NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

EMPLOYEE BENEFITS PROGRAMS COMMITTEE

Tuesday, July 29, 2008
Harvest Room, State Capitol
Bismarck, North Dakota

Representative Bette Grande, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Bette Grande, Eliot Glassheim, Jim Kasper, Matthew M. Klein, Joe Kroeber; Senators Ralph L. Kilzer, Karen K. Krebsbach, Curtis Olafson, Harvey D. Tallackson

Others present: Senator David O'Connell, member of the Legislative Council, was in attendance.

See Appendix A for additional persons present.

It was moved by Representative Klein, seconded by Representative Glassheim, and carried on a voice vote that the minutes of the April 22, 2008, committee meeting be approved as distributed.

At the request of Chairman Grande, committee counsel distributed the *2007 Comprehensive Annual Financial Report* for the Retirement and Investment Office and copies of the January 2008 and July 2008 issues of "Retirement Today." Copies of the *2007 Comprehensive Annual Financial Report* and the "Retirement Today" newsletters are on file in the Legislative Council office.

TEACHERS' FUND FOR RETIREMENT

Employee Benefits Programs Committee Bill No. 100

Chairman Grande recognized Ms. Fay Kopp, Deputy Director and Chief Retirement Officer, Retirement and Investment Office. Ms. Kopp reviewed Employee Benefits Programs Committee Bill No. 100 [90100.0100] and the actuarial analysis (Appendix B) for the bill draft. She said the bill draft includes technical and administrative changes to the Teachers' Fund for Retirement (TFFR) program relating to incorporation of federal law changes, procedure relating to benefit limitations, annual hour limit for retiree reemployment, and disclosure of confidential records. She said Gabriel Roeder Smith & Company, the consultants and actuaries for TFFR, report that the bill draft has no cost effect. She said the bill draft does not increase the plan's liabilities; does not change the plan's funded status, funding, or the contribution margin; and does not have any material administrative implications.

Employee Benefits Programs Committee Bill No. 109

At the request of Chairman Grande, Ms. Kopp reviewed Employee Benefits Programs Committee Bill No. 109 [90109.0100] and the actuarial analysis (Appendix C) prepared by Gabriel Roeder Smith & Company. Ms. Kopp said the bill draft is sponsored by Senator O'Connell on behalf of the North Dakota Retired Teachers Association. She said the bill draft provides for a special one-time payment for annuitants of TFFR. Under the provisions of the bill draft, she said, each annuitant, retiree, disabled retiree, or beneficiary receiving a benefit as of June 30, 2009, would receive a one-time payment equal to the sum of $48 times the member's years of service, and $36 times the number of years the member has been retired. She said the payment would be made in December 2009. She said the bill draft also contains an appropriation of $11 million from the general fund to TFFR to fund this special benefit.

Concerning the analysis of Employee Benefits Programs Committee Bill No. 109, Ms. Kopp said, the actuarial consultant has identified several issues. She said the actuarial consultant believes that the $11 million general fund appropriation contained in the bill draft is too small and recommends increasing the appropriation to $11.8 million or $12 million to provide a cushion to ensure that all payments are covered. She said if this is done, there would be no effect on the unfunded actuarial accrued liability for TFFR, and no effect on the funded ratio or margin, since the special payments would be covered by the appropriation.

Ms. Kopp said the actuarial consultant believes the wording of the bill draft's formula should be clarified. She said the actuarial consultant recommends that the formula be revised to provide "an amount determined by taking forty-eight dollars multiplied by the member's number of years of service credit, plus thirty-six dollars multiplied by the number of years since the member's retirement."

Ms. Kopp said the date of June 30, 2009, to determine eligibility is viewed as very aggressive by the actuarial consultant. She said this could be remedied by moving the effective date to December 2009 so that all of the annuitants who receive a regular annuity payment in December 2009 would also receive a special one-time payment or by making the one-time payment available only to members who had retired in 2008 or earlier.

