

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

EMPLOYEE BENEFITS PROGRAMS COMMITTEE

Friday, June 4, 2004
Harvest Room, State Capitol
Bismarck, North Dakota

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

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

Members absent: Senator Richard Brown; Representative Mike Grosz

Others present: See Appendix A

It was moved by Senator Nelson, seconded by Representative Wald, and carried on a voice vote that the minutes of the January 15, 2004, meeting be approved as distributed.

Senator Krebsbach said she has appointed Representative Wald to replace Representative Wayne W. Tieman, who resigned from the Legislative Assembly, as vice chairman of the committee.

At the request of Chairman Krebsbach, committee counsel distributed a copy of the March 2004 *Your Vested Interest* published by the State Investment Board. A copy of the newsletter is on file in the Legislative Council office.

EMPLOYEE BENEFITS PROGRAMS COMMITTEE BILLS

At the request of Chairman Krebsbach, committee counsel presented a memorandum describing the statutory responsibilities of the committee and summarizing the bill drafts that had been submitted to the committee for review entitled *Employee Benefits Programs Committee Bills*.

STATE INVESTMENT BOARD

Chairman Krebsbach called on Mr. Steve Cochrane, Executive Director, Retirement and Investment Office, who reviewed Employee Benefits Programs Committee Bill No. 51 [50051.0200]. A copy of his written comments concerning the bill draft is attached as Appendix B. He said the bill draft requires the executive director of the Retirement and Investment Office to conduct an employee criminal history record investigation for any individual first employed by the Retirement and Investment Office after July 31, 2005, who has unescorted physical access to the office or any security-sensitive area of the office as designated by the executive director.

In response to a question from Representative Wald, Mr. Cochrane said nothing in the bill draft conflicts with the state's open records' statutes. He said much of the information retained by the State Investment Board and the Teachers' Fund for Retirement, such as beneficiaries, pension amounts, etc., is confidential under state law.

In response to a question from Senator Kilzer, Mr. Cochrane said the bill draft would not require the State Investment Board to hire additional personnel.

In response to a question from Senator Krebsbach, Mr. Cochrane said the State Investment Board and the Teachers' Fund for Retirement have not experienced any problems with their employees. However, he said, pension funds in other states have been the victims of theft and identity theft and this bill draft is a preemptive measure to guard against any such occurrence in the future in North Dakota.

Mr. Cochrane said the investment return of the Teachers' Fund for Retirement for the fiscal year to date is 18.5 percent and the investment return of the Public Employees Retirement System fund is 15.8 percent for the fiscal year to date.

TEACHERS' FUND FOR RETIREMENT

Chairman Krebsbach called on Ms. Fay Kopp, Deputy Executive Director, Retirement and Investment Office, who reviewed Employee Benefits Programs Committee Bill No. 50 [50050.0100]. A copy of her written comments concerning the bill draft is attached as Appendix C. She said the proposed changes to the Teachers' Fund for Retirement governing statutes fall into two main categories--incorporating various federal tax law changes to remain current with federal Internal Revenue Code changes made through August 1, 2005, as they relate to qualified governmental plans, and to modify retiree reemployment provisions.

In response to a question from Representative Kasper, Ms. Kopp said there are approximately 5,200 retirees drawing benefits from the Teachers' Fund for Retirement.

PUBLIC EMPLOYEES RETIREMENT SYSTEM

Chairman Krebsbach called on Mr. Sparb Collins, Executive Director, Public Employees Retirement

System, who reviewed Employee Benefits Programs Committee Bill No. 52 [50052.0200]. A copy of his written comments concerning the bill draft is attached as Appendix D. He said the bill draft contains various administrative changes for the Highway Patrolmen's retirement plan, Public Employees Retirement System hybrid plan, and the Public Employees Retirement System defined contribution retirement plan.

In response to a question from Representative Carlson, Mr. Collins said the provisions of the bill draft relating to veterans returning to work do not specify whether the employer is the State of North Dakota or the individual agency. In order to prevent different agencies from adopting different policies, he said, the retirement board may request that the committee revise this provision before the bill draft is introduced in the 2005 Legislative Assembly.

In response to a question from Representative Kasper, Mr. Collins said the Public Employees Retirement System would provide information at a future meeting on the number of returning veterans who may be affected by this provision.

