MICROFILM DIVIDER

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ROLL NUMBER

DESCRIPTION

2316

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2003 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2316

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2316

Senate Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 02/06/03

Tape Number	Side A	Side B	Meter #
Tape 1	x		0-4000
Committee Clerk Signature			

Minutes:

Senator Karen Krebsbach, Chairman opens SB 2316. All senators present.

Senator Lindaas introduces bill and explains.

Representative Winrick testifies he is in support of SB 2316. Authorization of overtime in most state agencies is not done very often. Money that is normally earned is counted as extra money. That is not the case at the State Mill. Overtime is a normal part of their work schedule. the worker's are not complaining about the overtime, they would like the overtime to be treated just as regular pay is.

Senator Holmberg: He was a co sponsor last session. Overtime does not count toward retirement plan. For example, if one employee makes $40,000 a year with overtime probably only $25,000 is counted toward retirement because $15,000 was overtime pay. It is a issue of fairness.

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Senator Nelson : Haw many people work at the mill and what is the average salary of the worker's?

Senator Holmberg: Around 76 employees

Jeff Stoa, employee at the state mill (Testimony attached)

Senator Wardner : Is 40 hours an average work week?

Stoa: Yes and anything over that is overtime.

Senator Nelson : the employees of the mill are unionized, is the number of hours included in your contract?

Stoa: there are stipulations put in.

Senator Brown: Are you paid for overtime, and how many hours of overtime do you put in a week?

Stoa: Yes, in my position there is not a lot of overtime but, up in the mill they can work anywhere from 45 to 80 hours a week depending on the circumstances.

Greg Olimb, employee of state mill (Testimony attached)

Senator Nelson : What is your job and how many hours a week do you work?

Olimb: I am a head loader and I work about 63 hours a week.

Chris Runge, Executive director, North Dakota Employees Association: testifying in support of SB 2316. This is mandatory work and the employees deserve this extra. The employees are not complaining about the overtime. It is just the employees should get compensated for the extra work.

Senator Nelson : these employees belong to your union, what do you think of that?

Runge: I am also Secretary Treasurer of the ND AFL/CIO and we support them.

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Senator Nelson : How did they get to be unionized?

Runge: It was grandfathered in many years ago.

Dave Kemnitz, President of the ND AFL/CIO: Overtime is expected by everyone and can be terminated if it is not fulfilled. They do it though. These workers are hourly and not salaried. They are unjustly denied security. the mill says their hands are tied.

Neutral Position

Sparb Collins, PERS (Testimony attached)

Senator Krebsbach : This shows all agencies but this bill is just for the state mill.

Collins: Yes, that is correct. The actuary identifies the cost of the total employer contributions. Another alternative would be to asses that particular cost back to the State Mill and Elevator wither as a one time thing or an ongoing cost.

Senator Dever : Do we have other agencies that are paid on an hourly basis?

Collins: yes, quite a few.

Senator Wardner : This bill is only the state mill and it would take a .07 to come to one?

Collins: Yes, unless we just assessed the State Mill.

Senator Wardner :The whole state would pick up the tab? Are these numbers?

Collins: Yes, this is our best estimate to cover the cost.

Senator Nelson : Bill only allows for overtime for Mill, do you think it is fair to expanse all other agencies for just the Mill, can we work out something for just the mill?

Collins: Yes, we can do that.

Senator Krebsbach : Do we have any that are separately done now?

Collins: No

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Opposition

Vance Taylor, President and General Manager of the ND State Mill and Elevator

Association, (testimony attached)

Senator Krebsbach :Was the overtime just spread among the staff equal in order to cut this down?

Taylor: Back then there were different parts of the staff that were needed in overtime, now it is cut back depending on job and days we run per week.

Senator Nelson : In 1997 there was 83 employees now there is 80, why?

Taylor: there was a reduction with the expansion project.

Senator Fairfield : Of 80 employees, what would average salary be?

Taylor: Most make more than $30,000. Salaries vary from high 20's to 60's depending on overtime.

