

# NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

## EMPLOYEE BENEFITS PROGRAMS COMMITTEE

Tuesday, August 21, 2001  
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, Glen Froseth, Joe Kroeber, Wayne W. Tieman; Senators Ralph L. Kilzer, Karen K. Krebsbach, Stanley W. Lyson

**Members absent:** Representative Francis J. Wald; Senator Tim Mathern

**Others present:** See Appendix A

Chairman Grande announced that she had appointed Senator Ralph L. Kilzer to serve as vice chairman of the committee.

At the request of Chairman Grande, Mr. John D. Olsrud, Director, Legislative Council, reviewed the Legislative Council's supplementary rules of operation and procedure.

At the request of Chairman Grande, committee counsel reviewed a memorandum entitled *Employee Benefits Programs Committee - Background Memorandum* describing the statutory duties and past procedures of the Employee Benefits Programs Committee. He said the committee was established in response to difficulties experienced in past legislative sessions resulting from inadequate prior study of the actuarial impacts of proposed legislative changes in retirement programs. He also reviewed the statutory authority of the committee, procedures for solicitation and review of retirement proposals, additional committee responsibilities, and actuarial services retained by the committee in the past. He also distributed copies of the May 2001 *Retirement Today* and May 2001 *Report Card* newsletters, copies of which are on file in the Legislative Council office.

**It was moved by Senator Lyson, seconded by Senator Krebsbach, and carried on a roll call vote that the committee only accept legislative proposals affecting retirement programs that are submitted to the committee by legislators and state agencies with the bill introduction privilege, that the proposals must be in bill draft form, and that the proposals must be submitted to the committee prior to April 1, 2002.** Representatives Grande, Froseth, and Tieman and Senators Kilzer, Krebsbach, and Lyson voted "aye." No negative votes were cast.

### OVERVIEW OF RETIREMENT, INSURANCE, AND RETIREE HEALTH INSURANCE PROGRAMS

Mr. Steve Cochrane, Executive Director, Retirement and Investment Office, presented an overview of the state's investment program. A copy of the screens used by Mr. Cochrane in his PowerPoint presentation is attached as Appendix B; a copy of the Comprehensive Annual Financial Report for the fiscal year ended June 30, 2000, for the North Dakota Retirement and Investment Office, distributed by Mr. Cochrane, is on file in the Legislative Council office; and a copy of *The Callan Periodic Table of Investment Returns*, distributed by Mr. Cochrane, is attached as Appendix C. His presentation included a program review of the State Investment Board, the Retirement and Investment Office, and the funds managed by the State Investment Board. *The Callan Periodic Table of Investment Returns* shows the annual returns of various key indices from 1981 through 2000 ranked in order of performance.

Mr. Cochrane said the Teachers' Fund for Retirement is currently composed of 70 percent equity and 30 percent fixed income assets. He said the cumulative return for the five years ending June 30, 2000, for the Teachers' Fund for Retirement was 14.24 percent. However, he said, the return for fiscal year 2001 has been a negative 7.31 percent, and thus, the cumulative return for the five years ending June 30, 2001, has been 9.36 percent. In summary, he said, the recent absolute return for the Teachers' Fund for Retirement has been down while the relative performance has been outstanding. He said the Public Employees Retirement System fund is invested less aggressively than is the Teachers' Fund for Retirement and thus is only off 4.12 percent for fiscal year 2001. He said the cumulative return for the Public Employees Retirement System fund for the five years ending June 30, 2000, was 14.24 percent while the cumulative return for the five years ending June 30, 2001, was 9.97 percent.

Ms. Fay Kopp, Deputy Executive Director, Retirement and Investment Office, presented an overview of the Teachers' Fund for Retirement. A copy of the overheads used by Ms. Kopp in her presentation is attached as Appendix D and a Teachers' Fund for Retirement member handbook, copies of which she

