authorizes an automatic increase or other change in benefits beyond the ensuing biennium which would not require legislative approval and to include in the report of the committee a statement that the proposal would allow future changes without legislative involvement. The committee is allowed to solicit draft measures from interested persons during the interim and is required to make a thorough review of any measure or proposal it takes under its jurisdiction, including an actuarial review. A copy of the committee's report must accompany any measure or amendment affecting a public employee's retirement program, health plan, or retiree health plan which is introduced during a legislative session. The statute provides that any legislation enacted in contravention of these requirements is invalid and benefits provided under that legislation must be reduced to the level in effect before enactment. In addition, Section 54-52.1-08.2 requires the committee to approve terminology adopted by the Public Employees Retirement System Board to comply with federal requirements, and Section 18-11-15 requires the committee to receive notice from a firefighters' relief association concerning service benefits paid under a special schedule.

The Legislative Council assigned to the committee a study of the number, qualifications, and selection criteria for vendors and providers selected by the Public Employees Retirement System Board for the defined contribution retirement plan and the deferred compensation program.

Committee members were Representatives Jim Poolman (Chairman), Glen Froseth, Bette Grande, Serenus Hoffner, and Joe Kroeber and Senators Ralph Kilzer, Karen K. Krebsbach, Carolyn Nelson, and Herb Urlacher.

The committee submitted this report to the Legislative Council at the biennial meeting of the Council in November 2000. The Council accepted the report for submission to the 57th Legislative Assembly.

## CONSIDERATION OF RETIREMENT AND HEALTH PLAN PROPOSALS

The committee established April 1, 2000, as the deadline for submission of retirement, health, and retiree health proposals. The deadline provided the committee and the consulting actuary of each affected retirement, health, or retiree health program sufficient time to discuss and evaluate the proposals. The committee allowed only legislators and those agencies entitled to the bill introduction privilege to submit retirement, health, and retiree health proposals for consideration.

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

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

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

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

A copy of the actuarial evaluation and the committee's report on each proposal will be appended to the proposal and delivered to its sponsor. Each sponsor is responsible for securing introduction of the proposal in the 57th Legislative Assembly.

### Teachers' Fund for Retirement

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

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

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

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

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

Members are eligible for a normal service retirement benefit at age 65 with credit for three years of service, or when the sum of the member's age and service is at least 85--the Rule of 85. The monthly retirement benefit is 1.88 percent of final average compensation, defined as the average of the member's highest three-plan year salaries with monthly benefits based on one-twelfth of this amount, times years of service. Benefits are paid as a monthly life annuity, with a guarantee that if the payments made do not exceed the member's assessments plus interest, determined as of the date of retirement, the balance will be paid in a lump sum to the member's beneficiary.

A member may retire early after reaching age 55 with credit for three years of service. In this event, the monthly benefit is 1.88 percent of final average compensation times years of service, multiplied by a factor that reduces the benefit six percent for each year from the earlier of age 65 or the age at which current service plus age equals 85.

Members are eligible for disability retirement benefits provided the member has credit for at least one year of service. The monthly disability retirement benefit is 1.88 percent of final average compensation times years of service with a minimum 20 years of service. The disability benefit commences immediately upon the member's retirement. Benefits cease upon recovery or reemployment. Disability benefits are payable as a monthly life annuity with a guarantee that, at the member's death, the sum of the member's assessments plus interest as of the date of retirement will be paid in a lump sum to the member's beneficiary. All alternative forms of payment are also permitted in the case of disability retirement. Disability benefits are converted to normal retirement benefits when the member reaches normal retirement age or age 65, whichever is earlier. Members with at least three years of service who do not withdraw their contributions from the fund are eligible for a deferred termination benefit. The deferred termination benefit is a monthly benefit of 1.88 percent of final average compensation times years of service. Both final average compensation and service are determined at the time the member leaves active employment. Benefits may commence unreduced at age 65 or when the Rule of 85 is met. Reduced benefits may commence at or after age 55 if the member is not eligible for an unreduced benefit. The form of payment is the same for normal retirement.

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

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

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

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

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

In 1997 the benefit multiplier was increased from 1.55 percent to 1.75 percent for all future retirees, the member assessment rate and employer contribution rate were increased from 6.75 percent to 7.75 percent, and a $30 per month benefit improvement was granted to all retirees and beneficiaries.

In 1999 the vesting requirement was reduced from five years of service to three years of service. The early retirement reduction factor was changed to six percent per year from the earlier of age 65 or the date as of which age plus service equals 85 rather than from 65 in all cases. An ad hoc cost-of-living adjustment was provided for all retirees and beneficiaries. This increase was equal to an additional $2 per month for each year of service plus $1 per month for each year since the member's retirement. Finally, the benefit multiplier was increased from 1.75 percent to 1.88 percent.

The latest available report of the consulting actuary was dated July 1, 2000. The consulting actuary reported that the primary purposes of the valuation report are to determine the adequacy of the current employer contribution rate, to describe the current financial condition of the Teachers' Fund for Retirement, and to analyze changes in the fund's condition. Concerning the financing objectives of the Teachers' Fund for Retirement Board of Trustees, the consulting actuary reported that the member and employer contribution rates are intended to be sufficient to pay the fund's normal cost and to amortize the fund's unfunded actuarial accrued liability in level payments over a period of 20 years from the valuation date. The funding period is set by the board of trustees and is considered reasonable by the actuary.

As of July 1, 2000, the employer contribution rate needed in order to meet these goals was 1.47 percent. This is less than the 7.75 percent rate currently required by law, so the current contribution rate is adequate. The margin between the rate mandated by law and the rate necessary to fund the unfunded actuarial accrued liability in 20 years is 6.28 percentage points. This margin increased from 1.66 percentage points as of July 1, 1999, mainly because of the revision of the method used to compute the actuarial value of assets and continued strong investment performance. As a result, the unfunded actuarial accrued liability was eliminated. The unfunded actuarial accrued liability was $135.3 million as of July 1, 1999, and decreased to a negative $20.6 million as of July 1, 2000. The funded ratio, the ratio of the actuarial value of assets to the actuarial accrued liability, increased from 88.6 percent as of July 1, 1999, to 101.6 percent as of July 1, 2000.

Actuarial assumptions and methods are set by the board of trustees, based upon recommendations made by the plan's consulting actuary. These assumptions and methods were updated following an analysis of plan experience for the preceding five years. The assumed investment return rate of eight percent was left unchanged, but several other assumptions were modified including retirement rates, disability rates, salary increase rates, the inflation rate, and mortality rates for active and nondisabled retirees. The Teachers' Fund for Retirement also uses an actuarial value of assets, a smoothed value. The method that had been in use recognized realized and unrealized gains and losses over a five-year period. This was replaced with a method that recognizes total earnings greater or less than expected, based on the eight percent assumption, over five years.

