NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

EMPLOYEE BENEFITS PROGRAMS COMMITTEE

Tuesday, October 21, 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, Matthew M. Klein, Joe Kroeber; Senators Karen K. Krebsbach, Curtis Olafson

Members absent: Representative Jim Kasper; Senators Ralph L. Kilzer, Harvey D. Tallackson

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

See Appendix A for additional persons present.

At the request of Chairman Grande, committee counsel distributed a copy of the October 2008 edition of *Your Vested Interest* published by the State Investment Board. A copy of the newsletter is on file in the Legislative Council office.

Chairman Grande recognized Mr. Steve Cochrane, Executive Director, Retirement and Investment Office. He presented an overview of the current investment climate and investment outlook. A copy of the charts (Appendix B) used by Mr. Cochrane in his presentation and a letter (Appendix C) from Callan Associates are attached. Since his last report to the committee last spring, he said, market conditions and equity markets have continued to deteriorate. He said there is a great deal of uncertainty in the market going forward and these uncertainties are reflected in market conditions. He reviewed the allocation of the pension trust as of August 31, 2008. He said the pension trust is a combination of the trust funds managed by the State Investment Board, the two largest of which are the Teachers' Fund for Retirement (TFFR) and the Public Employees Retirement System (PERS) fund. He said each fund sets its own asset allocation and maintains its own consultants. He said TFFR and PERS participate in the same 10 asset allocations but are weighted slightly different. As of August 31, 2008, he said, TFFR was slightly more exposed to equities and that is reflected in the market return of TFFR. Thus, he said, when equities do well TFFR performs slightly better than the PERS fund, and when equities do not perform as well the PERS fund slightly outperforms TFFR. He said the State Investment Board does not have reconciled information for September and October, but based upon asset allocation and market return the pension trust is probably in the negative mid to upper teens for the year.

TEACHERS' FUND FOR RETIREMENT

Chairman Grande recognized Mr. Chris Conradi, Enrolled Actuary and Senior Consultant, Gabriel Roeder Smith and Company, Dallas, Texas, who reviewed the July 1, 2008, actuarial valuation of TFFR. Mr. Conradi's PowerPoint presentation (Appendix D) is attached and a copy of the actuarial valuation is on file in the Legislative Council office. He said the actuarial valuation of TFFR was prepared as of July 1, 2008. He said this date is important because none of the economic events occurring after July 1, 2008, are reflected in the valuation. He said the actuarial valuation is prepared using member data, financial data, benefit and contribution provisions, and actuarial assumptions and methods. He said the purposes of an actuarial valuation are to measure the actuarial liabilities of the system, determine the adequacy of current statutory contributions, provide information for reporting such as for Governmental Accounting Standards Board No. 25 and comprehensive annual financial reporting information, to explain changes in the actuarial condition of the fund, to track changes over time, and to warn about possible future problems and issues. He said the actuarial valuation reflects legislation enacted in 2007. He said the employer contribution was increased from 7.75 percent to 8.25 percent effective July 1, 2008. He said this provision is to sunset and the employer contribution return to 7.75 percent when the fund is 90 percent funded. Based upon the current valuation, he said, this is unlikely to occur anytime soon.

Concerning membership, Mr. Conradi said the number of active members decreased by 38, from 9,599 to 9,561. He said this was a decrease of .4 percent but noted that the decrease included the effect of 16 career and technical education employees transferring from TFFR to PERS. Over the last 10 years, he said, active membership has decreased an average of .3 percent per year. He noted that earlier census projections showed school-age population decreasing over the next 15 years to 20 years. He said the payroll for active members increased 4.1 percent, from $401.3 million to $417.7 million. He said payroll has increased an average of 3.4 percent per year over the last 10 years. The average pay for active members, he said, increased 4.5 percent, from $41,810 to $43,684. The average age of active members is 44.6 years. He said this compares to 44.7 years last year and to 43.5 years 10 years ago. He said the average years of service is 14.4, compared to 14.5 years last year and to 14.0 years 10 years ago. He said there are 1,459 inactive vested members and 229 inactive nonvested members. He said the number of annuitants increased by 240, from 6,077 to 6,317, an increase of 3.9 percent. He said annuitants include service retirees, disabled retirees, and beneficiaries receiving benefits. Over the last 10 years, he said, the number of retirees has grown an average of 3.3 percent per year. The average annual retiree benefit is $17,700.28. He said there are 1.5 active members for each retiree and the ratio is decreasing as it was 2.2 active members for each retiree 10 years ago.