distributed, is on file in the Legislative Council office. She discussed the structure of the Teachers' Fund for Retirement Board, the goals of the Teachers' Fund for Retirement, the history of Teachers' Fund for Retirement plan improvements, plan demographics, Teachers' Fund for Retirement plan benefits, and the financial and actuarial status of the Teachers' Fund for Retirement. She said the mission of the Teachers' Fund for Retirement, a trust fund, is to advocate for, develop, and administer a comprehensive retirement program for all trust fund members within the resources available. She said the goals of the Teachers' Fund for Retirement are to provide a replacement income equal to 60 percent of the final average salary of a career employee who has 30 or more years of credited service; to provide ad hoc biennial benefit increases and 2 percent annual benefit increases to retired members and beneficiaries to provide income protection and assist retirees in accessing affordable health insurance; and to continue providing statewide preretirement planning services and benefits counseling to members. She said both the employer and employee contribution rates were increased from 6.75 percent to 7.75 percent in 1997. As a result, she said, the multiplier has been increased faster and higher than it otherwise could have been. She said North Dakota school districts contribute 7.75 percent while the national average is 9.50 percent, and North Dakota teachers contribute 7.75 percent while the national average is 6.80 percent. Thus, she said, North Dakota school districts contribute less than the national average, and North Dakota teachers contribute more than the national average. She said the Teachers' Fund for Retirement Board of Trustees has determined to have a retiree benefits study conducted for the fund. She said the firm of Gabriel, Roeder, Smith, and Company will conduct the study for the board. She said Gabriel, Roeder, Smith, and Company is acquiring the United States public sector retirement practice of Watson Wyatt, effective August 31, 2001. She said the study will examine the different levels of benefits being received by Teachers' Fund for Retirement beneficiaries, compare the Teachers' Fund for Retirement benefit package to see if it is comparable with those offered by other teacher pension plans, and explore options for future benefit improvements. She said the Teachers' Fund for Retirement Board of Trustees will use the retiree benefits study results to formulate 2003 legislative proposals.

In response to a question from Representative Kroeber, Ms. Kopp said the Teachers' Fund for Retirement Board of Trustees has noticed an increase in the number of disability claims. She said the fund experienced an average of approximately 5 to 7 disability claims 10 years ago, and this number has increased to 12 to 14 claims per year. However, she said, this number is very small when compared to the

total number of retirements. She said the board is monitoring the number of disability claims.

Mr. Sparb Collins, Executive Director, Public Employees Retirement System, presented an overview of the Public Employees Retirement System. A copy of the overheads used in Mr. Collins' presentation is attached as Appendix E. He discussed the retirement, group insurance, flex comp, and employee assistance programs administered by the Public Employees Retirement System. He said the Public Employees Retirement System has four defined benefit plans, two defined contribution plans, and a retiree health insurance program and provides administrative services for the prior judges, Job Service North Dakota, and Job Service North Dakota retiree health programs. He said the goals of the Public Employees Retirement System are to provide 90 percent of final average salary with Social Security for career employees and to maintain the purchasing power of retirement benefits. Concerning the July 1, 2000, valuation, he said, all systems have positive contribution margins, and benefit improvements are reflected in all liabilities. He said the return on valuation assets exceeded the return on the market value of assets, and the funded ratio is near or above 100 percent for all plans except the retiree health insurance credit fund. He also distributed a summary of investment options for the Public Employees Retirement System deferred compensation plan for 2000-01. A copy of the summary is on file in the Legislative Council office.

### **LAW ENFORCEMENT AND CORRECTIONAL OFFICER RETIREMENT PROGRAM STUDY**

At the request of Chairman Grande, committee counsel presented a memorandum entitled *Law Enforcement and Correctional Officer Retirement Program Study - Background Memorandum*. The memorandum discusses the North Dakota Highway Patrolmen's retirement system and law enforcement and correctional officer retirement programs in South Dakota, Montana, and Minnesota.

Mr. Collins addressed the committee. He distributed a summary of the Public Employees National Guard retirement plan and Public Employees Highway Patrolmen's retirement plan, which is attached as Appendix F and a memorandum from Mr. Roderick B. Crane and Ms. Leslie Thompson of The Segal Company, the actuarial consultant for the Public Employees Retirement System, concerning the law enforcement retirement study, a copy of which is attached as Appendix G. He said both the National Guard and the Highway Patrolmen's retirement plans highlight the issue of plan design. He said both plans are based on the premise that members can retire at age 55 with normal retirement benefits. The difference in the two plans, he said, is that Highway Patrol officers do not participate in the federal Social

Security system while National Guard employees do, and thus, the contributions necessary to fund the Highway Patrol retirement benefit are much higher.