The fund had 16,191 total members on July 1, 2000. Of this total, 10,025 were active members, 4,827 were retired members, 1,130 were inactive vested members, and 209 were inactive nonvested members. The ratio of active members to retired members is 2.1 to 1. The total payroll was $323 million. The average salary was $32,223 and the average benefit was $11,643. The assets at market value were $1,405,200,000 with an actuarial value of $1,308,500,000.

There has been a 12.1 percent average annual increase in the market value of assets since 1990 and an 11.9 percent average annual increase in the actuarial value of assets since 1990. The actuarial value of assets is 93.1 percent of the market value. The estimated yield on the market value of assets was 11.6 percent, and the estimated yield based on the actuarial value of assets was 13.3 percent. There has been an 11.9 percent average annual compound return on market value since 1990, and a 9.9 percent average annual compound return on actuarial value since 1990. Contributions for the year ending June 30, 2000, were $53.6 million while benefits and refunds were $57.4 million. Thus, external cash flow as a percentage of market value was a -.3 percent. While the statutory contribution rate is 7.75 percent, the required contribution rate for the plan year is 1.47 percent. Thus, the available margin is 6.28 percent.

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

**Bill No. 3**

**Sponsor:** Representative Michael D. Brandenburg

**Proposal:** Provides that if a retired teacher returns to teaching and subsequently retires with more than four years of additional credited service, the retired teacher's annuity for all years of service must be computed under NDCC Section 15-39.1-10(2) (age 65 or Rule of 85).

This bill was withdrawn at the request of the sponsor because similar provisions were incorporated into Bill No. 70.

**Actuarial Analysis:** The consulting actuary reported that the actuarial impact on the Teachers' Fund for Retirement would depend on the number of cases in which members retired, returned to work, and remained at work on a full-time or nearly full-time basis for at least four years. Currently, only two to three retirees return to teaching on a full-time basis each year, but enactment of this bill might increase the number. Some of these, however, will not stay four or more years. If only one retiree met these conditions, the additional cost would be too small to change the fund's margin by even one basis point, but if there were ten similar cases every year, then the average cost would be around 25 basis points per year.

**Committee Report:** No recommendation as this bill was withdrawn at the request of the sponsor.

**Bill No. 69**

**Sponsor:** Board of Trustees

**Proposal:** Increases the benefit multiplier from 1.88 to 2.00 percent; provides a postretirement benefit increase of $2 per month multiplied by a member's number of years of service credit plus $1 per month multiplied by the number of years since the member's retirement; also provides for an automatic benefit increase of five-tenths of one percent of an individual's current monthly benefit, and the increased benefit would be payable each month beginning on July 1 of each year of the ensuing biennium and beyond.

The committee amended the proposal at the request of the board to increase the automatic increase from five-tenths of one percent of an individual's current monthly benefit to seventy-five hundredths of one percent of an individual's current monthly benefit.

**Actuarial Analysis:** The reported actuarial cost of the proposal is 4.83 percent of total covered compensation. The reported actuarial cost of the proposal, as amended, is 5.89 percent of total covered compensation. Thus, if Bill No. 69 is enacted, the remaining margin in the Teachers' Fund for Retirement will be .39 percent (6.28 - 5.89 = .39). The actuarial cost impact of the proposed changes are summarized in the following table:

| Item | Initial Valuation | Ad Hoc Benefit Improvement ($2/Month x Service, Plus $1/Month Per Year Retired) | 2.00% Multiplier | Combination of Ad Hoc Benefit Improvement and 2.00% Multiplier | Bill No. 69 as Drafted, With Ad Hoc Benefit Improvement, 2.00% Multiplier and 0.5% Automatic Cost-of-Living Increase | Bill No. 69 as Amended, With Ad Hoc Benefit Improvement, 2.00% Multiplier, and .75% Automatic Cost-of-Living Increase |
|---|---|---|---|---|---|---|
| 1. Normal cost | 9.82% | 9.82% | 10.29% | 10.29% | 10.63% | 10.81% |
| 2. Unfunded actuarial accrued liability (millions) | $(20.6) | $12.0 | $28.4 | $61.0 | $118.2 | $148.9 |
| 3. 20-year contribution rate | 1.47% | 2.42% | 3.36% | 4.30% | 6.30% | 7.36% |
| 4. Margin | 6.28% | 5.33% | 4.39% | 3.45% | 1.45% | 0.39% |
| 5. Expected employer contribution (millions) | $5.0 | $8.2 | $11.4 | $14.6 | $21.4 | $25.0 |
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|---|---|---|---|---|---|---|
| 6. Increase in expected employer contribution (millions) | 0.00% | 0.95% | 1.89% | 2.83% | 4.83% | 5.89% |
| 7. Increase in expected employer contribution (millions) | | $3.2 | $6.4 | $9.6 | $16.4 | $20.0 |
| 8. Funded ratio | 101.6% | 99.1% | 97.9% | 95.5% | 91.7% | 89.8% |
| 9. Funding period (years) | | 0.6 | 1.7 | 3.8 | 8.9 | 16.6 |

**Committee Report:** Favorable recommendation. This proposal would allow future changes without legislative involvement.

**Bill No. 70**

**Sponsor:** Board of Trustees

**Proposal:** Changes the definition of contract to include written agreements with special education units; changes the definition of teacher to include persons employed by state agencies and special education units and persons contractually employed by a separate state institution, state agency, special education unit, school board, or other governing body of a school district under a third-party contract; reduces the time period within which a retired teacher may return to covered employment from 60 calendar days to 30 calendar days and allows the retired member to return to covered employment for less than four hours each day and continue to receive a monthly retirement benefit or return to covered employment for four or more hours each day for a maximum of 90 working days and continue to receive a monthly retirement benefit; provides that if a teacher subsequently retires with more than two years of additional earned credited service, the retired person's annuity is the greater of the sum of the discontinued annuity, plus an additional annuity computed according to NDCC Chapter 15-39.1 based upon years of service and average salaries earned during the period of reemployment plus any postretirement benefit adjustments granted during the period of reemployment, or a recalculated annuity computed according to Chapter 15-39.1 based on total years of service credit earned during both employment periods offset by the actuarial value of payments already received; provides that certain Teachers' Fund for Retirement records relating to the retirement benefits of a member or a beneficiary may be disclosed to a member's participating employer, the Public Employees Retirement System, state or federal agencies, and member interest groups approved by the board.