Concerning assets, Mr. Conradi said the fair market value of assets of TFFR decreased from $2,030 million on June 30, 2007, to $1,846 million on June 30, 2008. He said member contributions for fiscal year 2008 were $36.9 million, which includes service purchases, and employer contributions were $33.7 million. He said the total contributions of $70.6 million compares to $66.4 million in fiscal year 2007. He noted that the employer contribution rate was 7.75 percent for fiscal year 2008 and will increase to 8.25 percent for fiscal year 2009. He said total distributions, benefit payments, refunds, and administrative expenses totaled $113.6 million. Therefore, he said, there is a net external cashflow--contributions less benefits and refunds--of $43 million or 2.3 percent of the market value of assets at the end of the year. At the present time, he said, this is not a problem. He said the return on the market value of assets was approximately -7.0 percent in fiscal year 2008. He said this return compares to 20.4 percent for fiscal year 2007. He said the average return for the last 10 years was 6.4 percent. This is below the actuarial assumed investment rate of return of 8.0 percent. The 15-year average investment rate of return was 8.3 percent. He said the market return for fiscal year 2008 was below expected market return after four strong years. For the previous 10 years, he said, 6 years had returns greater than the actuarial assumed rate of 8.0 percent and 4 years had returns less than 8.0 percent. He said the best year was 2007 with a return of 20.4 percent or 12.4 percent over 8.0 percent. The worst year, he said, was 2002 with a return of -8.6 percent or 16.6 percent below the 8.0 percent assumed rate of return. He said all actuarial calculations are based on the actuarial value of assets not market value. He said the actuarial value of assets reflects 20 percent of the difference between last year's expected return on market value and the actual return. The actuarial value of assets is now $1,909 million versus $1,750 million last year. The actuarial return was 11.6 percent in fiscal year 2008 compared to -7.0 percent on a market value basis. He said the average return on actuarial value over the last 10 years has been 7.7 percent. He said the actuarial value of assets is 103 percent of the fair market value as compared to 86 percent last year. He said the fund has $63.4 million in deferred losses, which are not yet recognized.

Concerning the July 1, 2008, actuarial results, Mr. Conradi said the unfunded actuarial accrued liability decreased from $459.2 million to $421.2 million. He said the funded ratio--the actuarial assets divided by the actuarial accrued liability--increased from 79.2 percent to 81.9 percent. He said the funded ratio using market value is 79.2 percent, down from 91.9 percent. He said the unfunded actuarial accrued liability is 100.8 percent of covered payroll, compared to 114.4 percent last year. He said the negative margin or shortfall improved from -2.40 percent to -0.99 percent.

Concerning projections for TFFR, Mr. Conradi said the 8.25 percent employer contribution rate continues for at least the next 30 years. He said the margin never becomes positive, the unfunded actuarial accrued liability continues to grow into the future, and the system will experience decreasing funded ratios over the long term.

Employee Benefits Programs Committee Bill No. 109

At the request of Chairman Grande, Mr. Conradi reviewed Employee Benefits Programs Committee Bill No. 109 [90109.0200] and the actuarial analysis (Appendix E) for the bill draft. Under the bill draft, he said, each annuitant of TFFR, retiree, disabled retiree, or beneficiary receiving a benefit, who retired before January 1, 2009, and who is still receiving benefits as of December 1, 2009, would receive a special one-time payment equal to the sum of $24 times the member's years of service, and $18 times the number of years the member has been retired. However, he said, the payment would be limited to no more than 10 percent of the member's annual retirement benefit or $750, whichever is larger. He said the payment would be made in December 2009. He said the bill also provides for a second payment, determined under the same formula and with the same maximum, to be made in December 2010 to members who retired before January 1, 2009, and who are still receiving payments as of December 1, 2010. He said the payment made in 2010 will usually be slightly larger than the one made in 2009 because the member will have been retired for one more year. He noted that the eligibility requirement to receive one of these special payments, being retired before January 1, 2009, is the same for both payments. He said the bill draft also provides for a transfer from the general fund of up to $11 million to TFFR, which is intended to pay for the two special payments.

Concerning the actuarial analysis of the proposal, Mr. Conradi said TFFR would pay approximately $5.4 million in December 2009 and approximately $5.5 million in December 2010. Therefore, he said, payments should be no more than approximately $10.9 million for the two years combined, making the $11 million appropriation sufficient. He said there would be no effect on the unfunded actuarial accrued liability of TFFR and no effect on the funded ratio or margin since the special payments would be covered by the appropriation.

In response to a question from Representative Grande, Mr. Conradi said all federal issues have been resolved in the revised version of the bill draft.

Chairman Grande recognized Senator O'Connell. He said in the fight for increased teacher pay, retired teachers have been left behind. He said the bill draft before the committee addresses this inequity.

Representative Klein said as much as he supported the bill draft's merits, in light of the state's uncertain financial future and the measures to be voted on by the electorate in the upcoming general election, as well as other legislative priorities, the bill draft should be forwarded without recommendation.

