OPINION
66-303

March 21, 1966   (OPINION)

General James O. Guthrie

Chairman

State Employee Retirement Board

RE: State - Employees Retirement System - Definition of Future

      Eligible Employees

We acknowledge your request as to the meaning of the phrase in
section 54-52-05, N.D.C.C., that "all future employees shall be
participating members" in the State Employee Retirement Plan.

Section 67 of the North Dakota Constitution provides that statutes of
North Dakota are effective on July first, following the passage and
approval of the Act, unless otherwise provided in the Act itself to
take effect at a later date, or unless the Act is declared to be an
emergency measure and is adopted by a two-thirds vote in both houses
of the Legislature, in which case it shall take effect on approval by
the governor.

We find nothing in the State Employee Retirement Act which indicated
an intent by the Legislature that the term "future eligible
employees" as used in section 54-52-05 N.D.C.C., was to be other than
those employees that become eligible employees at any other date than
July 1, 1965 or thereafter, without regard to the time which may have
required to prepare the retirement plan for participation.

It is therefore our opinion that future employees, as construed
above, of all state agencies that have become eligible for
participation in the State Employee Retirement Plan on or subsequent
to July 1, 1965, must participate and the state agency heads have a
duty to withhold the appropriate sums, including the enrollment fee,
from such employee's earnings and to pay such sums to the Retirement
Board, together with the proper agency contribution.

The State Employee Retirement Board having announced the effective
date of the plan as July 1, 1966, it is assumed that no contributions
will be required or accepted from employees or employers prior to the
time that payroll deductions can be made from the July, 1966 payroll,
except that advance payment of enrollment fees into an escrow fund
may be accepted.

HELGI JOHANNESON

Attorney General