The committee amended the proposal at the request of the Teachers' Fund for Retirement Board of Trustees to remove state agency from the definition of teacher; change the return-to-work provisions from the current limit of 90 working days of four or more hours of teaching to a maximum of 700 hours per year; and incorporate the provisions of Employee Benefits Programs Committee Bill No. 3 which provide that if a retired teacher returns to teaching and subsequently retires with more than four years of additional credited service, the retired teacher's annuity for all years of service must be computed under NDCC Section 15-39.1-10(2) (age 65 or Rule of 85) but change the recalculation from four years to five years of additional credited service.

**Actuarial Analysis:** The consulting actuary does not believe the effect of these changes is material. The consulting actuary reported that it is difficult to determine a precise estimate of the cost of the bill, given that much will depend on the number of retirees who elect to return to teaching on a full-time basis. However, the consulting actuary believes that the cost will probably fall in the range of from .02 percent of pay to .10 percent of pay. Expressed as an annual dollar figure, this is equivalent to an increase of $68,000 to $340,000 per year, based on the current payroll.

**Committee Report:** Favorable recommendation.

**Bill No. 95**

**Sponsor:** Senator Ray Holmberg

**Proposal:** Allows retired teachers to return to teaching in critical shortage areas or disciplines as determined by the Teachers' Fund for Retirement Board of Trustees by rule.

**Actuarial Analysis:** The consulting actuary reported that this bill would not have a material actuarial impact. However, the consulting actuary believes that the Teachers' Fund for Retirement Board of Trustees is not the appropriate body to make determinations concerning critical shortage areas.

**Committee Report:** Favorable recommendation. However, the committee was concerned whether the Teachers' Fund for Retirement Board of Trustees is the appropriate entity to determine critical shortage geographical areas or subject disciplines.

**Bill No. 226**

**Sponsor:** Board of Trustees

**Proposal:** Establishes the Teachers' Fund for Retirement plan as both a contributory and noncontributory retirement plan.

**Actuarial Analysis:** The consulting actuary reported that this bill will have no impact on the actuarial status of the Teachers' Fund for Retirement.

**Committee Report:** Favorable recommendation.

**Public Employees Retirement System**

The Public Employees Retirement System is governed by NDCC Chapter 54-52 and includes the Public Employees Retirement System main system, judges' retirement system, National Guard retirement system, and an optional defined contribution retirement plan; Highway Patrolmen's retirement system; and retiree health benefits fund. The plan is supervised by the Retirement Board and covers most employees of the state, district health units, and the Garrison Diversion Conservancy District. Elected officials and officials first appointed before July 1, 1971, can choose to be members. Officials appointed to office after that date are required to be members. Most Supreme Court and district court judges are members of the plan but receive benefits different from other members. A county, city, or school district may choose to participate on completion of an employee referendum and on execution of an agreement with the Retirement Board. Political subdivision employees are not eligible to participate in the defined contribution retirement plan. The Retirement Board also administers the uniform group insurance, life insurance, flexible benefits, deferred compensation, and Chapter 27-17, judges' retirement programs. Chapter 27-17, judges' retirement program, is being phased out of existence except to the extent its continuance is necessary to make payments to retired judges and their surviving spouses and future payments to judges serving on July 1, 1973, and their surviving spouses as required by law.

Members of the main system and judges are eligible for a normal service retirement benefit at age 65 or when age plus service is equal to at least 85--the Rule of 85. Members of the National Guard retirement system are eligible for a normal service retirement at age 55 and three consecutive years of service. The retirement benefit for members of the main system is 1.89 percent of final average salary multiplied by years of service. The retirement benefit for members of the judges' retirement system is 3.50 percent of final average salary for the first 10 years of service, 2.80 percent for the next 10 years of service, and 1.25 percent for service in excess of 20 years. The retirement benefit for members of the National Guard retirement system is 1.89 percent of final average salary multiplied by years of service. Members of the main system are eligible for an early service retirement at age 55 with three years of service, members of the judges' retirement system are eligible for early service retirement at age 55 with five years of service, and members of the National Guard retirement system are eligible for an early service retirement at age 50 with three years of service. The retirement benefit for members who elect early service retirement is the normal service retirement; however, a benefit that begins before age 65, or Rule of 85, if earlier, is reduced by one-half of one percent for each month before age 65. The early service retirement benefit for members of the National Guard retirement system is the normal service retirement benefit; however, a benefit that begins before age 55 is reduced by one-half of one percent for each month before age 55. Members of the main system and National Guard retirement system with six months of service who are unable to engage in any substantial gainful activity are eligible for a disability benefit of 25 percent of the member's final average salary at disability with a minimum of $100 per month. Members of the judges' retirement system with six months of service who are unable to engage in any substantial gainful activity are eligible for a disability benefit of 70 percent of the member's final average salary at disability minus Social Security and workers' compensation benefits paid. Members of the main system and the National Guard retirement system are eligible for deferred vested retirement at three years of service and members of the judges' retirement system are eligible for deferred vested retirement at five years of service. For members of the main system and judges' retirement system, the deferred vested retirement benefit is the normal service retirement benefit payable at age 65 or the Rule of 85, if earlier. Reduced early retirement benefits may be elected upon attainment of age 55. The deferred vested retirement benefit for members of the National Guard retirement system is the normal service retirement benefit payable at age 55. Reduced early retirement benefits may be elected upon attainment of age 50.

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

In lieu of a monthly retirement benefit, terminating nonvested members and terminated vested members may elect to receive their accumulated member contributions with interest. Member contributions through June 30, 1981, accumulate with interest at five percent, member contributions from July 1, 1981, through June 30, 1986, accumulate with interest at six percent, and member contributions after June 30, 1986, accumulate with interest of .5 percent less than the assumed actuarial rate. The standard form of payment is a monthly benefit for life with a refund of the remaining balance, if any, of accumulated member contributions. Optional forms of payment are a 50 percent joint and survivor annuity; 100 percent joint and survivor annuity, with "popup" features; five-year certain and life annuity, 10-year certain and life annuity, or a level Social Security income annuity. Final average salary is the average of the highest salary received by the member for any 36 months employed during the last 120 months of employment.