Ms. Kopp said the actuarial consultant has also identified a rollover issue that, if not addressed, may require the Retirement and Investment Office to provide a special tax notice and a rollover election form to members eligible to roll over the payment. She said this would require providing additional education material and communications explaining this option. She said if the payment is rollover-eligible, the Retirement and Investment Office must withhold 20 percent of the payment for federal income taxes unless it is rolled over, regardless of the withholding required on a member's regular annuity payment. She said it may be necessary for the Retirement and Investment Office to provide a separate Form 1099-R to each annuitant to report the special payment if it is rollover-eligible.

In response to a question from Senator O'Connell, Ms. Kopp said structuring the enhancement in two payments may solve the rollover problem, provided there is compliance with all individual limits.

Chairman Grande recognized Mr. Ken Tupa, North Dakota Retired Teachers Association. Mr. Tupa said the one group with a state pension plan that has not participated in recent benefit enhancements is the retired teacher group. He said retired teachers have not received a benefit enhancement since the 2001 legislative session. He said there are approximately 2,000 retired teachers in North Dakota whose annuity is under $1,000 a month. He said there are 275 retirees whose monthly annuity is between $400 and $499 per month. He said there are 250 retired educators in North Dakota whose monthly annuity is between $700 and $799 per month. He said the North Dakota Retired Teachers Association is willing to work with TFFR on resolving the issues identified by Gabriel Roeder Smith & Company.

Chairman Grande recognized Ms. Ruth Stefonowicz, President, North Dakota Education Association-Retired Teachers. She said the North Dakota Education Association supports the concept of providing an enhanced pension for retired teachers.

PUBLIC EMPLOYEES RETIREMENT SYSTEM
Employee Benefits Programs
Committee Bill No. 111

Chairman Grande recognized Mr. Sparb Collins, Executive Director, Public Employees Retirement System (PERS). Mr. Collins reviewed Employee Benefits Programs Committee Bill No. 111 [90111.0100] and the technical comments (Appendix D) prepared by The Segal Company, the actuarial consultant for PERS. Mr. Collins said the PERS Board is authorized to appoint three of its four elected members to the State Investment Board. He said the change contained in the bill draft will allow the board to appoint as one of its three members a nonelected board member, such as the board chairman, who is appointed by the Governor, the Attorney General's appointee, or the health officer's designee. He said the bill draft authorizes the payment of employee contributions on a pretax basis, instead of on an aftertax basis, for the Highway Patrolmen's retirement system and the judges' retirement plan via employer pickup under Internal Revenue Code rules for compensation earned after August 1, 2009. He said the bill draft also allows members of the hybrid plan and the Highway Patrolmen's retirement system to select a nonspouse beneficiary as a joint annuitant for the joint and survivor benefit option.

In response to a question from Representative Grande, Mr. Collins said the provision is not limited to family members.

In response to a question from Representative Kasper concerning individuals who are in a homosexual relationship, Mr. Collins said the only restriction under the proposal is that the nonspouse beneficiary selected for the joint and survivor benefit option must be within 10 years of age of the member.

Mr. Collins said the bill draft also allows members of the hybrid plan and the Highway Patrolmen's retirement system to designate a subsequent beneficiary, either after the death of the original beneficiary or upon divorce of the member, for retirees who elected a joint and survivor benefit option. He said the proposal allows members of the hybrid plan and the Highway Patrolmen's retirement system to elect a new optional form of monthly retirement benefits that provides a graduated increase of 1 percent or 2 percent. He said the monthly retirement benefit would be actuarially adjusted to provide for the postretirement increases. He said the proposal eliminates the 60-month option as a form of payment for surviving spouses in the hybrid plan. He said the proposal allows members of the hybrid plan and the Highway Patrolmen's retirement system to purchase up to 10 years of service credit, instead of 5 years, unrelated to other eligible service. He said a maximum of 5 years of service credit purchased under this provision would count toward retirement eligibility for the Rule of 80 for the Highway Patrol or the Rule of 85 under the hybrid plan. He said the proposal updates federal compliance provisions of the hybrid plan and the Highway Patrolmen's retirement system, including additional language to comply with Internal Revenue Code Section 415(b) and related regulations. Under present law, he said, members of the PERS retirement plan may run for election to the PERS Board. He said the board is proposing to broaden the election to include members of the Highway Patrolmen's retirement system, the Job Service North Dakota retirement plan, and the defined contribution plan, which are also administered by the board.