Representative Glassheim said even with passage of the measures on the general election ballot, the state should have sufficient revenues to fund the benefit contained in the bill draft.

In response to Representative Glassheim's comment, Senator Olafson said market conditions have changed dramatically over the past several weeks, and the Legislative Assembly will give the bill draft consideration when the 61st Legislative Assembly convenes. He said that allowing the bill draft to go forward without recommendation is the prudent thing for the committee to do at this point.

It was moved by Representative Klein, seconded by Senator Olafson, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 109 no recommendation. Representatives Grande and Klein and Senators Krebsbach and Olafson voted "aye." Representative Glassheim and Senator Kroeber voted "nay."

Employee Benefits Programs Committee Bill No. 100

At the request of Chairman Grande, Mr. Conradi reviewed Employee Benefits Programs Committee Bill No. 100 [90100.0100] and the actuarial analysis (Appendix F) for the bill draft. He said the bill draft includes technical and administrative changes to the TFFR program relating to incorporation of federal law changes, procedures relating to benefit limitations, annual hour limit for retiree reemployment, and disclosure of confidential records. He said there is no cost to the bill draft. He 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.

It was moved by Senator Krebsbach, seconded by Representative Glassheim, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 100 a favorable recommendation. Representatives Grande, Glassheim, Klein, and Kroeber and Senators Krebsbach and Olafson voted "aye." No negative votes were cast.

FIREFIGHTERS RELIEF ASSOCIATIONS

Employee Benefits Programs Committee Bill No. 144

Chairman Grande recognized Mr. Chris Dietz, Fargo Firefighters Relief Association, Fargo. He reviewed Employee Benefits Programs Committee Bill No. 144 [90144.0100]. He said the bill draft incorporates recent changes made in the Fargo Firefighters Relief Association plan. He said the changes update service, disability, and survivor pensions. He also distributed a history (Appendix G) of the Fargo Firefighters Relief Association. He said the Fargo Firefighters Relief Association was organized in 1909. He said the association currently has 97 active members, 58 retirees, and 21 widows. He said firefighters contribute 8.4 percent of salary and the city of Fargo contributes 12.2 percent and 13.65 percent of payroll. He said the proposal contains several optional forms of benefit payment. The normal form of benefit, he said, is a traditional joint and survivor 50 percent benefit. He said optional forms of benefits include a life-only benefit, certain and life, joint and survivor 75 percent, and joint and survivor 100 percent. He said the proposal also contains two alternative retirement death benefits for a surviving spouse and children.

Chairman Grande recognized Mr. Mark D. Meyer, Consulting Actuary, Van Iwaarden Associates, Minneapolis, Minnesota. He said he is the consulting actuary for the Fargo Firefighters Relief Association. He said the benefit enhancements included in the bill draft are actuarially sound.

In response to a question from Representative Klein, Mr. Meyer said the plan is 63 percent funded and amortized over a 29-year period.

It was moved by Representative Klein, seconded by Representative Glassheim, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 144 a favorable recommendation. Representatives Grande, Glassheim, Klein, and Kroeber and Senators Krebsbach and Olafson voted "aye." No negative votes were cast.

PUBLIC EMPLOYEES RETIREMENT SYSTEM

Chairman Grande recognized Mr. Brad Ramirez, FSA, MAAA, EA, Consulting Actuary, The Segal Company, Denver, Colorado. He reviewed the July 1, 2008, actuarial valuations (Appendix H) of the PERS main system, judges' retirement fund, National Guard retirement fund, Highway Patrolmen's retirement fund, and the retiree health benefits fund. A copy of the actuarial report is on file in the Legislative Council office. He said the judges', National Guard, Highway Patrolmen's, and retiree health insurance credit funds have positive contribution margins. He said the main system, law enforcement with prior main service, and law enforcement without prior main service funds have negative contribution margins. He said the funded ratio is above 100 percent for the judges', National Guard, and Job Service North Dakota retirement plans but below 100 percent for the main system, retiree health insurance credit, law enforcement with prior main service, law enforcement without prior main service, and the Highway Patrolmen's funds. He said the ratio of the actuarial value of assets to the market value of assets for PERS and the Highway Patrolmen's retirement system combined has increased from 80 percent to 91 percent. He said the market value exceeds the actuarial value by $156 million.

On an actuarial value basis, Mr. Ramirez said there was a small investment gain due to recognition of larger-than-expected appreciation from prior years. He said salary increases varied by plan but were generally larger than expected. He said the salary increases resulted in actuarial losses for most of the plans. For the main system and judges' plans, he said, the employer normal cost is in excess of the statutory contribution rate. He said the judges' plan benefits from an actuarial surplus, which causes an amortization credit resulting in a positive margin. He said the main system plan, however, has an unfunded actuarial accrued liability so contributions are not sufficient to pay down the unfunded actuarial accrued liability or even pay interest on it. He said the unfunded actuarial accrued liability is expected to grow under the current funding policy. Finally, he said, there were no changes in the actuarial assumptions.

