

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

**EMPLOYEE BENEFITS PROGRAMS COMMITTEE**

Thursday, January 24, 2019  
Pioneer Room, State Capitol  
Bismarck, North Dakota

Representative Mike Lefor, Chairman, called the meeting to order at 4:00 p.m.

**Members present:** Representatives Mike Lefor, Gary Kreidt, Alisa Mitskog, Matthew Ruby; Senators Brad Bekkedahl, Dick Dever, Karen K. Krebsbach, Gary A. Lee, Tim Mathern

**Members absent:** Representatives Jason Dockter, Vernon Laning, Mark S. Owens; Senator Oley Larsen

**Others present:** Representative Karla Rose Hanson, Fargo  
Senator John Grabinger, Jamestown  
See [Appendix A](#) for additional persons present.

It was moved by Senator Bekkedahl, seconded by Senator Krebsbach, and carried on a voice vote that the minutes of the January 15, 2019, meeting be approved as distributed.

**ACTUARIAL REVIEW**

Chairman Lefor called on Mr. Scott Miller, Executive Director, Public Employee Retirement System, to present the actuarial information and Public Employees Retirement System (PERS) technical comments ([Appendix B](#)), and on members of the public to make comments relating to the bills and amendments over which the committee took jurisdiction--[proposed amendments to Senate Bill No. 2045](#), [Senate Bill No. 2226](#), [Senate Bill No. 2227](#), [Senate Bill No. 2233](#), [House Bill No. 1374](#), [House Bill No. 1419](#), [House Bill No. 1469](#), [House Bill No. 1484](#), [House Bill No. 1500](#), and [House Bill No. 1509](#).

**Senate Bill No. 2045**

Mr. Miller presented the actuarial report ([Appendix C](#)) from the PERS consultant regarding the proposed amendments to Senate Bill No. 2045.

**It was moved by Senator Bekkedahl, seconded by Representative Mitskog, and carried on a roll call vote that the committee give a favorable recommendation to the proposed amendments to Senate Bill No. 2045.** Representatives Lefor, Kreidt, and Mitskog and Senators Bekkedahl, Dever, Lee, and Mathern voted "aye." No negative votes were cast.

**Senate Bill No. 2226**

Mr. Miller presented the actuarial report ([Appendix D](#)) from the PERS consultant regarding Senate Bill No. 2226.

In response to a question from Senator Mathern, Mr. Miller said during the annual open enrollment period, state employees have the opportunity to choose the main or the high-deductible health benefits plan. He said if healthy people migrate to a plan, the plan from which the members migrated becomes less healthy and the cost of the unhealthy plan typically increases.

Senator Mathern said the bill puts the main health benefits plan at risk because low-risk state employees will move to the high-risk health benefits plan.

Senator Dever said he sponsored the bill to allow it to be heard by a policy committee instead of being added to an agency appropriation bill.

**It was moved by Senator Dever, seconded by Senator Bekkedahl, and carried on a roll call vote that the committee give a favorable recommendation to the proposed amendments to Senate Bill No. 2226.** Representatives Lefor and Mitskog and Senators Bekkedahl and Dever voted "aye." Representative Kreidt and Senators Lee and Mathern voted "nay."

**Senate Bill No. 2227**

Mr. Miller presented the actuarial report ([Appendix E](#)) from the PERS consultant regarding Senate Bill No. 2227.

Senator Dever said if the Legislative Assembly had passed this bill 8 years ago, the retirement fund would not be underfunded today. He said it is time for the Legislative Assembly to decide whether to adequately fund the retirement plan.

Senator Bekkedahl said he supports some elements of the bill and does not support other elements.

Senator Mathern said he supports the favorable recommendation and recognizes the Appropriations Committees will need to make some tough funding decisions.

Senator Dever said fully funding the retirement plan is a good thing. He said he distinguishes the issue of whether to fully fund the plan from the issue of whether the state can afford to fully fund the plan.

Chairman Lefor said a benefit to a healthy retirement fund is it gives future Legislative Assemblies more options regarding whether to close the plan or offer different plans in the future.

**It was moved by Senator Dever, seconded by Senator Mathern, and carried on a roll call vote that the committee give a favorable recommendation to Senate Bill No. 2227.** Representatives Lefor, Kreidt, and Mitskog and Senators Bekkedahl, Dever, Lee, and Mathern voted "aye." No negative votes were cast.