Except for the employer contribution rate for the National Guard, contribution rates are specified by statute. The contribution rate for members of the main system is four percent, and the employer contribution is 4.12 percent. The contribution for the judges' retirement system is five percent and the employer contribution is 14.52 percent. The contribution rate for members of the National Guard retirement system is four percent, and the employer contribution is 8.33 percent. Part-time employees in the main system contribute 8.12 percent with no employer contributions. Effective January 1, 2000, a member's account balance includes vested employer contributions equal to the member's contributions to the deferred compensation program under NDCC Chapter 54-52.2. The vested employer contributions may not exceed $25 or one percent of the member's salary, whichever is greater, for months one through twelve service credit; $25 or two percent of the member's monthly salary, whichever is greater, for months 13 through 24 of service credit; $25 or three percent of the member's monthly salary whichever is greater, for months 25 through 36 of service credit; and $25 or four percent of the member's monthly salary whichever is greater, for service exceeding 36 months. The vested employer contributions may not exceed four percent of the member's monthly salary and are credited monthly to the member's account balance. The fund may accept rollovers from other qualified plans under rules adopted by the Retirement Board for the purchase of additional service credit. For many employees, no deduction is made from pay for the employee's share. This is a result of 1983 legislation that provided for a phased-in "pickup" of the employee contribution in lieu of a salary increase at that time.

In 1989 the Legislative Assembly established a retiree health insurance credit fund account with the Bank of North Dakota with the purpose of prefunding hospital benefits coverage and medical benefits coverage under the uniform group insurance program for retired members of the Public Employees Retirement System and the Highway Patrolmen's retirement system receiving retirement benefits or surviving spouses of those retired members who have accumulated at least 10 years of service. The employer contribution under the Public Employees Retirement System was reduced from 5.12 percent to 4.12 percent, under the judges' retirement system from 15.52 percent to 14.52 percent, and under the Highway Patrolmen's retirement system from 17.07 percent to 16.07 percent or one percent of the monthly salaries or wages of participating members, including participating Supreme Court and district court judges, and those moneys were redirected to the retiree health insurance credit fund.

The latest available report of the consulting actuary is dated July 1, 2000. According to the report on that date, the combined net assets of the Public Employees Retirement System and Highway Patrolmen's retirement system were $1,236,180,055 at market value. This compares to $1,144,019,039 a year earlier. The combined actuarial value of these funds was $1,062,878,291. Of the combined valuation assets, $1,027,001,825 is allocated to the Public Employees Retirement System main system, including the judges' retirement system and the National Guard retirement system, and $35,876,466 is allocated to the Highway Patrolmen's retirement fund. The actuarial value as a percent of market value is 85.98 percent. Total active membership was 16,375 (16,314 persons other than judges or members of the National Guard retirement system, 48 judges, and 13 members of the National Guard retirement system).

The report indicated that an employer contribution of 2.32 percent of payroll is necessary to meet the normal cost associated with nonjudge members. This means statutory contributions exceed the actuarial requirements of the Public Employees Retirement System, and the margin available in the main system is 1.80 percent of payroll.

The report for the judges' retirement system indicated that an employer contribution of 6.50 percent of payroll is required to fund the system. The statutory employer contribution rate is 14.52 percent of salary. This results in an actuarial margin of 8.02 percent of payroll.

The report of the National Guard retirement system indicated that an employer contribution of 1.74 percent of payroll is required to fund the system. The contribution rate set by the Retirement Board is 8.33 percent of salary. This results in an actuarial margin of 6.59 percent of salary.

Members of the Highway Patrolmen's retirement system are eligible for a normal service retirement at age 55 with at least 10 years of eligible employment or with age plus service equal to at least 80--the Rule of 80. The normal service retirement benefit is 3.40 percent of final average salary for the first 25 years of service and 1.75 percent for service in excess of 25 years. Members are eligible for an early service retirement at age 50 with 10 years of eligible employment. The early service retirement benefit is the normal service retirement benefit; however, a benefit that begins before age 55 or the Rule of 80, if earlier, is reduced by one-half of one percent for each month before age 55. Members are eligible for a disability benefit at six months of service and an inability to engage in substantial gainful activity. The disability benefit is 70 percent of the member's final average salary at disability less workers' compensation, with a minimum of $100 per month. Members are eligible for deferred retirement benefits upon 10 years of eligible employment. The deferred retirement benefit is the normal service retirement benefit payable at age 55 or the Rule of 80, if earlier. Vested benefits are indexed at a rate set by the Retirement Board based upon the increase in final average salary from date of termination to benefit commencement date. Reduced early retirement benefits may be elected upon attainment of age 50.

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

The normal form of benefit for the Highway Patrolmen's retirement system is a monthly benefit for life with 50 percent of the benefit continuing for the life of the surviving spouse, if any. Optional forms of payment are a 100 percent joint and survivor annuity, five-year certain and life annuity, and ten-year certain and life annuity. The monthly benefit amount is adjusted under the optional forms of payment so the total value of benefits is actuarially equivalent. Final average salary is the highest salary received by the member for any 36 consecutive months employed during the last 120 months of employment and the member's contribution is 10.30 percent of monthly salary. The state contributes 16.70 percent of the monthly salary for each participating member.

The latest available report of the consulting actuary for the Highway Patrolmen's retirement fund is dated July 1, 2000. According to the report, on that date the Highway Patrolmen's retirement fund had net assets with an actuarial value of $35,876,466 and a market value of $41,726,105. Total active membership was 122, and an employer contribution of 9.18 percent of payroll was necessary to meet the normal cost of the Highway Patrolmen's retirement fund. The statutory contribution rate is 16.70 percent of payroll. Thus, the actuarial margin is 7.52 percent of payroll.

The latest available report of the consulting actuary for the retiree health insurance credit fund is dated July 1, 2000. According to the report, on that date the fund had net assets with a market value of $26,089,630 and an actuarial value of $22,575,796. Thus, the actuarial value as a percentage of market value is 86.53 percent. Total active membership was 16,720 (6,733 men and 9,987 women). The statutory contribution rate is 1.00 percent of payroll. An employer contribution of 1.02 percent of payroll is required to fund the plan. This results in an actuarial margin of -.02 percent of payroll. The current benefit amount is $4.50 times years of service.

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

**Public Employees Retirement System Main System Bill No. 71**

**Sponsor:** Retirement Board

**Proposal:** Increases the benefit multiplier from 1.89 to 2.00 percent; establishes a procedure for determining a member's beneficiary; provides that if a participating member repurchases service the member did not elect to repurchase upon reemployment, the member must pay to the board an amount equal to the greater of the actuarial cost to the fund of providing the credit or the amount the member received upon taking a refund of the member's account balance; allows members to purchase service credit with either pretax or after tax moneys; provides a postretirement adjustment of six percent of the present benefit; provides a prior service adjustment of six percent of the present benefit; provides that the Retirement Board may share retirement records as needed by an employer to validate the employer's compliance with existing state or federal laws, the Retirement and Investment Office, state or federal agencies, and interest groups approved by the board; allows the Public Employees Retirement System to administer more than one deferred compensation program; defines employee for purposes of the deferred compensation program as a person who is at least 18 years of age and employed in an approved and regularly funded position of unlimited duration for 20 hours or more per week and at least five months each year, including members of the Legislative Assembly; and repeals NDCC Section 54-52-17.9 relating to prior service retiree adjustments.