Concerning the 2008 actuarial valuation for PERS and the Highway Patrolmen's retirement system, Mr. Ramirez said assets, at market value, totaled $1.82 billion. He said the rate of return last year was -5.20 percent. He said the assets, at actuarial value, total $1.66 billion or 91 percent of market value. He said the rate of return on actuarial value was 8.50 percent, which is .50 percent higher than the 8.00 percent actuarial assumed rate of return. He said the 10-year average rate of return on an actuarial value basis is 8.25 percent. He said the employer cost rate for the main system is 6.23 percent and, thus, the contribution margin is -2.11 percent or 4.12 percent (the statutory contribution rate) - 6.23 percent (the employer cost rate) = -2.11 percent. He said the contribution margin for the judges' plan is 5.53 percent or 14.52 percent - 8.99 percent = 5.53 percent. He said the contribution margin for the National Guard plan is 3.06 percent or 6.50 percent - 3.44 percent = 3.06 percent. He said the contribution margin for the law enforcement with prior main service plan is -.73 percent and -.72 percent for the law enforcement without prior main service plan.

Concerning the retiree health insurance credit fund, Mr. Ramirez said the assets of the fund, at market value, total $40.4 million. He said the assets, at actuarial value, total $42.5 million, which is 105.2 percent of market value. He said the market value rate of return for the past year was -14.04 percent while the actuarial value rate of return was 5.16 percent, which is 2.84 percent less than the 8.00 percent actuarially assumed investment rate of return. He said the contribution margin for the retiree health insurance credit fund is .12 percent or 1.00 percent (the statutory contribution rate) - .88 percent (the employer cost rate) = .12 percent.

Concerning the Highway Patrolmen's retirement system, Mr. Ramirez said the statutory contribution rate is 16.70 percent while the employer cost rate is 15.76 percent. Thus, he said, the contribution margin is .94 percent or 16.70 percent (the statutory contribution rate) - 15.76 percent (the employer cost rate) = .94 percent.

Mr. Ramirez also reviewed the 2008 projections (Appendix I) for PERS.

In response to a question from Representative Klein, Mr. Sparb Collins, Executive Director, Public Employees Retirement System, said the increase in the total number of employees in the main system is a result of political subdivisions joining PERS.

Employee Benefits Programs Committee Bill No. 118

Chairman Grande recognized Mr. Collins. He said Employee Benefits Programs Committee Bill No. 118 [90118.0300] had been substantially revised since the committee's last meeting. He said the bill draft establishes a new supplemental defined contribution retirement plan for peace officers and correctional officers employed by the state. He reviewed PERS comments and recommendations, proposed amendments, and the actuarial report prepared by The Segal Company (Appendix J). Under the bill draft, he said, employer contributions become 100 percent vested upon completion of four years of service, or upon attainment of age 60 or a combined total of years of service and years of age equal to 85. He said the PERS Board is concerned this provision may violate the federal Age Discrimination in Employment Act. He said this Act generally prohibits cessation of contributions to an employee's account in a defined contribution plan, or other discrimination in benefits, because the employee has attained a certain age. He noted that one exception to this general rule is for governmental employers who impose mandatory retirement ages for public safety officers under a bona fide law enforcement retirement plan. He said PERS does not know whether eligible employees under the new plan are subject to a mandatory retirement age rule from their employers and thus the plan may not be a bona fide law enforcement plan under the Act. He said the bill draft does not contain an appropriation and the PERS Board recommends that it be funded. He said the vesting and forfeiture provisions should be reworked to address board concerns. Also, he said, the defined contribution plan does not coordinate well with the defined benefit plan, and these coordination issues should be addressed.

Chairman Grande recognized Ms. Shelley Seeberg, Area Director, American Federation of State, County, and Municipal Employees. She discussed (Appendix K) the association's objections to the bill draft.

Chairman Grande recognized Ms. Teresa Shaffer. She said she supports enhanced retirement benefits for correctional officers, but as a single mother she would be unable to afford an additional employee contribution to a defined contribution retirement plan.

It was moved by Representative Glassheim and failed for lack of a second that the committee give Employee Benefits Programs Committee Bill No. 118 a favorable recommendation.

It was moved by Representative Klein, seconded by Senator Krebsbach, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 118 no recommendation. Representatives Grande, Glassheim, Klein, and Kroeber and Senators Krebsbach and Olafson voted "aye." No negative votes were cast.