Concerning the actuarial cost of the proposal, Mr. Collins said the bill draft would have an actuarial impact on the hybrid plan and the Highway Patrolmen's retirement system. Because the normal form of retirement for the Highway Patrolmen's retirement system and the judges' retirement plan is a 50 percent joint and survivor annuity, and the bill draft allows nonmarried members to receive an unreduced joint and survivor benefit, he said, the cost of this change to the Highway Patrolmen's retirement system is .29 percent of covered compensation. He said the cost of this change for the judges' retirement plan is .54 percent of covered compensation.

Mr. Collins said the PERS Board is proposing several amendments (Appendix E) to the bill draft. He said the bill draft contains a delayed effective date of March 1, 2011, which will avoid some administrative charges; defines when the graduated benefit becomes payable; and contains language governing certain account balance refunds.

Employee Benefits Programs Committee Bill No. 112

At the request of Chairman Grande, Mr. Collins reviewed Employee Benefits Programs Committee Bill No. 112 [90112.0100] and the technical comments (Appendix F) prepared by The Segal Company. He said the proposed legislation allows the PERS Board to provide for a one-time postretirement payment equal to 50 percent, 75 percent, or 100 percent of the member's or beneficiary's current monthly benefit payment amount payable in January 2010 if the trust fund's total annual return on investments is greater than 8 percent, 9 percent, or 10 percent, respectively, and the funding ratio based on the market value of assets is greater than 105 percent, 110 percent, or 115 percent, respectively, for the fiscal year ending June 2009. If none of these financial thresholds are met, he said, no additional payment will be made. He said this would be a potential one-time payment in the biennium, applicable to both the hybrid plan and the Highway Patrolmen's retirement system. At this time, he said, the possibility that the funding ratio of assets will be greater than 105 percent for the fiscal year ending June 2009 is becoming unlikely.

Mr. Collins said the proposal also allows the PERS Board to provide for a postretirement increase of 2 percent of monthly benefits for members and their beneficiaries in both the hybrid plan, except the judges' retirement plan, and the Highway Patrolmen's retirement system beginning in January 2011. The proposal, he said, also increases the employer contribution rate from 16.70 percent to 22.06 percent of salary for the Highway Patrolmen's retirement system and from 4.12 percent to 5.44 percent of salary for the hybrid plan and the defined contribution plan from July 1, 2009, through June 30, 2011. He said the employer contribution rate increase and 2 percent monthly postretirement benefit increase is optional for political subdivision employers in the hybrid plan who must elect to participate in the benefit before July 1, 2009, or be presumed not to participate.

Mr. Collins said the proposal also allows the board to provide for an increase of 2 percent of monthly retirement benefits for Supreme Court and district court judges who are retirees and their beneficiaries beginning January 1, 2011, if the board determines that there is a sufficient actuarial margin to pay the increase. He said the proposal changes the normal form of benefits for the Highway Patrolmen's retirement system from a 50 percent joint and survivor benefit to a 100 percent joint and survivor benefit for surviving spouses. He said the proposal allows participants in the deferred compensation plan who have vested employer contributions in the hybrid plan to purchase up to two years of service credit by paying only the employer plus employee contribution rate, 9.12 percent of salary, for each month purchased, rather than the full actuarial cost of the service. He said the purchased service credit will not count toward retirement date eligibility. Concerning the actuarial impact of the proposal, he said, it appears that the proposal will have an actuarial impact on the hybrid plan and the Highway Patrolmen's retirement system. He said the 100 percent joint and survivor benefit as the normal form for the Highway Patrolmen's retirement system would increase the actuarially determined contribution rate by 3.15 percent of payroll. He said the cost of the supplemental savings proposal is .30 percent for the main retirement plan, .20 percent for the National Guard retirement system, .32 percent for the law enforcement with prior main service plan, .27 percent for the law enforcement without prior main service plan, and 0 percent for the retiree health plan. The estimated actuarial cost of a one-time 2 percent benefit increase for retirees and beneficiaries, he said, is 1.32 percent for the main system, .68 percent for the National Guard retirement system, .70 percent for the law enforcement with prior main service plan, .03 percent for the law enforcement without prior main service plan, and 5.36 percent for the Highway Patrolmen's retirement system.