The committee amended the proposal at the request of the Retirement Board to change the purchase of service provisions from the actuarial cost to the fund of providing the credit or the amount the member received upon taking a refund of the member's account balance to the actuarial cost to the fund to provide the credit or the amount the member received upon taking a refund of the member's account balance, plus interest at the actuarial rate of return from the time the member was issued the refund.

**Actuarial Analysis:** The reported actuarial cost impact of the proposal, as amended, is 3.67 percent of pay for the main system, 3.02 percent of pay for the National Guard retirement system, and .16 percent of pay for the judges' system.

The actuarial cost impact of the proposal, as amended, is summarized in the following tables:

| **Main System** | | | | | |
|---|---|---|---|---|---|
| | **(Amounts Shown in Millions)** | | | | |
| | **Current Results** | **2% Benefit Multiplier** | **6% Ad-Hoc COLA** | **Early Retirement Reduction** | **Combined Changes** |
| Actuarial accrued liability | $879.2 | $910.6 | $897.0 | $882.7 | $932.2 |
| Normal cost | $34.0 | $35.5 | $34.0 | $34.1 | $35.7 |
| Required contribution | $9.4 | $13.1 | $10.6 | $9.8 | $14.8 |
| As a percent of pay | 2.32% | 3.25% | 2.63% | 2.42% | 3.67% |
| **NOTE:** The liability increases do not add due to the compounding of changes. | | | | | |

| **National Guard Retirement System** | | | | |
|---|---|---|---|---|
| | **Current Results** | **2% Benefit** | **6% Ad-Hoc COLA** | **Combined Plan** |

| | | Multiplier | | Changes |
|---|---|---|---|---|
| Actuarial accrued liability | $853,820 | $887,450 | $866,937 | $900,567 |
| Normal cost | $39,868 | $41,886 | $39,868 | $41,886 |
| Required state contribution | $7,225 | $11,590 | $8,140 | $12,505 |
| As a percent of pay | 1.74% | 2.80% | 1.96% | 3.02% |

Thus, if this bill is enacted, the remaining margin in the Public Employees Retirement System main system will be .45 percent (1.80 - (3.67 - 2.32) = .45), and the remaining margin in the National Guard retirement system will be 5.31 percent (6.59 - (3.02 - 1.74) = 5.31).

**Committee Report:** Favorable recommendation.

**Bill No. 73**

**Sponsor:** Retirement Board

**Proposal:** Provides that permanent and total disability for Supreme Court and district court judges is based solely on a judge's inability to perform judicial duties arising out of physical or mental impairment; provides that for Supreme Court and district court judges who do not elect a single life, joint and survivor, level Social Security, or life with 5-year or 10-year retirementpayment option, retirement benefits must be in the form of a lifetime monthly pension with 50 percent of the benefit continuing for the life of the surviving spouse, if any; provides that participants in the judges' retirement system are entitled to receive a two percent postretirement adjustment in their present monthly benefit beginning January 1, 2002, and again on January 1, 2003; and repeals NDCC Section 54-52-17.12, relating to postretirement adjustments for Supreme Court and district court judges.

The committee amended the bill at the request of the Retirement Board to clarify that the optional benefit forms must be an actuarially equivalent option.

**Actuarial Analysis:** The reported actuarial cost impact of the proposal, as amended, is 4.70 percent of pay. The following table summarizes the actuarial cost impact of the proposed changes:

| | Current Results | 50% J+S Normal Form | Eligibility for Disability Benefits | Ad-Hoc COLA | Combined Plan Changes |
|---|---|---|---|---|---|
| Actuarial accrued liability | $11,845,335 | $12,877,882 | $11,698,937 | $11,982,443 | $12,868,592 |
| Normal cost | $761,961 | $852,025 | $783,439 | $761,961 | $874,346 |
| Required contribution | $258,847 | $423,912 | $569,691 | $268,806 | $445,558 |
| As a percent of pay | 6.50% | 10.65% | 6.78% | 6.75% | 11.20% |

Thus, if this bill is enacted, the remaining margin in the judges' retirement system will be 3.32 percent (8.02 - (11.20 - 6.50) = 3.32).

**Committee Report:** Favorable recommendation.

**Bill No. 88**

**Sponsor:** Senator Elroy N. Lindaas

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

The committee amended this bill at the request of the sponsor to provide an appropriation of $7,300 to the Retirement Board to administer its provisions.

**Actuarial Analysis:** The reported actuarial cost impact of the proposal is .18 percent of payroll for the main system and .19 percent of payroll for the National Guard retirement system. The proposal would not affect the benefits paid under the retiree health insurance credit fund, but spreading the cost over the larger payroll will reduce the actuarial contribution requirement by .02 percent (from 1.02 percent to 1.00 percent).

**Committee Report:** No recommendation due to its uncertain impact on political subdivisions.

**Bill No. 191**

**Sponsor:** Retirement Board

**Proposal:** Establishes the Public Employees Retirement System retirement plans as both contributory and noncontributory retirement plans.

**Actuarial Analysis:** The consulting actuary reported that the proposed changes do not change the benefits or the funding of the retirement plans and thus no actuarial cost impact would occur.

**Committee Report:** Favorable recommendation.

**Highway Patrolmen's Retirement System Bill No. 74**

**Sponsor:** Retirement Board

**Proposal:** Allows contributors to the Highway Patrolmen's retirement system to purchase additional service credit from rollovers from other qualified plans, purchase additional credit for up to four years of active employment in the armed forces of the United States, purchase credit for employer-approved leaves of absence, and purchase additional years of service credit to enable the contributor to qualify for normal retirement; increases the benefit multiplier from 3.40 to 3.60 percent of final average salary for the first 25 years of service; provides a postretirement increase in the benefit multiplier from 3.40 to 3.60 percent of final average salary; provides an increase for individuals receiving disability retirement benefits of six percent of the individual's present benefits; provides for the determination of beneficiaries under the Highway Patrolmen's retirement system; allows members of the Highway Patrolmen's retirement system to purchase service credit with either pretax or after tax moneys.