Senator Brown: Is the Mill profitable?

Taylor: Yes, we had a profit of 1.9 million in the last fiscal year and we are projecting profits of about 2.5 million.

Senator Dever : Are you prevented now from negotiating pension enhancements?

Taylor: yes, we believe we are and we would like the approval to negotiate.

Closed SB 2316

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2316**

Senate Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 02/13/03

Tape Number	Side A	Side B	Meter #
Tape 2	x		1700-2290
Committee Clerk Signature			

Minutes:

Senator Karen Krebsbach, Chairman reopens SB 2316. All senators present.

Senator Nelson : This comes back year after year. They have cut down overtime and cut back 3 people. If they would have kept one employee they probably wouldn't have any overtime. This is the only state employee that is unionized. They don't have the authority to bargain that overtime becasue they don't allow. Or their contribution onthe overtime. I don't understand why someone comes in and says how much it is going to cost everyone else in the state for just the Mill and Elevator.

Senator Brown: I was impressed with the statement that compared to competitors they are doing very well. I think that is an important aspect. I don't think we should be doing significantly better on a retirement plan than the private sector.

Senator Brown moves a Do Not Pass

Senator Dever 2nd

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4 Yes 2 No

Carrier: Senator Dever

Senator Dever: I think that either you can negiotiate by collective bargaing or you can come work for the state. State employees are getting no pay raises for the last five years and Mill and Elevator employees ahve gotten 3 1/4 or 3 1/2% annual. I don't think we can do it both ways.

Senator Nelson : That is one of the reasons we loss people from Fargo to Moorhead is collective bargaining.

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FISCAL NOTE

Requested by Legislative Council
01/27/2003

Bill/Resolution No.: SB 2316

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

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			$164,800	$455,800	$164,800	$455,800
Appropriations			$164,800	$374,730	$164,800	$374,730

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			$109,000	$13,300	$101,000	$109,000	$13,300	$101,000

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

This bill was studied during the interim by the Legislative Employee Benefits Committee and the actuary determined that the cost of the bill was .07% of payoll for the retirement plan to provide this benefit. Since the PERS fund has no margins to support benefit improvements, new enhancements should be supported by an increase in employer contributions. This means to support this improvement the employer contribution for all participating employers should be increased from 4.12% to 4.19%. Secondly, the Mill & Elevator will need additional appropriation authority to pay the additional retirement contributions for the overtime. Lastly, the bill provides an approriation to PERS to make some administrative changes to the recordkeeping system to implement the bill.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

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

The state expenditures are for the additional retirement contributions by the Mill & Elevator ($205,000), the additional retirement employer contributions for state employers ($164,800 in general funds and $242,800 in other funds) and $8,000 is included for changes in the PERS recordkeeping system.

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

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The appropriation is the additional funds needed for state agencies to pay the higher contribution needed to support the proposed new benefit in the bill, the additional Mill and Elevator contributions on overtime and the PERS appropriation. The appropriation does not include Higher Education since they have a continuing appropriation.

Name:	Sparb Collins	**Agency:**	Public Employees Retirement System
Phone Number:	701-328-3901	**Date Prepared:**	01/28/2003

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10/22/03
Date

Date: 2/13/03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2316

Senate Government and Veteran Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Not Pass

Motion Made By Brown Seconded By Dever

Senators	Yes	No	Senators	Yes	No
Senator Karen Krebsbach, Chr.	✓		Senator April Fairfield		✓
Senator Dick Dever, Vice Chr.	✓		Senator Carolyn Nelson		✓
Senator Richard Brown	✓				
Senator Rich Wardner	✓				

Total (Yes) 4 No 2

Absent 0

Floor Assignment Dever

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

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REPORT OF STANDING COMMITTEE (410)
February 13, 2003 4:13 p.m.

Module No: SR-28-2652
Carrier: Dever
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2316: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2316 was placed on the Eleventh order on the calendar.