Employee Benefits Programs Committee Bill No. 111

Chairman Grande recognized Mr. Collins. He reviewed Employee Benefits Programs Committee Bill No. 111 [90111.0200] as well as the actuarial report, PERS comments and recommendations, and proposed amendments (Appendix L) for the bill draft. He said the bill draft proposes numerous administrative and technical changes to PERS as well as additional options for the PERS and Highway Patrolmen's retirement system plans and uniform group health insurance program. He said the PERS Board is proposing to withdraw the provision allowing members in the Highway Patrolmen's retirement system and PERS to purchase an additional five years of service credit in addition to the five years presently authorized. He said the board is withdrawing the provision allowing a member to designate someone other than the member's spouse as the beneficiary with the consent of the spouse and a provision allowing a member to choose a new joint and survivor beneficiary if the existing beneficiary passes away.

It was moved by Representative Klein, seconded by Representative Kroeber, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 111, as amended, a favorable recommendation. Representatives Grande, Glassheim, Klein, and Kroeber and Senators Krebsbach and Olafson voted "aye." No negative votes were cast.

Employee Benefits Programs Committee Bill No. 112

Chairman Grande recognized Mr. Collins. He reviewed Employee Benefits Programs Committee Bill No. 112 [90112.0200]. He also distributed the actuarial comments, PERS observations and recommendations, and proposed amendments (Appendix M) for the bill draft. He said the bill draft proposes to increase the employer contributions to PERS and the Highway Patrolmen's retirement system plan to fund a 2 percent increase for retirees. He said the proposed increase is a one-time, two-year only increase that would pay the increase in that time period instead of amortizing it over 20 years. Based upon the updated actuarial information, he said, the PERS Board is proposing to amend the bill draft to reflect the appropriate required contribution. He said the bill draft increases the joint and survivor benefit to 100 percent for the Highway Patrolmen's retirement system plan. Based upon the actuarial costs of this provision, he said, the board is proposing to withdraw the provision. He said the bill draft authorizes a 2 percent increase for PERS and Highway Patrolmen's retirement system retirees in January 2011. He said the board is requesting to amend the bill draft to more clearly define who is eligible for the increase. He said the change would make any retiree eligible who has at least three years of service with a participating employer. He said the bill draft expands the incentive provision for members to engage in supplemental retirement savings in the 457 deferred compensation plan to allow a member to buy up to two years of service credit in PERS at termination of employment at 9.12 percent instead of the actuarial cost. Based upon the actuarial cost, he said, the board is proposing to withdraw this provision. Finally, he said, the bill draft allows participating political subdivisions to elect if they wish to provide the 2 percent retiree increase to their retirees. He said the board is proposing to amend the bill draft to provide a late election opportunity for political subdivisions.

It was moved by Representative Klein, seconded by Senator Olafson, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 112, as amended, no recommendation. Representatives Grande and Klein and Senators Krebsbach and Olafson voted "aye." Representatives Glassheim and Kroeber voted "nay."

Employee Benefits Programs Committee Bill No. 206

Chairman Grande recognized Mr. Collins. Mr. Collins reviewed Employee Benefits Programs Committee Bill No. 206 [90206.0100], the actuarial and technical comments, and PERS Board comments and recommendations (Appendix N) for the bill draft. He said the bill draft creates a health care savings plan for all Supreme Court and district court judges. He said the bill draft appears to meet Internal Revenue Service requirements and the PERS Board is neutral on the bill draft.

It was moved by Representative Klein, seconded by Representative Glassheim, and

carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 206 a favorable recommendation. Representatives Grande, Glassheim, Klein, and Kroeber and Senators Krebsbach and Olafson voted "aye." No negative votes were cast.

UNIFORM GROUP INSURANCE PROGRAM

Chairman Grande recognized Mr. Collins. He reviewed 2009-11 uniform group health insurance plan renewal procedures (Appendix O) and distributed information concerning the renewal rate for active employees (Appendix P). He said the PERS Board expected the renewal rate to be between $794.61 and $831.21. He said the renewal bid received from Blue Cross Blue Shield of North Dakota was $846.64, a $188.56 or 28.65 percent increase over the present rate of $658.08. He said Blue Cross Blue Shield of North Dakota is projecting that it will lose between $6 million and $12 million on the state contract for the uniform group insurance program this biennium.

Employee Benefits Programs Committee Bill No. 113

Chairman Grande recognized Mr. Collins. He reviewed Employee Benefits Programs Committee Bill No. 113 [90113.0100] and discussed the actuarial comments, PERS Board comments, and a proposed amendment (Appendix Q) for the bill draft. He said the bill draft provides that the insurance rate for a non-Medicare retiree choosing single coverage is 125 percent of the active member single plan rate. Currently, he said, the non-Medicare retiree rate is 150 percent of the active member single plan rate. He said the PERS Board is proposing to fund this bill draft from reserves, and the amount available is $2 million. In order to balance the provisions of the bill draft with the available funding, he said, the board is proposing to change the ratio from the proposed 125 percent to 130 percent of the active single plan rate.