The committee amended the bill at the request of the Retirement Board to clarify that the purchase of service credit applies to both normal benefits and additional benefits.

**Actuarial Analysis:** The reported actuarial cost impact of the proposal is 3.98 percent of payroll. The statutory contribution rate is 16.70 percent of payroll, and the cost of the current plan is 9.18 percent of payroll. Thus, if the proposal is enacted, the remaining margin of the Highway Patrolmen's retirement system will be 3.54 percent (16.70 - 9.18 = 7.52; 7.52 - 3.98 = 3.54).

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

| | Current Results | Combined Changes | Benefit Multiplier | 6% Ad-Hoc COLA |
|---|---|---|---|---|
| Actuarial accrued liability | $34,034,236 | $35,928,926 | $35,004,632 | $34,958,530 |
| Normal cost | $1,019,503 | $1,072,219 | $1,072,219 | $1,019,503 |
| Required contribution | $427,514 | $612,461 | $547,954 | $492,021 |
| As a percent of pay | 9.18% | 13.16% | 11.77% | 10.57% |

**Committee Report:** Favorable recommendation.

**Defined Contribution Retirement Plan Bill No. 50**

**Sponsor:** Representatives Francis J. Wald and Bette Grande

**Proposal:** Provides that all state employees except Supreme Court or district court judges or employees of the State Board of Higher Education and state institutions under the jurisdiction of the board who are eligible to participate in TIAA-CREF may elect to become members of the defined contribution retirement plan.

**Actuarial Analysis:** Concerning the impact of this proposal on the defined benefit plan, the consulting actuary concluded that a guaranteed cost-of-living adjustment for the defined benefit plan cannot be adopted by either 2005 or 2007, without higher investment return or additional contributions or other changes or gains; that based on assumptions and methods, the defined benefit plan is not harmed by the optional defined contribution program; that expansion of the optional program to political subdivisions helps, not hurts, the defined benefit plan; that diversion of some members to the defined contribution program allows a guaranteed cost-of-living adjustment to be paid out of overfunding as the overfunding goes further when spread over fewer defined benefit members; and that external cash flow may become an issue in 15 to 20 years but will not force significant changes to allocation or assumed investment return. However, the actuarial consultant identified several administration issues and recommended delaying the implementation date of the expanded plan to January 1, 2003; moving the eligibility date to September 30 and allowing all employees after that date the normal six months to make a decision; moving the end of the election window to December 15; excluding existing nonclassified employees who had an opportunity to choose the defined contribution plan under prior legislation from the provisions of the bill; and considering an alternative methodology to allocate administrative expenses. One such methodology identified by the consulting actuary would be to pay administrative costs out of contributions instead of account assets. As an example, pursuant to this methodology the employer contribution would remain at 4.12 percent but .12 percent would be deposited into an administrative account, and the remaining 4.00 percent would go to the employee's account. This methodology would distribute administrative costs to all members.

**Committee Report:** Favorable recommendation.

**Bill No. 51**

**Sponsor:** Representatives Francis J. Wald and Bette Grande

**Proposal:** Extends the time period within which state employees eligible to participate in the defined contribution retirement plan may elect to participate in the plan until December 31, 2001.

**Actuarial Analysis:** The consulting actuary reported that because approximately 200 people elected to participate in the optional defined contribution plan during the original window period and the actuarial impact to the plan was minimal that it anticipated the impact of this bill to be minimal as well.

**Committee Report:** Favorable recommendation.

**Bill No. 72**

**Sponsor:** Retirement Board

**Proposal:** Provides that eligible employees may elect to participate in the defined contribution retirement plan on the date the employee is first notified of eligibility as well as at any time during the first six months after the date of employment, whichever is later; provides that deferred members who are reemployed have six months after the date of reemployment or the date the employee is first notified of eligibility, whichever is later, rather than 60 days, to elect to participate in the defined contribution retirement plan; provides that participants who become employed by a political subdivision that participates in the Public Employees Retirement System must remain in the defined contribution retirement plan, but participants who become employees of the judicial branch, the State Board of Higher Education, a state institution under the jurisdiction of the State Board of Higher Education, Highway Patrol, or in a position subject to Teachers' Fund for Retirement membership must become a new member of the retirement plan for which that member's new position is eligible; allows participating members to roll over funds from other qualified plans into the member's account; allows distribution of the participating member's vested account balance if the board determines the participating member has become totally and permanently disabled.

The committee amended the proposal at the request of the Retirement Board to change the election provisions to allow the board, in its sole discretion, to determine whether an employee was adequately notified of the employee's option to participate in the defined contribution retirement plan, and if not, to provide the employee a reasonable time within which to make the election, which may extend beyond the original six-month election window; revise participation requirements to provide that if an employee elected to participate in the defined contribution retirement plan but becomes employed by a political subdivision, that employee continues to participate in the defined contribution retirement plan and to clarify that an employee who moved from a nonclassified position in which the employee selected the defined contribution retirement plan to the Supreme Court or State Board of Higher Education, the employee would maintain the employee's membership in the defined contribution retirement plan rather than being required to switch to the defined benefit plan; and add a provision to allow direct rollovers from other Internal Revenue Code Section 401 plans.

**Actuarial Analysis:** The actuarial consultant reported that the bill would have no actuarial cost impact on the Public Employees Retirement System.

**Committee Report:** Favorable recommendation.

**Retiree Health Insurance Fund Bill No. 77**

**Sponsor:** Retirement Board

**Proposal:** Increases the retiree health credit from $4.50 to $5.

**Actuarial Analysis:** The reported actuarial cost impact of the proposal is .14 percent of payroll. The actuarial cost impact of the proposal is summarized in the following table:

| | Current Results | Proposed Plan Change |
|---|---|---|
| Actuarial accrued liability | $61,901,039 | $68,778,931 |
| Normal cost | $2,037,196 | $2,263,552 |
| Required contribution | $4,211,825 | $4,807,150 |
| As a percent of pay | 1.02% | 1.16% |

Thus, if this bill is enacted, the remaining margin in the retiree health insurance credit fund will be -.16 percent (-.02 - .14 = -.16).

**Committee Report:** No recommendation.

**Uniform Group Insurance Program Bill No. 2**

**Sponsor:** Senator John Andrist

**Proposal:** Provides that eligible employees who are eligible to participate in the uniform group insurance program at the family plan rate who have medical and hospital benefits coverage under a health insurance plan provided to another member of the eligible employee's family who is not insured under the uniform group insurance program and the eligible employee does not enroll in the uniform group insurance program are entitled to receive a monthly payment equal to 60 percent of the family plan rate; provides that if eligible employees who are eligible to participate in the uniform group insurance program at the family plan rate elect to participate at the single plan rate and forego family coverage, the eligible employee is entitled to receive a monthly payment equal to one-half of the difference between the family plan rate and the single plan rate provided no member of the eligible employee's family is insured under the uniform group insurance program.