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2003 TESTIMONY

SB 2316

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GOV. AND VETERANS AFFAIRS COMMITTEE
FEB. 6TH. 03
SENATE BILL NO. 2316

GOOD MORNING CHAIRMAN KREBSBACH AND SENATORS &

MY NAME IS JEFF STOA, I AM EMPLOYED AT THE STATE MILL AND ELEVATOR AS A WEIGHMASTER. I AM APPEARING HERE TODAY ON MY BEHALF, AND APPEARING TODAY IN FAVOR OF SENATE BILL NO. 2316, WHICH INCLUDES OVERTIME TO BE CALCULATED TOWARDS YOUR PUBLIC EMPLOYEES RETIREMENT ACCOUNT.

THE STATE MILL NORMALLY RUNS 24 HOURS PER DAY, 7 DAY PER WEEK, EMPLOYEES WORKING SATURDAYS, SUNDAYS, AND OTHER OVERTIME HOURS ARE NOT RECEIVING THEIR FAIR SHARE, SINCE OVERTIME HOUR EXEMPT ACCORDING TO CURRENT NORTH DAKOTAS PUBLIC EMPLOYEES RETIREMENT SYSTEM.

MILL EMPLOYEES ARE DEDICATED AND COMMITTED STATE EMPLOYEES AND ARE BEING TREATED UNFAIRLY, BY RECEIVING MINAMUL RETIREMENT BENEFITS, WHILE OTHER STATE EMPLOYEE WITH THE SAME TAKE HOME PAY, RECEIVE FULL BENEFITS ON THEIR SALARIES.

I BELIEVE THIS COMMITTEE WILL TAKE A BIPARTASIN STANCE ON SENATE BILL NO. 2316, TO CORRECT THE UNFAIR SITUATION BEING PRESENTED TO YOU TODAY.

I AM ASKING FOR YOUR SUPPORT IN PASSING SENATE BILL NO. 2316. THANK YOU FOR YOUR TIME. I'LL BE HAPPY TO ANSWER ANY QUESTIONS AT THIS TIME.

RR1, Box 80
BUXTON N.D. 58218
701-856-3370

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Good Morning

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

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TESTIMONY OF SPARB COLLINS
ON SB 2316

Madame Chair, members of the committee my name is Sparb Collins and I am with the Public Employees Retirement System. I appear before you today, neither in favor nor opposed to SB 2316 but rather to share some technical comments and to request an amendment.

During the interim this bill was studied by the Legislative Employee Benefits Committee and the PERS actuary. It was determined that the additional benefits provided in this bill would cost .07% of employer contributions. As of the end of this last fiscal year the PERS actuarial required contribution was 4.42% and our statutory rate was 4.12%. This means that we do not have any positive margins in the system at this time to pay for enhancements. If this bill was passed it would increase our actuarial rate to 4.49%. Consequently, PERS is proposing that the employer contribution rate be increased from 4.12% to 4.19% to pay the cost of this bill. We are also including an appropriation to cover the cost of the increased contribution for state agencies.

Madame Chair members of the committee this completes my testimony.

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PROPOSED AMENDMENT TO SENATE BILL 2316

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

Page 1, line 3, after "system" insert "and employer contributions to the public employees retirement system.

Page 1, after line 23, insert:

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

54-52-06. Employer's contribution to retirement plan. Each governmental unit shall contribute an amount equal to four and ~~twelve~~ nineteen-hundredths percent of the monthly salary or wage of a participating member. For those members who elect to exercise their rights under subsection 5 of section 54-52-17.4, the employing governmental unit, or in the case of a member not presently under covered employment the most recent employing governmental unit, shall pay the associated employer contribution. If the employee's contribution is paid by the governmental unit under subsection 3 of section 54-52-05, the employer unit shall contribute, in addition, an amount equal to the required employee's contribution. Each governmental unit shall pay the contribution monthly, or in the case of an election made pursuant to subsection 5 of section 54-52-17.4 a lump sum, into the retirement fund from its funds appropriated for payroll and salary or any other funds available for these purposes. Any governmental unit failing to pay the contributions monthly, or in the case of an election made pursuant to subsection 5 of section 54-52-17.4 a lump sum, is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due. In lieu of assessing a civil penalty or one percent per month, or both, interest at the actuarial rate of return may be assessed for each month the contributions are delinquent. If contributions are paid within ninety days of the date they became due, penalty and interest to be paid on delinquent contributions may be waived. An employer is required to submit contributions for any past eligible employee who was employed after July 1, 1977, for which contributions were not made if the employee would have been eligible to become vested had the employee participated and if the employee elects to join the public employees retirement system. Employer contributions may not be assessed for eligible service that an employee has waived pursuant to subsection 1 of section 54-52-05. The board shall report to each session of the legislative assembly the contributions necessary, as determined by the actuarial study, to maintain the fund's actuarial soundness.