**Senate Bill No. 2233**

Mr. Miller presented the actuarial report ([Appendix F](#)) from the PERS consultant regarding Senate Bill No. 2233.

Senator John Grabinger, the prime sponsor of the bill, testified in support of the bill. He said the committee hearing in the Senate Industry, Business and Labor Committee was very emotional. He shared his personal family experience with fertility treatment, and said the PERS health benefits plan maximum dollar amounts for fertility treatment are outdated.

In response to a question from Chairman Lefor, Senator Grabinger said 15 states offer more generous insurance fertility benefits coverage than North Dakota. He said the bill is based on a Delaware law. He said a typical in vitro fertilization cycle costs between \$15,000 to \$25,000, and it is common to undergo more than one cycle of in vitro fertilization.

In response to a question from Senator Bekkedahl, Senator Grabinger said during the Senate committee hearing Blue Cross Blue Shield of North Dakota and Sanford Health Plan testified in opposition to the bill.

In response to a question from Senator Dever, Senator Grabinger said the bill removes dollar caps for fertility coverage. However, he said, it would be possible to amend the bill to provide for a cap higher than the current PERS health benefit plan's outdated cap.

Mr. Matthew Gardner, Director of Government Affairs, Greater North Dakota Chamber, testified in opposition to health insurance mandates.

Mr. Don Larson, National Federation of Independent Business, testified in opposition to health insurance mandates.

Ms. Lisa Carlson, Senior Director of Market Strategy, Sanford Health Plan, said as the bill relates to the PERS health benefits plan, Sanford Health Plan is neutral, because it is up to the state to set the benefits of the plan. However, she said, as the bill relates to the private market, Sanford Health Plan is opposed to the health insurance mandate. She said for the private small group and the private individual markets, the federal Affordable Care Act provides any increase in cost of the policy resulting from a health benefit mandate is the financial responsibility of the state.

In response to a question from Senator Mathern, Ms. Carlson said a rider to cover fertility benefits is available through Sanford Health Plan for the large group market. She said the cost of the rider would vary, based on the group's experience rating, but based on the experience of other states the cost of the policy premium would likely increase 1 to 2 percent.

Senator Mathern said he would prefer the bill have a dollar cap; however, the committee is bound to the version of the bill it has before it.

**It was moved by Representative Kreidt, seconded by Senator Lee, and carried on a roll call vote that the committee give an unfavorable recommendation to Senate Bill No. 2233.** Representatives Lefor, Kreidt, and Ruby and Senators Bekkedahl, Dever, and Lee voted "aye." Representative Mitskog and Senator Mathern voted "nay."

#### **House Bill No. 1374**

Mr. Miller presented the actuarial report ([Appendix G](#)) from the PERS consultant regarding House Bill No. 1374.

Ms. Carlson testified in opposition to the bill. She said the private sector is in the business of taking on risk; however, it is not an appropriate role for the government. She said putting the state in the role of pharmacy benefits management is a step toward big government.

Senator Dever said the state's medical assistance program does a great job managing the Medicaid drug benefits; however, he wants PERS to have the option of whether to unbundle the pharmacy component of the health benefits.

**It was moved by Senator Mathern, seconded by Representative Ruby, and carried on a roll call vote that the committee give an unfavorable recommendation to House Bill No. 1374.** Representatives Kreidt, Mitskog, and Ruby and Senators Bekkedahl, Dever, Lee, and Mathern voted "aye." Representative Lefor voted "nay."

#### **House Bill No. 1419**

Mr. Miller presented the actuarial report ([Appendix H](#)) from the PERS consultant regarding House Bill No. 1419.

In response to a question from Senator Bekkedahl, Mr. Miller said the consultant did not look at variables that are not included in the bill.

Senator Dever said before the Legislative Assembly can get serious about closing the defined benefit retirement plan, the Legislative Assembly has to take the steps necessary to improve the financial health of the plan.

**It was moved by Senator Dever, seconded by Senator Mathern, and carried on a roll call vote that the committee give an unfavorable recommendation to House Bill No. 1419.** Representatives Lefor, Kreidt, Mitskog, and Ruby and Senators Bekkedahl, Dever, and Mathern voted "aye." Senator Lee voted "nay."