In response to a question from Representative Kasper, Ms. Kopp said the Teachers' Fund for Retirement has received inquiries from retirees wishing to take a lump sum retirement. However, she said, the majority of beneficiaries prefer receiving a monthly retirement benefit from the fund.

In response to a question from Senator Nelson, Mr. Collins said the Highway Patrolmen's retirement plan participants do not participate in the federal Social Security program. He said the Public Employees Retirement System does not collect any information that would allow it to determine whether individual political subdivisions that participate in the Public Employees Retirement System also participate in the federal Social Security system.

In response to a further question from Senator Nelson, Mr. Collins said the law enforcement retirement plan available to political subdivisions is based on the assumption that the political subdivision participates in the federal Social Security system. He said the contribution levels as well as the retirement benefits are higher for the Highway Patrolmen's retirement system to offset nonparticipation in the federal Social Security system.

In response to a question from Senator Krebsbach, Ms. Kopp said the Teachers' Fund for Retirement is not impacted to the extent that the Public Employees Retirement System is with returning veterans. She said there are fewer than 10 members of the Teachers' Fund for Retirement serving in Iraq and there were three members who served in the first Persian Gulf War.

Mr. Collins reviewed Employee Benefits Programs Committee Bill No. 53 [50053.0100]. A copy of his written comments concerning the bill draft is contained in Appendix D. He said the bill draft defines final average salary for purposes of the Highway Patrolmen's retirement system and the Public

Employees Retirement System main system for contributors who retire on or after July 1, 2009, as the average of the highest salary received by the contributor for any 36 months employed during the last 180 months of employment; defines final average salary for an employee employed on August 1, 2005, as the average of the highest salary received by the contributor for any 36 months employed during the last 120 months of employment multiplied by one and three hundredths; and provides that if the retirement board determines that the retirement fund has obtained a total return on investments of 11.2 percent or higher for the fiscal year ending June 30, 2005, or June 30, 2006, and that the retirement fund has the necessary margin to pay for the benefit, the board is required to authorize a payment to each retiree receiving benefit payments of 50 percent of the retiree's then current monthly benefit payment.

In response to a question from Representative Carlson, Mr. Collins said the proposals contained in the bill draft were developed by the Public Employees Retirement System Board in consultation with its benefits committee. He said the benefits committee is composed of representatives of the affected state agencies as well as retirees and members.

In response to a question from Senator Kilzer, Mr. Collins said the idea of a one-time payment or 13th check has not been used in North Dakota. However, he said, this is a common feature of pension plans in other states and would not be unique to North Dakota.

In response to a question from Representative Carlson, Mr. Collins agreed that if all of the earnings were retained in the fund and applied toward increasing the margin, it would return the system to a positive margin sooner. However, he said, applying a portion of the earnings to a one-time benefit payment would provide a benefit to retirees while increasing the margin. He said that is the reason the retirement board selected the figure of 11.2 percent rather than the actuarial rate of return of 8 percent as the trigger on whether to provide a 13th check. Thus, he said, the difference between 8 percent and 11.2 percent is being applied to the margin while a portion of the excess over 11.2 percent would be used to provide a one-time benefit or 13th check thus striking a balance between current and future retirees.

UNIFORM GROUP INSURANCE PROGRAM

Mr. Collins reviewed Employee Benefits Programs Committee Bill No. 54 [50054.0100]. A copy of his written comments concerning the bill draft is contained in Appendix D. He said the bill draft allows the retirement board to receive money from third parties, including the federal government, pursuant to one or more federal programs and appropriates this money on a continuing basis for the board's use in paying benefits, premiums, or administrative expenses of the uniform group insurance program;

allows the retirement board to negotiate the proposed bid price and specifications with any or all health insurance bidders; allows the retirement board to establish a plan of self-insurance for providing health insurance benefits coverage under a completely self-administered, self-insurance plan under the uniform group insurance program; provides that if the retirement board implements a self-administered, self-insurance program, the total amount of all premiums received for purposes of paying claims and administrative expenses is appropriated to the board on a continuing basis and that the board may employ whatever full-time equivalent staff is necessary to properly and efficiently implement and administer the program; and allows the retirement board to develop a provider network by negotiating a contract with health care providers and associations.

Mr. Collins reviewed Employee Benefits Programs Committee Bill No. 55 [50055.0200]. A copy of his written comments concerning the bill draft is contained in Appendix D. He said the bill draft increases the employer contribution to the retiree health benefits fund from 1 percent of the monthly salaries and wages of all participating members to 1.45 percent and increases the retiree health benefits fund credit from \$4.50 to \$5.