Page 2, line 25, after the period insert the following:

There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from other funds derived from federal funds and

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other income, to the following departments for the purpose of paying the additional retirement contributions necessary to pay the cost of the provisions of this bill, for the biennium beginning July 1, 2003, and ending June 30, 2005, as follows:

	General	Other
Office of the Governor	$1,153.40	$0.00
Office of the Secretary of State	$1,040.91	$0.00
Office of Management and Budget	$3,644.75	$1,542.50
Information Technology Department	$212.75	$1,126.53
Office of the State Auditor	$2,042.38	$972.10
Office of the State Treasurer	$298.72	$0.00
Office of the Attorney General	$5,722.97	$1,877.05
Office of the Sate Tax Commissioner	$6,263.73	$0.00
Office of Administrative Hearings	$0.00	$327.35
Legislative Council	$2,114.73	$0.00
Judicial Branch	$20,020.19	$21.79
Retirement and Investment Office	$0.00	$896.04
Public Employees Retirement System	$0.00	$1,186.45
Department of Public Instruction	$944.19	$2,092.94
State Land Department	$0.00	$91.59
Forest Service	$0.00	$0.00
State Library	$956.81	$0.00
School for the Deaf	$1,346.25	$32.22
School for the Blind	$0.00	$484.29
State Board for Vocational and Technical Ed	$207.85	$109.82
North Dakota Department of Health	$4,720.23	$10,133.64
Veterans Home	$3,044.83	$0.00
Indian Affairs Commission	$166.57	$0.00
Department of Veterans Affairs	$235.06	$15.25
Childrens Services Coordinating Committee	$0.00	$40.49
Department of Human Services	$67,180.36	$23,199.70
Protection and Advocacy Project	$785.06	$386.67
Job Service North Dakota	$2.50	$12,115.34
Office of the Insurance Commissioner	$0.00	$2,143.08
Industrial Commission	$2,911.00	$285.67
Office of the Labor Commissioner	$366.00	$109.10
Public Service Commission	$2,279.40	$243.81
Aeronautics Commission	$0.00	$301.34
Department of Financial Institutions	$0.00	$1,408.33
Office of the Securities Commissioner	$496.41	$0.00
Bank of North Dakota	$0.00	$7,997.88
North Dakota Housing Finance Agency	$0.00	$1,823.04
North Dakota Mill & Elevator Association	$0.00	$4,991.77
Workers Compensation Bureau	$0.00	$11,326.01
Highway Patrol	$3,632.68	$5,984.54

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10/22/03
Date

Division of Emergency Management	$402.88	$542.71
Department of Corrections and Rehabilitation	$22,048.90	$1,911.77
Adjutant General	$1,433.42	$3,637.16
Department of Commerce	$3,184.40	$120.31
Department of Agriculture	$1,661.86	$1,142.51
State Seed Department	$0.00	$1,163.90
State Historical Society	$2,171.31	$274.50
Council on the Arts	$218.57	$0.00
Game & Fish Department	$0.00	$7,791.74
Department of Parks & Recreation	$1,890.03	$82.96
State Water Commission	$0.00	$4,584.84
Department Of Transportation	$0.00	$47,211.58
Total	$164,801	$161,730

Renumber Accordingly

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Legislative Committee Hearing
February 6, 2003
Senate Bill No. 2316
North Dakota Mill & Elevator Association

Chairman Krebsbach and Senators:

My name is Vance Taylor and I am President and General Manager of the North Dakota Mill and Elevator Association. I am appearing today in opposition to Senate Bill No. 2316.