It was moved by Representative Klein, seconded by Senator Krebsbach, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 113, as amended, a favorable recommendation. Representatives Grande, Glassheim, Klein, and Kroeber and Senators Krebsbach and Olafson voted "aye." No negative votes were cast.

Employee Benefits Programs Committee Bill No. 114

Chairman Grande recognized Mr. Collins. He reviewed Employee Benefits Programs Committee Bill No. 114 [90114.0100] and discussed the actuarial comments, PERS Board recommendations, and proposed amendments (Appendix R) for the bill draft. He said the bill draft would increase the retiree health credit from $4.50 per year of service to $5.00 per year of service and fund the benefit enhancement by increasing the employer contribution from 1 percent to 1.15 percent. He said the actuarial consultant determined that the required employer contribution to fund the benefit enhancement is .14 percent and, thus, the PERS Board is proposing to reduce the increase accordingly. He said the PERS Board is not requesting an appropriation at this time. However, he said, if the increased employer contribution is not included in the executive budget, an appropriation will be requested during the upcoming legislative session.

It was moved by Senator Krebsbach, seconded by Representative Kroeber, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 114, as amended, a favorable recommendation. Representatives Grande, Glassheim, Klein, and Kroeber and Senators Krebsbach and Olafson voted "aye." No negative votes were cast.

Employee Benefits Programs Committee Bill No. 33

Chairman Grande recognized Mr. Collins. He reviewed Employee Benefits Programs Committee Bill No. 33 [90033.0300] and the actuarial report (Appendix S) prepared by Gallagher Benefit Services, Inc., for the bill draft. He said Gallagher Benefit Services, Inc., had reviewed the bill draft but limited its scope to only the potential financial, administrative, and technical compliance impacts to PERS. He said Gallagher Benefit Services, Inc., did not assess the impact of the bill draft on the state, private insurers, employers, individuals, or medical providers. He said the bill draft would add a new subgroup under the uniform group insurance program for Healthy North Dakota health insurance coverage. He said the bill draft would establish a Healthy North Dakota authority, board, and executive director. He said the Healthy North Dakota authority would offer coverage to every eligible individual in North Dakota under the age of 65, with some very limited exceptions, and would establish a funding mechanism from employers, employees, the self-employed, and all other eligible individuals. He said the bill draft would establish a standard Healthy North Dakota health benefit plan design, including prescription drugs, for all covered plan participants and establish mandated individual health care provider and network selection and reimbursement methodologies. Finally, he said, the bill draft would establish an office of outreach, enrollment, and advocacy under the authority.

It was moved by Representative Klein, seconded by Senator Olafson, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 33 an unfavorable recommendation. Representatives Grande, Glassheim, and Klein and Senators Krebsbach and Olafson voted "aye." Representative Kroeber voted "nay."

Employee Benefits Programs Committee Bill No. 84

Chairman Grande recognized Mr. Collins. He reviewed Employee Benefits Programs Committee Bill No. 84 [90084.0200]. He also reviewed the actuarial report (Appendix T) prepared by Blue Cross Blue Shield of North Dakota for the bill draft. He said the bill draft requires that all health insurance policies, including the uniform group health insurance plan, include prosthetic coverage which is at least equal to the coverage provided by Medicare. He said Blue Cross Blue Shield of North Dakota estimates the cost at 90 cents per contract per month for the 2009-11 biennium. He said the bill draft contains an appropriation to fund the enhanced benefit.

Mr. Collins noted the bill draft states that the coverage must provide for the most appropriate prosthetic model that adequately meets the medical needs of the covered individual as determined by the covered individual's treating physician. He said the PERS Board is recommending that this language be changed or eliminated.

Chairman Grande recognized Mr. Rod St. Aubyn, Blue Cross Blue Shield of North Dakota, Fargo. He said Blue Cross Blue Shield has developed a medical management policy whereby criteria is established to determine what is appropriate in a particular situation. Thus, he said, continuity is maintained and the same medical policy criteria is used rather than allowing a treating physician to determine medical needs on an individual basis.

It was moved by Representative Klein, seconded by Senator Olafson, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 184 no recommendation. Representatives Grande, Klein, and Kroeber and Senators Krebsbach and Olafson voted "aye." Representative Glassheim voted "nay."

Employee Benefits Programs Committee Bill No. 124

Chairman Grande recognized Mr. Collins. He reviewed Employee Benefits Programs Committee Bill No. 124 [90124.0200] as well as the actuarial report (Appendix U) for the bill draft. 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 the cost of the proposal at $4.04 per contract per month which has been included in the appropriation attached to the bill draft.