#### **House Bill No. 1469**

Mr. Miller presented the actuarial report ([Appendix I](#)) from the PERS consultant regarding House Bill No. 1469.

In response to a question from Senator Mathern, Mr. Miller said if the bill were amended to exempt Medicare Part D plans, PERS would take a neutral position on the bill.

Mr. Danny Weiss, Senior Director of Pharmacy Benefits, Sanford Health Plan, said as step therapy relates to oncology treatment, it is not very relevant.

**It was moved by Senator Dever, seconded by Representative Ruby, and carried on a roll call vote that the committee give a favorable recommendation to House Bill No. 1469.** Representatives Lefor, Kreidt, Mitskog, and Ruby and Senators Bekkedahl, Dever, Krebsbach, and Lee voted "aye." Senator Mathern voted "nay."

#### **House Bill No. 1500**

Mr. Miller presented the actuarial report ([Appendix J](#)) from the PERS consultant regarding House Bill No. 1500.

Ms. Fay Kopp, Chief Retirement Officer, Teachers' Fund for Retirement, said the Teachers' Fund for Retirement's review of the bill is consistent with PERS's review, and it appears there would be no impact on the Teachers' Fund for Retirement.

Ms. Tammy Dolan, Vice Chancellor for Administrative Affairs and Chief Financial Officer, North Dakota University System, said the University System operates its own defined benefit retirement plan. She said based on the initial review of the bill, it appears the bill could result in three new retirement plans for higher education. She said because the State Board of Higher Education has not taken an official position on the bill, her testimony is neutral.

**It was moved by Senator Krebsbach, seconded by Representative Kreidt, and carried on a roll call vote that the committee make no recommendation regarding House Bill No. 1500.** Representatives Lefor, Kreidt, Mitskog, and Ruby and Senators Bekkedahl, Dever, Krebsbach, Lee, and Mathern voted "aye." No negative votes were cast.

**House Bill Nos. 1484 and 1509**

Chairman Lefor said he and Vice Chairman Dever took jurisdiction over House Bill No. 1484, which includes language identical to House Bill No. 1509.

Mr. Miller presented the actuarial report ([Appendix K](#)) from the PERS consultant regarding House Bill No. 1509. He said if House Bill No. 1484 is identical to House Bill No. 1509, there would be no impact on PERS.

Representative Karla Rose Hanson, the prime sponsor of House Bill No. 1509, testified ([Appendix L](#)) in support of the bill.

In response to a question from Representative Kreidt, Representative Hanson said House Bill No. 1509 does not address employee donation of leave.

In response to a question from Senator Dever, Representative Hanson said employees would prefer to receive paid family leave equivalent to 100 percent of their wages rather than 66 percent of their wages.

In response to a question from Senator Mathern, Representative Hanson said the United States is the only developed county without a paid parental leave program.

Senator Mathern said the bills would have a positive impact.

**It was moved by Senator Mathern, seconded by Representative Mitskog, and failed on a roll call vote that the committee give a favorable recommendation to House Bill No. 1509.** Representative Mitskog and Senator Mathern voted "aye." Representatives Lefor, Kreidt, and Ruby and Senators Bekkedahl, Dever, Krebsbach, and Lee voted "nay."

In response to a question from Chairman Lefor, Mr. Miller said the bills are not expected to impact PERS.

**It was moved by Representative Ruby, seconded by Senator Bekkedahl, and carried on a roll call vote that the committee make no recommendation regarding House Bill No. 1509.** Representatives Lefor, Kreidt, Mitskog, and Ruby and Senators Bekkedahl, Dever, Krebsbach, Lee, and Mathern voted "aye." No negative votes were cast.

**It was moved by Senator Lee, seconded by Senator Bekkedahl, and carried on a roll call vote that the committee make no recommendation regarding House Bill No. 1484.** Representatives Lefor, Kreidt, Mitskog, and Ruby and Senators Bekkedahl, Dever, Krebsbach, Lee, and Mathern voted "aye." No negative votes were cast.

No further business appearing, Chairman Lefor adjourned the meeting at 5:37 p.m.

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Jennifer S. N. Clark  
Counsel

ATTACH:12