**Actuarial Analysis:** The consulting actuary reported that this proposal would likely subject the Public Employees Retirement System plan to adverse selection and an increase in premiums. This occurs because those employees who elect to leave the plan would likely have fewer claims than average, because they use the plan less due to their health status. Because the entire premium that those who waive would pay is removed as revenue, the remainder of the claims would be spread over a smaller population. The adverse selection issue will vary depending on the individual employee's situation and current coverage election.

The consulting actuary noted that it is important to recognize that, generally speaking, 20 percent of the covered participants incur 80 percent of the claims. In fact, for the Public Employees Retirement System plan, about five percent of the participants do not incur any claims at all in any given year. It is also reasonable to assume that individuals electing to opt out of coverage will incur fewer claims than average. Each time an individual opts out, the entire premium revenue is removed from the pool as well as the covered expenses. If the expenses for that individual are less than the premium, the net remainder must be spread across the remainder of the pool, thereby incrementally raising the needed premium per contract. The consulting actuary illustrated this concept using claim costs for participant A of $150, participant B of $100, participant C of $50, participant D at $0 for a total of $300 and an average of $75. Thus, the plan has a total cost of $300 and an average of $75 for all participants. If participants are asked to pay the average rate of $75, participant D is the most likely candidate to drop out of the plan. If this occurs the total cost stays at $300 but the average cost increases from $75 to $100. At this stage, participant C is now the most likely candidate to decide not to participate. If this occurs, the total cost of the plan will reduce from $300 to $250 but the average cost will increase from $100 to $125. The actuarial term for this occurrence is an assessment spiral. Contributory plans that charge the same rate to participants with widely varying levels of risk are particularly vulnerable to assessment spiral.

**Committee Report:** Unfavorable recommendation because of the potential for increased costs due to adverse selection and assessment spiral.

**Bill No. 49**

**Sponsor:** Senator Tim Mathern

**Proposal:** Allows any person who is without health insurance coverage to participate in the uniform group insurance program subject to minimum requirements established by the Retirement Board.

The committee amended the bill at the request of the sponsor to make the provisions governing individual coverage contingent on the Retirement Board being able to underwrite the coverage; include a provision allowing the use of risk-adjusted premiums for private sector employers; and provide that the bill becomes effective when the Retirement Board receives notification from the federal government of the uniform group insurance program's exempt status under the Employee Retirement Income Security Act to allow for the expansion of the uniform group insurance program, the Retirement Board determines that utilizing medical underwriting requirements and risk-adjusted premiums do not violate the Health Insurance Portability and Accountability Act, and the Retirement Board enters a contract with an insurer to provide coverage pursuant to the Act.

**Actuarial Analysis:** The consulting actuary reported that the expansion of the Public Employees Retirement System plan could potentially create increased purchasing power through a larger group. However, it is not clear that the Public Employees Retirement System plan would be able to negotiate an arrangement to provide any significant cost-savings over the current cost structure in the arrangement with Blue Cross Blue Shield of North Dakota. The consulting actuary noted that adverse risk selection is an issue that must be considered when changing eligibility requirements. Adverse risk selection results when individuals or employer groups choose to participate in a plan based upon the knowledge that their individual or group claims will be high. These claims are generally higher than that of the average covered Public Employee Retirement System population. The adverse selection is further fueled when individuals or groups can enter and depart from the plan. However, the consulting actuary noted that the proposed bill provides for a number of safeguards against adverse risk selection, including minimum requirements established by the Retirement Board, a minimum participation period of 60 months for private sector employer groups, and the belief that the Health Insurance Portability and Accountability Act would not apply to the expanded program. In summary, the consulting actuary said because of the use of medical underwriting and risk-adjusted premiums the cost should be neutral.

**Committee Report:** Unfavorable recommendation.

**Bill No. 75**

**Sponsor:** Retirement Board

**Proposal:** Transfers from NDCC Section 54-52.1-06 to Section 54-52-04 authority of the Retirement Board to use amounts credited to the separate uniform group insurance program fund in excess of the costs of the administration of the uniform group insurance program to reduce the amount of premium amounts paid monthly by enrolled members of the uniform group insurance program, to reduce increases in premium amounts paid monthly by enrolled members, or to provide increased insurance coverage to members, as determined by the board; provides that retirees who have accepted a periodic distribution from the defined contribution retirement plan are eligible for retiree health benefits; provides that premium payment amount and history for any available insurance coverage are confidential, but the Retirement Board may disclose certain information and records to persons or entities to which the board is required to disclose information pursuant to federal statutes or rules.

The committee amended the bill at the request of the Retirement Board to require the executive director of the Public Employees Retirement System to transfer $475,000 from the public employees life insurance program fund to the uniform group health insurance program fund for the purpose of increasing the health insurance reserve.

**Actuarial Analysis:** The consulting actuary reported that the proposal will have no actuarial impact on the uniform group health insurance program.

**Committee Report:** Favorable recommendation. The committee noted that the money transferred from the public employee life insurance program fund to the uniform group health insurance program fund for the purpose of increasing the health insurance reserve is public employee money.

**Bill No. 76**

**Sponsor:** Retirement Board

**Proposal:** Requires the Retirement Board to establish a dental plan for eligible employees and retirees by July 1, 2002.

**Actuarial Analysis:** The reported actuarial cost impact of the proposal is $2.6 to $3.0 million per biennium.

**Committee Report:** Unfavorable recommendation.

**Bill No. 213**

**Sponsor:** Senator Tim Mathern

**Proposal:** Allows nonprofit corporations organized for the purpose of providing residential services for developmentally disabled, chronically mentally ill, and physically disabled persons to participate in the uniform group insurance program subject to minimum requirements established by the Retirement Board.

**Actuarial Analysis:** The consulting actuary reported that the main financial impact concerns that of adverse selection. If employees of residential services organizations that elect coverage are more ill or utilize more services than the existing uniform group insurance enrollees, the overall premium costs for the program will increase.

**Committee Report:** No recommendation.

**Other Retirement Plans and Proposals**

The committee considered several proposals dealing with changes to other retirement plans, including the Old-Age and Survivor Insurance System and alternate firefighters relief association plans.