Mr. Collins said the PERS Board is also proposing an amendment (Appendix G) to include a benefit enhancement for the old-age and survivor insurance system and a delayed effective date for the postretirement adjustment.

Employee Benefits Programs Committee Bill No. 118

At the request of Chairman Grande, committee counsel reviewed Employee Benefits Programs Committee Bill No. 118 [90118.0300]. He said the bill draft establishes a supplemental defined contribution retirement plan for state correctional and peace officers. Under the plan, he said, eligible employees who elect to participate in the optional plan would be required to contribute 2 percent of their monthly salary and the employer would contribute 3 percent of the eligible members' monthly salary to a defined contribution account. However, he said, the employer contribution would cease the first day of the month next following the month in which the participating member attains the age of 60 or when the participating member has a combined total of years of service credit and years of age equal to 85. He said a participating member who continues to be employed as an eligible employee on the first day of the month in which the participating member attains the age of 60 or when the participating member has a combined total of years of service credit and years of age equal to 85 forfeits all employer contributions made to the participating member's account under the program. He said the bill draft is an attempt to provide members certified by the Department of Corrections and Rehabilitation or the Peace Officer Standards and Training Board as a correctional officer and employed by the Department of Corrections and Rehabilitation or a peace officer employed as a peace officer by a governmental unit an enhanced retirement benefit with an early retirement incentive.

In response to a question from Representative Kasper, committee counsel said the proposal is an optional defined contribution plan that is supplemental to the current hybrid plan.

Chairman Grande recognized Mr. Collins who reviewed the technical comments (Appendix H) for Employee Benefits Programs Committee Bill No. 118. Mr. Collins said the technical comments apply to an earlier version of the bill draft and revised technical comments will be provided at the next committee meeting.

Employee Benefits Programs Committee Bill No. 206

At the request of Chairman Grande, committee counsel reviewed Employee Benefits Programs Committee Bill No. 206 [90206.0100]. Committee counsel said the bill draft was submitted by Representative Lawrence R. Klemin and allows the PERS Board to establish a trust health care savings plan for all Supreme Court and district court judges participating in PERS.

UNIFORM GROUP INSURANCE PROGRAM

Employee Benefits Programs Committee Bill No. 113

Chairman Grande recognized Mr. Collins who reviewed Employee Benefits Programs Committee Bill No. 113 [90113.0100]. Mr. Collins also distributed a schedule (Appendix I) of PERS non-Medicare premiums, a copy (Appendix J) of the applicable provisions of North Dakota Century Code Section 54-52.1-02 relating to establishing the non-Medicare premium, and a schedule (Appendix K) relating to the non-Medicare premium shift. He also reviewed a report (Appendix L) concerning the impact of the proposal on the uniform group insurance program prepared by Apex Management Group, a division of Gallagher Benefit Services, Inc. He said the proposal is intended to change the rate for a non-Medicare retiree single plan from 150 percent of the active member single plan rate to 125 percent of the active member single plan rate. He said the proposal contains an expiration date of June 30, 2011.

In response to a question from Senator Kilzer, Mr. Collins said Minnesota has enacted a similar provision, but he was not aware whether South Dakota has enacted such a provision and would provide information on South Dakota at the next committee meeting. He said the effect of the bill draft is to lower premiums for non-Medicare retirees and shift the additional cost to active employees.