Mr. Wayne Stenehjem, Attorney General, addressed the committee. He said the state of North Dakota must take steps to retain quality, experienced police officers in North Dakota. He said North Dakota law enforcement officials are well-respected in the law enforcement community, and out-of-state law enforcement agencies are actively recruiting North Dakota police officers, often using better benefit packages to do so. He said this actually increases law enforcement costs to North Dakota residents because of the training costs that are spent on officers who later leave the state. He said providing additional salaries for law enforcement officials may be difficult, but one solution to the recruitment and retention problem would be to review and enhance retirement benefits for law enforcement personnel in North Dakota. In summary, he said, this issue is very important for North Dakota and is similar to the issues faced by the Legislative Assembly last session concerning teacher compensation.

Colonel James M. Hughes, Superintendent, Highway Patrol, addressed the committee. He said the active members as well as the beneficiaries of the Highway Patrolmen's retirement system are very appreciative of the retirement system the Legislative Assembly has established. He said the system currently has 59 pensioners and one disabled beneficiary. He said many enhancements have been made to the system over the years, and the normal retirement age is age 55 or the Rule of 80. He said the chief benefit, as far as the Highway Patrol is concerned, is the fact that officers can retire with full benefits at age 55. He said law enforcement is a very stressful and physically demanding job, and allowing members to retire at age 55 is very beneficial to the Highway Patrol. Also, he said, the agency also benefits because a highly paid officer can retire at age 55 and be replaced by a younger officer at an entry-level salary.

Mr. Tim Schuetzle, Warden and Director, Prisons Division, Department of Corrections and Rehabilitation, addressed the committee. A copy of Mr. Schuetzle's written comments is attached as Appendix H. He said the Prisons Division has 381 employees, but not all of them deal directly with inmates and thus may not be eligible for a separate law enforcement retirement system. He said if only officers in the correctional officer's series were eligible, excluding nurses, teachers, and maintenance people, there would be 254 eligible employees. Also, he said, there are 45 employees at the Youth Correctional Center who are in the correctional officer's series and thus would be eligible for a separate law enforcement officer's retirement program. He said the average age of employees in the prison system is increasing, and older employees may have difficulty

dealing with young inmates, which in turn compromises the security of the prison. He said the prison system has suffered retention problems with at least 10 officers moving to other states or the Federal Bureau of Prisons. He said these states as well as the Federal Bureau of Prisons have a better retirement system in that they permit an employee to retire with full benefits at a younger age.

Mr. Warren R. Emmer, Director, Field Services Division, Department of Corrections and Rehabilitation, addressed the committee. A copy of Mr. Emmer's written comments is attached as Appendix I. He said the Field Services Division supervises 3,500 offenders and is composed of 54 sworn staff and 14 correctional officers. He said all sworn staff are peace officers, all sworn and correctional staff work directly with people who have committed serious criminal acts, and many staff are growing older and are still in "harm's way."

Mr. Roger Rostvet, Deputy Director, Game and Fish Department, addressed the committee. He said the department supports a study of providing separate retirement benefits for law enforcement officers that, in the case of the Game and Fish Department, are game wardens. He said the department consists of 136 employees, 31 of whom are game wardens. He said the Game and Fish Department would support a retirement system with a Rule of 80 for law enforcement personnel. He said game wardens perform physically demanding work, much of it outdoors and in inclement weather. He said two game wardens have suffered fatal heart attacks while on the job in the last 10 years. In summary, he said, a separate retirement system with a lower normal retirement age for law enforcement officers would enhance the morale and efficiency of the department.

Mr. Paul Hendrickson, Griggs County Sheriff, Cooperstown, and immediate Past President, North Dakota Sheriffs and Deputies Association, addressed the committee. He said the Sheriffs and Deputies Association strongly supports the study. He said members of the Sheriffs and Deputies Association realize that in order to provide a lower retirement age, employee contributions may have to be increased. Also, he said, most sheriff's departments participate in the federal Social Security system, and thus, it may not be appropriate to include these employees in the Highway Patrolmen's retirement system but to establish a separate retirement system for these individuals. He said it is becoming increasingly difficult to attract quality applicants and to retain these individuals once they are employed.

In response to a question from Senator Kilzer, Mr. Hendrickson said there is a chief deputy in each of the 53 counties, but he said he did not know the total number of law enforcement personnel employed in county law enforcement. He said there are currently at least five vacant deputy positions in county government. He said the California Highway

Patrol, the Los Angeles Police Department, and various Arizona law enforcement agencies have all been recruiting in North Dakota.

Mr. Alan Erickson, President, North Dakota County Commissioners Association, Carpio, addressed the committee. A copy of his written comments is attached as Appendix J.