In response to a question from Representative Wald, Mr. Collins said approximately 3,000 retirees are receiving a credit from the retiree health benefits fund.

At the request of Chairman Krebsbach, committee counsel reviewed Employee Benefits Programs Committee Bill No. 11 [50011.0100]. He said the bill draft was submitted by Senator Mathern and requires the retirement board to contract with one or more nondomestic pharmacy benefits managers to facilitate the purchase of eligible Canadian prescription drugs by eligible employees and persons receiving retiree health benefits.

At the request of Chairman Krebsbach, committee counsel reviewed Employee Benefits Programs Committee Bill No. 22 [50022.0100]. He said this bill draft was also submitted by Senator Mathern and 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.

At the request of Chairman Krebsbach, committee counsel reviewed Employee Benefits Programs Committee Bill No. 43 [50043.0100]. He said this bill draft was submitted by Senator Wardner and provides that for purposes of a provision allowing retirees who have accepted a retirement allowance from a political subdivision's retirement plan to elect to participate in the uniform group insurance program without meeting minimum requirements at age 65, when the employee's spouse reaches age 65, upon the receipt of a benefit, or when the spouse terminates employment; retirement allowance means a payment or payments to a participant of an employer-sponsored

pension or retirement plan who terminated employment by retirement on or after achieving normal retirement age and who was vested in the employer plan at the time of retirement.

OLD-AGE AND SURVIVOR INSURANCE SYSTEM (OASIS)

Chairman Krebsbach called on Mr. Collins who reviewed Employee Benefits Programs Committee Bill No. 56 [50056.0100]. In 2003, he said, the Legislative Assembly transferred administration of the Old-Age and Survivor Insurance System from Job Service North Dakota to the Public Employees Retirement System. He said there are three beneficiaries remaining; the youngest of whom is 95. He said the bill draft increases primary insurance benefits under the Old-Age and Survivor Insurance System fund from \$906.62 to \$933.28 on August 1, 2005, and to \$959.94 on August 1, 2006. He said the bill draft also appropriates \$23,000 from the general fund to the Public Employees Retirement System to pay Old-Age and Survivor Insurance System benefits to remaining beneficiaries.

At the request of Chairman Krebsbach, committee counsel reviewed a letter from Ms. Elaine Little, Director, Department of Corrections and Rehabilitation, in which she said the department has asked the Office of Management and Budget to consider including funding for inclusion of state law enforcement officers in the law enforcement retirement plan. A copy of the letter is attached as Appendix E.

HEALTH INSURANCE STUDY

Chairman Krebsbach called on Mr. Larry Brooks, Senior Consultant-Marketing/Consulting Services, Blue Cross Blue Shield of North Dakota, Fargo. A copy of the slides used in his PowerPoint presentation is attached as Appendix F. He discussed health savings accounts high-deductible health plans.

In response to a question from Representative Wald, Mr. William F. Robinson, Jr., Area Vice President, Gallagher Benefit Services, Inc., Denver, Colorado, said banks and mutual fund companies usually serve as qualified trustees for health savings accounts. For example, he said, United Health Care has set up a subsidiary to act as a trustee for health savings accounts.

In response to a question from Senator Krebsbach, Mr. Brooks said the trustee is required to invest the health savings account in a financially prudent manner and that any earnings or interest on the account is retained by the accountholder.

In response to a question from Representative Wald, Mr. Brooks said the health savings account is portable and if the owner of the account has funds left in the account at death, it may be passed on to the owner's heirs.

Chairman Krebsbach called on Mr. Robinson who discussed the challenges, concerns, and

opportunities posed by health savings accounts. A copy of the slides used in his PowerPoint presentation is attached as Appendix G. He said the major impetus for health savings accounts is that it is becoming evident that no new savings will be realized from managed care and the next generation of savings in health care will come from consumer-driven health care. He said consumer-driven health care gives consumers a stake in the provision of their health care which causes them to utilize health care resources more economically. Compared to many public sector health plans, he said, the North Dakota uniform group insurance program is a very consumer-oriented or consumer-driven health plan. He said the plan has instituted high out-of-pocket expenses, high deductibles, and significant employee cost sharing. In summary, he said, the North Dakota uniform group insurance program has gone much further than other public sector health insurance plans in this area. Concerning preliminary health savings account findings, he said, Gallagher Benefit Services, Inc., has identified generally high levels of satisfaction with the accounts, reenrollment of between 94 and 97 percent, 50 to 60 percent of participants have rollovers, and 30 percent of dollars are rolled over.