Employee Benefits Programs Committee Bill No. 114

At the request of Chairman Grande, Mr. Collins reviewed Employee Benefits Programs Committee Bill No. 114 [90114.0100] and the technical comments (Appendix M) prepared by The Segal Company. He said the proposed legislation would increase the required monthly contribution to the retiree health benefit fund from 1.00 percent of monthly salary to 1.15 percent of monthly salary and increase the monthly retiree health credit from $4.50 per year of credited service to $5 per year of credited service. He said the actuarial consultant calculates that the additional contribution of .15 percent of salary would be sufficient to offset the cost of the additional monthly benefit of 50 cents per year of credited service.

Employee Benefits Programs Committee Bill No. 33

At the request of Chairman Grande, Mr. Collins reviewed the analysis (Appendix N) of Employee Benefits Programs Committee Bill No. 33 [90033.0300] prepared by Gallagher Benefit Services, Inc. He said Gallagher Benefit Services, Inc., has determined that the proposal will create a number of financial and administrative challenges for the PERS Board. By far the most critical financial issue, he said, would be the impact on PERS from the requirement that state and local governments participate in the funding of the new Healthy North Dakota program.

Chairman Grande recognized Ms. Kathy Strombeck, Research Analyst, Tax Department. Ms. Strombeck reviewed technical comments (Appendix O) prepared by the Tax Department concerning the bill draft. She said the Tax Department has identified several significant tax and compliance issues with the proposal in addition to the tight timeframe contained in the proposal.

Representative Kasper requested that Ms. Strombeck present the technical concerns identified by the Tax Department in narrative form.

Chairman Grande recognized Mr. Michael L. Fix, Director of the Life and Health Division and Actuary, Insurance Department. Mr. Fix presented an analysis (Appendix P) of Employee Benefits Programs Committee Bill No. 33. Mr. Fix also presented a summary outline (Appendix Q) for the proposal.

Employee Benefits Programs Committee Bill No. 84

At the request of Chairman Grande, Mr. Collins reviewed an analysis (Appendix R) of Employee Benefits Programs Committee Bill No. 84 [90084.0100]. He said the bill draft relates to parity for health insurance coverage of prosthetics and Blue Cross Blue Shield of North Dakota estimates that the cost is 90 cents per contract per month for the

2009-11 biennium. He said the PERS Board is also proposing an amendment (also contained in Appendix R) to provide a general fund appropriation of $93,734.20 and $96,350.99 in other funds to fund the benefit.

In response to a question from Representative Kasper, Mr. Collins said PERS will provide information on the cost of prosthetics currently being provided.

Chairman Grande recognized Mr. Rod St. Aubyn, Blue Cross Blue Shield of North Dakota. Mr. St. Aubyn said Blue Cross Blue Shield of North Dakota has several concerns with the proposal. First, he said, the proposal circumvents the PERS mandated review process because, rather than PERS studying the proposal for two years and then reporting to the Legislative Assembly, the proposal requires that all health insurance policies, including the uniform group insurance program, include prosthetics coverage which is at least equal to the coverage provided by Medicare. Secondly, he said, Blue Cross Blue Shield of North Dakota is uncertain whether the company would have to provide additional coverage each time the federal Medicare program changes the requirements or would make the change on the policy's anniversary date.

Employee Benefits Programs Committee Bill No. 124

Chairman Grande recognized Mr. Collins who reviewed Employee Benefits Programs Committee Bill No. 124 [90124.0100] and an analysis (Appendix S) prepared by Blue Cross Blue Shield of North Dakota. He also presented an amendment (also contained in Appendix S) providing an appropriation to fund the benefit. He said the bill draft requires that PERS health insurance policies include colorectal cancer screening examinations and laboratory tests of asymptomatic individuals in accordance with guidelines established by the American Cancer Society or the American College of Gastroenterology. He said Blue Cross Blue Shield of North Dakota estimates that the proposal would cost an additional $4.04 per contract per month for the 2009-11 biennium.

In response to a question from Representative Kasper, Mr. Collins said the PERS health insurance plan does not cover a colonoscopy unless it is determined to be medically necessary.

In response to a question from Representative Kroeber, Mr. Collins said the actuarial cost does not include the benefit of colorectal cancer detection at an early treatable stage as opposed to more costly treatment if detected later. He said the reason for this is that most screening tests have an early incremental benefit with a long-term large benefit that is difficult to quantify.