Chairman Grande recognized Mr. St. Aubyn. He said the provision that screening will be done in accordance with guidelines established by the American Cancer Society or the American College of Gastroenterology is an unconstitutional delegation of legislative authority and the bill draft is likely unconstitutional.

It was moved by Representative Klein, seconded by Senator Krebsbach, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 124 an unfavorable recommendation. Representatives Grande and Klein and Senators Krebsbach and Olafson voted "aye." Representatives Glassheim and Kroeber voted "nay."

Employee Benefits Programs Committee Bill No. 125

Chairman Grande recognized Mr. Collins. He reviewed Employee Benefits Programs Committee Bill No. 125 [90125.0100] as well as the actuarial information (Appendix V) prepared by Gallagher Benefit Services, Inc. He said the bill draft would expand 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.

Representative Kroeber said health insurance is a very important issue both nationally and at the state level. He said this bill draft provides a mechanism or vehicle for the discussion to be carried forward into the 61st Legislative Assembly. Thus, he said, this bill draft should be given a favorable recommendation so the issue of health care access and affordability may be discussed during the upcoming legislative session.

In response to Representative Kroeber's comments, Senator Krebsbach said she does not see this bill draft as a solution to the health care problem.

It was moved by Senator Krebsbach, seconded by Senator Olafson, and carried on a roll call vote that the committee give Employee Benefits Programs Committee Bill No. 125 an unfavorable recommendation. Representatives Grande and Klein and Senators Krebsbach and Olafson voted "aye." Representatives Glassheim and Kroeber voted "nay."

RECRUITMENT AND RETENTION BONUS REPORT

Chairman Grande called on Mr. Ken Purdy, Manager, Classification and Compensation, Human Resource Management Services, Office of Management and Budget. He reviewed a report (Appendix W) on the implementation, progress, and bonuses provided by state agency programs to provide bonuses to recruit and retain employees in hard-to-fill positions. He said eight agencies have provided 404 recruitment bonuses totaling $379,263 from July 1, 2007, through October 31, 2008. He said agencies utilizing recruitment bonuses include the Information Technology Department, the Commission on Legal Counsel for Indigents, the Department of Human Services, the Department of Mineral Resources of the Industrial Commission, the Bank of

North Dakota, the Highway Patrol, the Department of Corrections and Rehabilitation, and the Department of Transportation. He said that five agencies have issued 195 retention bonuses totaling $419,471 during the same period. Agencies utilizing the retention bonus program, he said, include the State Auditor, Department of Human Services, Mineral Resources Division of the Industrial Commission, Bank of North Dakota, and the Department of Transportation.

STATE EMPLOYEE COMPENSATION STUDY

Chairman Grande called on Mr. Gordy L. Smith, Audit Manager, State Auditor's office. He discussed information on the types of expenditures the committee may wish to address in bill drafts relating to state employee service awards, employer-paid tuition, and employer-paid professional organization membership and service club dues (Appendix X). He said based upon work conducted by the State Auditor's office, it appears that most state entities feel that the current guidance in place provides sufficient direction regarding expenditures and no further clarification is necessary. He said it appears agencies feel that if additional guidance is necessary they are able to obtain that guidance from the Office of Management and Budget. However, he said, specific types of expenditures for which the committee may wish to consider providing additional clarification include membership dues to service clubs, membership dues to local and state chambers of commerce, employee memberships in professional organizations, and individual state entity awards to employees for accomplishments established by the state entity.

At the request of Chairman Grande, committee counsel reviewed two bill drafts [90242.0200] and [90243.0200] relating to state employee service awards, employer-paid tuition, and employer-paid professional organization membership and service club dues. He said one bill draft is specific and details the type of service awards that will be allowed upon the completion of a certain number of years of service while the other bill draft is more general in nature.

Representative Glassheim said the bill draft should require each agency to submit its rules to the Office of Management and Budget for review. He said if the Office of Management and Budget approves the rules, the expenditure made pursuant to the rules should be decriminalized. He said nonclassified agencies should submit their rules to the Office of Management and Budget for review and the Office of Management and Budget note any concerns and report them to the Legislative Audit and Fiscal Review Committee.

In response to a question from Representative Grande, Representative Glassheim said the Administrative Rules Committee may be a more appropriate committee to review the rules.

It was moved by Representative Klein, seconded by Representative Glassheim, and carried on a voice vote that the bill draft relating to state employee service awards, employer-paid tuition, and employer-paid professional organization membership and service club dues generally be amended to provide that, notwithstanding any other provision of law, all agencies, whether classified or nonclassified, shall submit their rules or policies to the Office of Management and Budget for review and comment and then submit them to the Administrative Rules Committee for review.