**Old-Age and Survivor Insurance System (OASIS) Bill No. 78**

**Sponsor:** Job Service North Dakota

**Proposal:** Increase of primary insurance benefits under the Old-Age and Survivor Insurance System Fund by $26.66 per month, an increase of $20 per month for beneficiaries.

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

**Committee Report:** Favorable recommendation.

**Alternate Firefighters Relief Association Plans Bill No. 79**

**Sponsors:** Senators Tony Grindberg and Carolyn Nelson and Representative Kathy Hawken

**Proposal:** Provides that a firefighters relief association may adopt an alternate pension plan for its members with a service benefit of 2.5 percent of final salary with final salary for a first-class firefighter being the final salary at the time of the member's retirement and final salary for officers or members of higher rank being the average salary for the last five years of employment; and provides a postretirement adjustment of two percent of the member's present benefits.

The committee amended the bill at the request of the sponsor to include a disability benefit and replace the postretirement adjustment of two percent of the member's present benefit with a 13th check.

**Actuarial Analysis:** The actuarial consultant reported that the cost of the increase in the benefit multiplier from 2.33 percent to 2.50 percent and the change in the definition of final average salary would increase the annual cost to the percent of payroll 2.72 percent, the 13th check would cost .11 percent, for a total change of 2.83 percent. The actuarial funding margin for the year 2000 actuarial valuation for the Fargo Firefighters Relief Association is preliminarily projected to be between 3.55 percent and 4.55 percent of payroll. Thus, the amount by which actual contributions will exceed required contributions appears to exceed the cost of these improvements by .72 percent to 1.72 percent of covered payroll. Although the actuarial consultant had not yet determined the cost impact for the disability benefit change, the actuarial consultant reported that the change will produce a cost-savings to the plan because disability pensions occurring in the first five years of membership will be reduced.

**Committee Report:** Favorable recommendation.

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

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

## DEFINED CONTRIBUTION RETIREMENT PLAN AND DEFERRED COMPENSATION PROGRAM VENDORS STUDY

Section 2 of 1999 Senate Bill No. 2025, the appropriations bill for the Retirement and Investment Office and the Public Employees Retirement System, provides for a Legislative Council study of defined contribution retirement plan and deferred compensation program vendors.

**Defined Contribution Retirement Plan**

House Bill No. 1257 (1999) established a defined contribution retirement plan for nonclassified state employees. North Dakota Century Code Section 54-52.6-04 provides that the Public Employees Retirement System Board is to administer the defined contribution retirement plan, and the board or vendors contracted for by the board shall invest the assets of the plan. Section 54-52.6-05 provides that each participating member directs the investment of the individual's accumulated employer and employee contributions and earnings to one or more investment choices within available categories of investment provided by the board.

### Deferred Compensation Program

North Dakota Century Code Chapter 54-52.2 governs deferred compensation plans for public employees. Section 54-52.2-03 provides that the "administration of the deferred compensation program for each state agency, department, board, commission, or institution is under the direction of the public employees retirement board . . . and (the board) shall administer the deferred compensation program based on a plan in compliance with the appropriate provisions of the Internal Revenue Code and regulations adopted under those provisions." Section 54-52.2-03.2 outlines the authority of the Public Employees Retirement System concerning the deferred compensation program. This section provides that:

1. The board shall adopt rules necessary to implement this chapter and to manage the deferred compensation plan subject to the limitations of this chapter.
2. The board shall do all things necessary to preserve the tax-exempt status of the plan.
3. All providers must be authorized to do business in this state and all agents of providers must be licensed by the appropriate licensing authority or authorities in this state.
4. To continue to participate in the program, each provider must report annually, in a form and manner specified by the board, information related to their products, administrative and management fees, contract and maintenance charges, withdrawal penalties, market rating, and such other information the board may require.
5. The board may suspend participation of any provider that does not meet the requirements of this chapter or the rules adopted by the board.
6. The board has the authority to establish a deferred compensation advisory committee which shall include active providers who have signed a provider administrative agreement with the state of North Dakota deferred compensation plan.

Concerning the selection of vendors under the deferred compensation program, the Public Employees Retirement System Board has adopted a policy that a vendor must have 50 participants to be an approved vendor.

### Testimony

The committee received testimony from representatives of the Public Employees Retirement System that there are 2,955 active and retired participants in the deferred compensation program, of which 2,197 are active and 758 are retired. There are 19 deferred compensation providers. The deferred compensation program is holding $71,158,177 in assets.

The Public Employees Retirement System Board has established a companion plan for the deferred compensation program which consists solely of mutual funds and is selected on a competitive bid basis. The committee received testimony that one of the problems in attracting a bidder for the companion plan was the fact that the Retirement Board could not offer any funds to the successful bidder and that entity had to build the companion plan from zero. If all the assets public employees hold in the state's deferred compensation program had been available to a single provider, that provider could provide the administration and recordkeeping for the deferred compensation plan for 60 basis points as opposed to the 90 basis points that the current provider is charging. The committee received testimony that restricting or limiting participation in the deferred compensation program to one vendor who would be selected through a bidding process by the board would be opposed by existing providers and brokers and might be opposed by participants who had developed a relationship with a local broker if that broker's company were not the successful bidder. Also, many deferred compensation assets are held in annuities that may have an exit fee if a participant were required to transfer the assets to the successful bidder.

The committee received testimony from representatives of Aetna that if the Retirement Board could bid the deferred compensation program similar to the 401(a) defined contribution plan, it would result in lower costs to employees, increased education for participants, higher participation, and increased employee satisfaction.

The committee received testimony from representatives of Fidelity Investments Public Sector Services Company that many plan sponsors are moving to a semibundled approach, and that if participants can look to one provider for education, it improves education, asset allocation, and returns for participants. The committee received testimony that if all deferred compensation assets are bundled together and made available to one provider, it would lead to reduced fees for participants with more of the participants' dollars being invested in their retirement accounts which would lead to a greater amount of money being available to participants at retirement.

The committee received testimony from representatives of Investment Centers of America, VALIC, Waddell & Reed Financial Services, American Express Advisors, AXA Advisors/Equitable, Great West Life, and Aetna that the current situation with multiple vendors is working very well and provides state employees with a choice of deferred compensation vendors.

The committee also monitored the implementation of the defined contribution retirement plan. The committee received testimony from representatives of Fidelity Investments Public Sector Services Company concerning implementation of the defined contribution retirement plan, the investment education provided by Fidelity, participant and plan sponsor services provided by Fidelity, and investment options available under the defined contribution retirement plan.

### Conclusion

The committee makes no recommendation concerning the study of defined contribution retirement plan and deferred compensation program vendors.