Chairman Grande recognized Mr. St. Aubyn. One potential problem with the proposal, Mr. St. Aubyn said, is that it calls for tests in accordance with guidelines established by the American Cancer Society or the American College of Gastroenterology. He said this may be an unconstitutional delegation of legislative authority.

Employee Benefits Programs Committee Bill No. 125

At the request of Chairman Grande, Mr. Collins reviewed Employee Benefits Programs Committee Bill No. 125 [90125.0100] and the actuarial analysis (Appendix T) prepared by Gallagher Benefit Services, Inc. He said the bill draft expands the uniform group insurance program to allow participation by permanent and temporary employees of private sector employers and other individuals as well as allowing agents to sell the group insurance program and receive commissions. He said the actuarial consultant noted that as long as PERS is allowed to separate private sector groups, temporary employees, and individual plan participants into their own distinct rating subgroups, there should be no direct financial impact to the existing program.

Employee Benefits Programs Committee Bill No. 144

At the request of Chairman Grande, committee counsel reviewed Employee Benefits Programs Committee Bill No. 144 [90144.0100]. Committee counsel said the bill draft incorporates changes made by the Fargo Firefighters Relief Association into North Dakota Century Code Chapter 18-11 relating to alternate firefighters relief association plan benefits.

It was moved by Senator Krebsbach, seconded by Representative Kroeber, and carried on a voice vote that the Employee Benefits Programs Committee assume jurisdiction over Employee Benefits Programs Committee Bill Nos. 206 and 144 and that the PERS Board and the Fargo Firefighters Relief Association be requested to obtain an actuarial analysis of each proposal or, if the proposal does not have an actuarial effect, to provide any other information that would assist the committee in making a recommendation concerning the proposal.

STATE EMPLOYEE COMPENSATION

Chairman Grande recognized Mr. Ken Purdy, Manager, Classification and Compensation, Human Resource Management Services, Office of Management and Budget. Mr. Purdy presented a PowerPoint presentation (Appendix U) concerning state employee compensation.

EMPLOYEE BENEFITS STUDY

At the request of Chairman Grande, committee counsel distributed a memorandum entitled *Employee Benefits Programs Committee Benefits Survey Results*.

Chairman Grande recognized Representative Klein. Representative Klein said the Employee Benefits Programs Committee should set standardized rules regarding benefits for each agency.

At the request of Chairman Grande, Mr. Gordy Smith, Audit Manager, State Auditor's office, addressed the committee. Mr. Smith said the survey entitled *Employee Benefits Programs Committee Benefits Survey Results* was presented at the July 9, 2008, Industry, Business, and Labor Committee meeting and that committee requested the State Auditor's office to review the survey and report at that committee's next meeting. He said the State Auditor's office is reviewing the memorandum and preparing a report for this meeting. He said the State Auditor's office is scrutinizing each unusual expenditure but there are gray areas. Such areas, he said, include service club dues and certain memberships, such as local chambers of commerce. He said agencies designated as promotional agencies, such as the Department of Commerce, have more latitude in certain expenditures.

In response to Mr. Smith's comments, Representative Kasper said he hoped that the State Auditor's office would apply the same standard of review to the expenditures identified in the *Employee Benefits Programs Committee Benefits Survey Results* that it used in the Workforce Safety and Insurance audit.

In response to Representative Kasper's comment, Mr. Smith said the State Auditor's office will apply a consistent standard and, if it finds items that are similar or identical to Workforce Safety and Insurance expenditures identified in the audit, they will be reported.

In response to a question from Representative Klein relating to discrepancies in tuition reimbursement policies, Mr. Smith said some agencies are using tuition reimbursement as a recruitment tool in that if an individual is applying for a hard-to-fill position and is close to meeting the minimum requirement for the position the agency will pay the necessary tuition for the individual to achieve the educational requirement necessary for the position being filled.