Chairman Grande recognized Ms. Laurie Sterioti Hammeren, Director, Human Resource Management Services, Office of Management and Budget. She discussed the bill drafts relating to state employee service awards, employer-paid tuition, and employer-paid professional organization membership and service club dues (Appendix Y). She said Human Resource Management Services believes that nonclassified agencies should report directly to the Legislative Council rather than the Office of Management and Budget. Concerning employer-paid tuition assistance, she said, if repayment is required at all, it should be prorated.

It was moved by Representative Klein, seconded by Representative Glassheim, and carried on a voice vote that the bill draft relating to state employee service awards, employer-paid tuition, and employer-paid professional organization membership and service club dues generally be amended to provide that employees who receive employer-paid tuition who leave employment within two years of receiving the tuition must repay the tuition on a prorated basis.

Ms. Sterioti Hammeren emphasized that rather than requiring agencies to report to the Office of Management and Budget, agencies, if required to report, should report to the Legislative Council.

Representative Kroeber said with all of the reporting requirements contained in the bill, Section 4, providing that an expenditure made pursuant to a rule or policy adopted pursuant to the Act is not a criminal offense, should be removed.

It was moved by Representative Kroeber and failed for lack of a second that Section 4 of the bill draft be removed.

Representative Glassheim presented a bill draft [90259.0100] to provide an appropriation for a state employee tuition reimbursement program pool. He said this appropriation should be added to the bill draft relating to state employee service awards, employer-paid tuition, and employer-paid professional organization membership and service club dues.

It was moved by Representative Glassheim, seconded by Representative Kroeber, and failed on a voice vote that the bill draft be amended to include an appropriation of $1 million from the general fund to provide a state employee tuition reimbursement program pool.

It was moved by Representative Klein, seconded by Representative Glassheim, and

carried on a roll call vote that the amended bill draft relating to state employee service awards, employer-paid tuition, and employer-paid professional organization membership and service club dues generally be approved and recommended to the Legislative Council. Representatives Grande, Glassheim, and Klein and Senators Krebsbach and Olafson voted "aye." Representative Kroeber voted "nay."

At the request of Chairman Grande, committee counsel reviewed a bill draft relating to the state employee performance bonus program [90244.0100].

Chairman Grande recognized Ms. Sterioti Hammeren. She said the exception authority contained in the bill draft may be problematic in that the statute applies to all agencies and institutions, including agencies and institutions expressly excluded from Human Resource Management Services jurisdiction. She said evaluating exceptions in cases in which Human Resource Management Services has no overall authority or involvement would be very difficult. She said Human Resource Management Services does not have full understanding or base information for making these decisions. An alternative, she said, might be to have those entities not under Human Resource Management Services jurisdiction report their exceptions to the Legislative Council or an assigned legislative committee.

It was moved by Representative Klein, seconded by Representative Glassheim, and carried on a roll call vote that the bill draft relating to the state employee performance bonus program be approved and recommended to the Legislative Council. Representatives Grande, Glassheim, and Klein and Senators Krebsbach and Olafson voted "aye." Representative Kroeber voted "nay."

At the request of Chairman Grande, committee counsel reviewed a bill draft relating to state recruitment and retention bonus programs [90245.0100].

Chairman Grande recognized Ms. Sterioti Hammeren. She said the proposed language does mirror the rationale agencies have been using to consider their recruiting and retention bonuses under this section. However, she said, if another reason is later identified and is not listed in statute, the detail could be counterproductive. She said Human Resource Management Services proposes that permissive language such as "or other unique recruitment or retention issues identified and documented by the appointing authority" could be added to the section. She said the state is in very difficult times regarding recruitment and retention of staff and if detail is to be identified, Human Resource Management Services prefers broad permissive language.

It was moved by Representative Klein, seconded by Representative Glassheim, and carried on a voice vote that the bill draft relating to state recruitment and retention bonus programs be amended to add "or other unique recruitment or retention issues identified and documented by the appointed authority" at the end of North Dakota Century Code Section 54-06-31(5).

It was moved by Representative Klein, seconded by Representative Glassheim, and carried on a roll call vote that the amended bill draft relating to state recruitment and retention bonus programs be approved and recommended to the Legislative Council. Representatives Grande, Glassheim, Klein, and Kroeber and Senators Krebsbach and Olafson voted "aye." No negative votes were cast.

It was moved by Representative Klein, seconded by Senator Krebsbach, and carried on a roll call vote that the chairman and the staff of the Legislative Council be requested to prepare a report and the bill drafts recommended by the committee and to present the report and recommended bill drafts to the Legislative Council. Representatives Grande, Glassheim, Klein, and Kroeber and Senators Krebsbach and Olafson voted "aye." No negative votes were cast.

Chairman Grande announced the committee may meet during the organizational session to consider amendments to Employee Benefits Programs Committee Bill No. 118.

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

Jeffrey N. Nelson
Committee Counsel

ATTACH:25