Mr. Robinson said that for the North Dakota Public Employees Retirement System uniform group health insurance program, 50 percent of members account for 5 percent of claims, 30 percent of members account for 15 percent of claims, and 20 percent of members account for 80 percent of claims. Thus, he said, increasing deductibles has little impact in reducing the 80 percent of costs incurred by the 20 percent of members who incur those costs. He said better awareness may reduce costs and utilization but essentially affects only 20 percent of costs. In addition, he said, high deductibles have a potentially detrimental long-term effect, discouraging appropriate utilization, especially prescription drugs, which may lead to higher long-term health care costs.

Chairman Krebsbach called on Mr. Doug Holloway, Deputy Commissioner, Insurance Department. A copy of his written comments is attached as Appendix H. He discussed the status of health savings accounts in North Dakota, particularly as they might apply to the Public Employees Retirement System health insurance program. He said the Insurance Department has identified two insurance mandates established by state statute that limit a company's ability to offer high-deductible group insurance policies in North Dakota and that this may act as an impediment to the implementation of health savings accounts in the state. He said North Dakota Century Code Section 26.1-36-08 requires group policies to provide first-dollar insurance coverage for the first five outpatient treatments for substance abuse each calendar year and that Section 26.1-36-09 requires group policies to provide first-dollar insurance coverage for the first five hours of outpatient mental health treatments per calendar year. He said

the department is awaiting guidance from the United States Treasury Department on whether these two mandates fall within the definition of preventive care and thus meet the definition of high-deductible insurance policies for purposes of health savings accounts.

Chairman Krebsbach called on Mr. Dick Hedahl, President, Hedahl's, Inc. A copy of the Hedahl's flexible benefit and wellness earn-back plan summary is attached as Appendix I. He said Hedahl's, Inc., is a regional auto parts distributor based in Bismarck. He said the company has 16 auto parts stores and three other facilities--a tire company, an equipment sales company, and a warehouse facility. He said Hedahl's has 182 employees, over half of whom are located in North Dakota. He said the company has a self-funded group insurance plan through Blue Cross Blue Shield of North Dakota. In 1986, he said, the plan had a \$25 deductible and was a very comprehensive plan. In 1991, he said, the cost to the company of the plan was \$313,000. In 1992, he said, the cost of the plan was \$570,000 and the company knew it had to take steps to address the escalating cost of health insurance for its employees. In the face of these escalating health insurance costs, he said, Hedahl's reviewed its policies and determined that if it could convince its employees to lead healthier lifestyles, it would decrease future health care costs. Thus, he said, Hedahl's implemented a bonus or incentive program whereby employees were monetarily rewarded for leading healthier lifestyles. He said the program is funded from a portion of the funds the company used to use for health insurance. He said employees can earn \$25 a month for maintaining their weight within certain guidelines, \$25 a month for not using tobacco, and \$25 per month for agreeing not to consume more than four alcoholic beverages during any calendar day. Thus, he said, employees can earn \$75 a month or \$900 a year in wellness earn-back dollars. If you are married, he said, and your spouse also accomplishes these goals, he or she can earn an additional \$900. In addition, he said, the company has implemented an early detection screening program, consisting of cancer screening, cholesterol check, blood pressure check, and blood sugar check. Upon proof of completion of any of these tests, he said, the employee and spouse are each entitled to receive \$25 in wellness earn-back dollars for each test completed. He said the flexible benefit plan and wellness earn-back plan are on the cutting edge of modern employee benefits. By introducing incentives to encourage lifestyle changes, he said, the company believes that it has a benefit plan that is the very best plan available anywhere.

In conjunction with the flexible benefit and wellness earn-back plan, Mr. Hedahl said, the company revised its health insurance plan to implement a \$250 deductible and a \$10,000 stop-loss provision. In addition, he said, the company contributes \$100 in pretax money to a Section 125 plan. Added to this, he said, is the potential \$150 from the wellness plan

giving an employee \$250 to purchase benefits through the 125 plan. He said for fiscal year July 1, 1994, through June 30, 1995, the cost of a family plan was \$360 per month. He said the current cost is \$385 per month.