Chairman Grande recognized Ms. Laurie Sterioti Hammeren, Director, Human Resource Management Services, Office of Management and Budget. Ms. Sterioti Hammeren referred to North Dakota Administrative Code (NDAC) Article 4-07. She said the training and tuition reimbursement rules recently adopted by Human Resource Management Services became effective July 1, 2008. However, she said, these rules only affect agencies in the classified service and do not apply to agencies such as Workforce Safety and Insurance and the Mill and Elevator. Concerning service awards, she said, these awards are governed by NDAC Chapter 4-07-18 and contain a schedule of the types of service awards that may be given to employees. She said there may be variations in the type of award, but the key to uniformity is the monetary limit for each increment of years of service.

In response to a question from Representative Grande, Ms. Sterioti Hammeren said the new training and tuition reimbursement rules apply to all state and local government agencies, departments, institutions, and boards and commissions that employ individuals in positions classified by Human Resource Management Services. She said the rules provide that an appointing authority may adopt policies to provide training and educational opportunities to its employees to learn new required skills or to enhance their current skills, to increase the opportunity for advancement within the agency or state service, to increase proficiency and productivity, and to improve work performance. She said the rules also provide that costs of training or educational courses, including tuition and fees, may, within budgetary constraints, be paid for by the agency or reimbursed to the employee in accordance with agency policy.

In response to a question from Senator Olafson, Representative Grande said professional membership dues are governed by Office of Management and Budget Policy 209. She said this policy provides that "[p]ayment by the state of dues to professional organizations is not a fringe benefit for state employees. Wherever possible, a membership should be carried in the name of the state agency and not of an individual. The idea behind this approach is to promote transferability of the benefits of the membership. To justify the expenditure of funds, association memberships should be related to an employee's job duties or should be beneficial to the state." She said this policy was adopted August 1, 2007.

Representative Kasper requested that the Legislative Council staff review the issue whether state agencies have statutory authority to provide tuition reimbursement for employees.

Chairman Grande recognized Ms. Sterioti Hammeren. Ms. Sterioti Hammeren said Human Resource Management Services is finding it increasingly difficult to attract good employees to the state service. She said employers in the private sector are using many innovative policies to attract and retain employees that are not available to the public sector. She said the current employment atmosphere is not the time to become inflexible and restrict what agency managers may do to attract and retain employees.

In response to Ms. Sterioti Hammeren's comments, Representative Kasper said the issue is not one of inflexibility but one of a case in which a state agency director was charged with a felony for providing benefits under ambiguous policies. In order to avoid such cases in the future, he said, it is incumbent upon the Legislative Assembly to ensure that the benefit guidelines are clear and authorized by law so that another state employee is not placed in a similar situation.

Representative Grande distributed a summary of professional dues and memberships paid by state agencies and a listing of Workforce Safety and

Insurance expenditures July 2001 through March 2006, copies of which are on file in the Legislative Council office. She requested that Ms. Sterioti Hammeren review the legislation governing retention bonuses and report any suggestions for improvement to the committee. She said recruitment and retention should be differentiated and the term "hard-to-fill position" should be better defined. Also, she said, her research had revealed that the 25 percent figure in statute concerning agency bonuses is an arbitrary figure and should be reviewed.

Representative Grande requested that the Legislative Council staff prepare a bill draft codifying NDAC Section 4-07-18 relating to employee service awards and employee recognition reward and incentive programs. She said the bill draft should also include a requirement that agencies report employer-paid tuition for higher education coursework for employees to Human Resource Management Services and that agency compile this information and report to the Legislative Council.

Senator Olafson said the bill draft should include a report from agencies to Human Resource Management Services on employee membership dues for professional organizations or service clubs paid by the agencies which would also be reported to the Legislative Council.

Representative Glassheim said the bill draft should be process-oriented whereby an agency administrator reports the information to the Legislative Council rather than the committee developing a bill draft detailing specific memberships that may be paid for with governmental funds.

Chairman Grande announced that the next two meetings of the Employee Benefits Programs Committee will be Monday, August 25, and Tuesday, October 21.

No further business appearing, Chairman Grande adjourned the meeting at 3:30 p.m.

Jeffrey N. Nelson
Committee Counsel

ATTACH:21