The State Mill has a very fine group of employees that function well together as a team. They are a key part of the business and work hard to produce a high quality product. However, the Mill is in a highly competitive business.

The State Mill's pension plan in its present form is already superior to what is typically provided by our competitors in the flour milling industry. Most of our competitors calculate pension benefits by using a multiplier (in collective bargaining agreements across the country $40 is common) times years of service. An employee, retiring after 30 years of service, working for a competitor with a base salary of $30,000 per year, would receive a pension benefit of $1,200 per month. A State Mill employee, retiring after 30 years of service, with a base salary of $30,000 per year, would receive a pension benefit of $1,641.60 per month under our present pension plan. The annual cost to the State Mill to fund this pension is $2,736 per year vs. our competitor's cost of approximately $2,000 per year. This is a comparison using our present plan. The proposed improvement would add about $800 per year per employee to the State Mill's cost to fund pensions which is already substantially higher than most of our competitors.

Senate Bill No. 2316 would require the inclusion of overtime payments for calculation of contributions to the Public Employees Retirement System. This would necessitate additional State Mill contributions to the Public Employees Retirement System of an estimated $100,000 per year. Future

P.O. Box 13078 / Grand Forks, ND 58208-3078
Telephone: (701) 795-7000 / Fax: (701) 795-7272

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Operator's Signature 10/22/03 Date

wage increases would cause a proportional cost increase for the proposed pension improvement.

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

The employees who work most of the overtime at the North Dakota Mill are members of the American Federation of Grain Millers International Union Local No. 135. We are currently in the last year of a five-year collective bargaining agreement, which expires on June 30, 2003. Our agreement included substantial wage increases totaling 16.25% over five years (an average of 3.25% per year). Increases of this magnitude would not likely have been negotiated had the costs of the proposed improvement to the pension plan been taken into account.

Our primary concern is the increased costs to the State Mill associated with Senate Bill No. 2316. At a time when the State is asking for a $5,000,000 transfer to the General Fund from the State Mill in the next biennium, the Mill will need to reduce costs rather than increase them. It is critical for the State Mill to keep plant costs in check to be able to compete in a very difficult market place. We respectfully request that you not approve this change to the North Dakota Century Code.

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

Also attached is a report on overtime hours worked at the State Mill from 1997 to present, (Exhibit B) and a report showing calculated pension cost increases with overtime wages included. (Exhibit C)

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

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Operator's Signature

10/22/03
Date

Exhibit A

Proposed Amendments to Senate Bill No. 2316

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

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

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

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

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

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EXHIBIT B

North Dakota Mill
Overtime Report

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

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

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Exhibit C

North Dakota Mill
Calculation of Pension Cost on Overtime Paid

	Hours	Dollars Pd	Pension Cost At 9.12%	Pension Cost as % Total $ Pd
FY 2002				
Total hours				
All Employees	299,254	$ 5,016,518		
Union employees	218,942	$ 3,312,836		
Overtime hours				
All Employees	51,013	$ 1,110,590	$ 101,285.85	2.02%
Union employees	48,389	$ 1,067,888	$ 97,391.37	2.94%
FY 2001				
Total hours				
All Employees	294,899	$ 4,765,306		
Union employees	217,051	$ 3,269,782		
Overtime hours				
All Employees	53,747	$ 1,152,386	$ 105,097.57	2.21%
Union employees	51,562	$ 1,115,760	$ 101,757.36	3.11%
FY 2000				
Total hours				
All Employees	302,366	$ 4,919,199		
Union employees	214,560	$ 3,100,985		
Overtime hours				
All Employees	51,321	$ 1,066,985	$ 97,309.03	1.98%
Union employees	46,647	$ 1,023,578	$ 93,350.35	3.01%

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Operator's Signature 10/22/03 Date