In response to a question from Senator Nelson, Mr. Hedahl said the reason the Hedahl's plan is successful is rather than adding a small wellness program, over half of the dollars in the plan are dependent on the employee's actions. Rather than penalizing employees, he said, the plan provides incentives for employees to pursue a healthy lifestyle.

Chairman Krebsbach called on Mr. Chuck Klein, Director, Human Resources, City of Bismarck. He reviewed the City of Bismarck's health insurance plan. He said the city's plan is a self-funded health insurance plan and Blue Cross Blue Shield of North Dakota is the third-party administrator. He said the plan has a \$50,000 stop-loss provision and the rate of increase has been approximately half that for cities in Bismarck's peer group. He said there are 92 single plans and 413 family plans. He said the premium for a single plan is \$180.04 and the premium for a family plan is \$434.16. He said the plan has an 80/20 copayment with a \$150 deductible on the single plan and a \$450 deductible for the family plan. The total out-of-pocket expense for a single plan, he said, is \$1,150 and the maximum for the family plan is \$3,450.

Mr. Klein said some of the unique steps the city has taken includes holding an annual meeting with the city's employees where utilization is reviewed. He said the city has established a wellness initiative whereby each employee can obtain a wellness prescription and the employee is advised on an individual basis on measures to take to improve that employee's health. He said employees are also entitled to an annual medical screening. Since the city has nursing services, he said, nursing referrals are available and employees may visit the city nurse individually or take their babies to the nurse for the well baby program. He said preventive measures such as flu shots are also available at a reduced cost to employees. In conclusion, he said, the city is working very hard to create a culture of wellness, including smoking cessation, weight loss, and preventive health measures.

At the request of Chairman Krebsbach, committee counsel reviewed a health care survey conducted by the Greater North Dakota Association and the Chamber of Commerce of Fargo-Moorhead. A copy of the survey results is on file in the Legislative Council office.

At the request of Chairman Krebsbach, committee counsel reviewed a memorandum entitled *Estimated Average Annual Cost of A State Employee - 2003-05 Biennium*.

UNIFORM GROUP HEALTH INSURANCE PLAN RENEWAL PROCESS

Chairman Krebsbach called on Mr. Collins who reviewed the Public Employees Retirement System request for proposal program for the health plan and the deferred compensation and defined contribution plans. A copy of his written comments is attached as Appendix J.

INTERNAL REVENUE SERVICE LETTER RULING

Chairman Krebsbach called on Mr. Collins who reviewed a letter ruling from the Internal Revenue Service that the sections allowing a member to purchase service credit with pretax or aftertax money does not jeopardize the qualified status of the Highway Patrolmen's retirement system or the Public Employees Retirement System. A copy of a letter to the code revisor and the letter ruling is attached as Appendix K and a copy of the statutory language referenced by Mr. Collins is attached as Appendix L.

It was moved by Senator Nelson, seconded by Senator Kilzer, and carried on a roll call vote that the Employee Benefits Programs Committee assume jurisdiction over the Employee Benefits Programs Committee bill drafts submitted to the committee and that the State Investment Board, Teachers' Fund for Retirement Board, and Public Employees Retirement System Board, as appropriate, be requested to obtain an actuarial analysis of each bill draft submitted to the committee or, if a bill draft does not have an actuarial effect on a fund, to provide any other information that would assist the committee in making a recommendation concerning the bill draft. Senators Krebsbach, Kilzer, and Nelson and Representatives Amerman, Carlson, Kasper, and Wald voted "aye." No negative votes were cast.

STAFF DIRECTIVES

Representative Carlson requested that representatives of the Greater North Dakota Association be invited to appear at a future meeting to review the health care survey conducted by the Greater North Dakota Association and the Chamber of Commerce of Fargo-Moorhead.

Representative Carlson requested that the Legislative Council staff invite representatives of the City of Fargo to review the City of Fargo's employee health insurance plan with the committee.

Representative Carlson requested that the Legislative Council staff invite representatives of the Fargo Public Schools to review the employee health insurance plan for the Fargo Public School District with the committee.

Representative Wald requested that the Legislative Council staff arrange for the presentation of information concerning the reimportation of Canadian prescription drugs.

No further business appearing, Chairman Krebsbach adjourned the meeting at 4:00 p.m.

Jeffrey N. Nelson
Committee Counsel

ATTACH:12