Mr. Jerald C. Kemmet, Bureau of Criminal Investigation, addressed the committee. He said there are approximately 1,800 licensed peace officers in the state of North Dakota.

Ms. Connie Sprynczynatyk, Executive Director, North Dakota League of Cities, addressed the committee. A copy of her written comments is attached as Appendix K. She said there are a myriad of retirement programs in existence in North Dakota which provide differing levels of benefits and eligibility.

Mr. Daryl Vance, Chief, Watford City Police Department and immediate past president, North Dakota Chiefs of Police Association, addressed the committee. In addition to the problems and concerns identified by previous speakers, he said, an additional problem is the fact that some political subdivisions may not have retirement programs. He said he was familiar with one individual who after a number of years of service for a political subdivision with a retirement program transferred to a political subdivision that did not have a retirement program. Another result, he said, of allowing law enforcement officers to retire earlier would be lower workers' compensation rates because of fewer injuries on the job and lessened liability because older law enforcement officers who are more likely to cause a liability problem for a political subdivision would be retired.

Ms. Deborah Ness, Chief, Bismarck Police Department, addressed the committee. She distributed a copy of a 2001 benefits survey final report prepared for the city of Bismarck by Fox Lawson & Associates, which is on file in the Legislative Council office. She said North Dakota prides itself on having a low crime rate that is good for economic development in the state. She said the state should do everything within its power to preserve this low crime rate, and one way to do so would be to provide enhanced retirement benefits for law enforcement officers. She said the Bismarck Police Department is in the process of filling several vacancies and received 52 applications, five of which met the standards of the department. Some people have said the department should lower its standards in order to attract more applicants, she said, but she is not willing to do this. Rather than lowering standards, she said, the department should be more competitive when it comes to salaries and benefits. She said the Bismarck Police Department does not participate in the federal Social Security system. The average salary for a Bismarck police officer, she said, is \$34,370, the multiplier is 2.0 percent, and with 30 years of service the retirement benefit would be \$20,622, without Social Security or

Medicare. Deducting \$777 per month for a family plan for health insurance, she said, leaves an annual retirement benefit of \$11,298 for the average Bismarck police officer. For an officer with 25 years of service, she said, the average annual retirement benefit is \$7,861 per year. She said an annual retirement benefit of \$11,298 for an officer with 30 years of service or \$7,861 per year for an officer with 25 years of service is not acceptable. Also, she said, the average life expectancy for a police officer is 57 to 59 years of age, and requiring a police officer to work until age 60 to increase that person's retirement benefit will have little impact as most officers will not live to collect it. She said the Bismarck Police Department has 115 employees and 30 individuals receiving retirement benefits. Of the 30 individuals receiving retirement benefits, she said, 8 are disability beneficiaries, 13 are surviving spouses, and 9 are retirees. Of the nine retirees, she said, five retired in the last five years, and thus, only four of the 30 Bismarck Police Department beneficiaries have been retired for longer than five years.

In response to a question from Representative Grande, Ms. Ness said Bismarck Police Department officers contribute 6 percent of salary, and the city is required to contribute up to three mills, which has been as much as \$300,000 to \$400,000 per year and much less in other years.

In response to a question from Representative Froseth, Ms. Ness said many police departments, including Bismarck and Minot, do not participate in the federal Social Security system.

Mr. Pat Heinert, Deputy, Burleigh County Sheriff's Department, addressed the committee. He distributed a resolution from the North Dakota Peace Officers Association supporting the study, a copy of which is attached as Appendix L. He said there are approximately 1,800 licensed peace officers in the state, 125 of whom are Highway Patrol officers. This number, he said, does not include Penitentiary guards but includes parole and probation staff and game wardens. In addition, he said, there are approximately 250 to 300 individuals employed by county correctional facilities who are not licensed peace officers.

Mr. Robert Roggenbuck, Chief, Medora Police Department, and President, North Dakota Chiefs of Police Association, addressed the committee. He said the study is very important to law enforcement officers in the state and is supported by the North Dakota Chiefs of Police Association.

## STAFF DIRECTIVES

Representative Grande requested the Legislative Council staff survey political subdivisions to determine whether they participate in the federal Social Security system, whether they have law enforcement retirement plans, and if so, whether they would consider merging their plans with a new state plan. She said

the survey of political subdivisions should include the number of peace officers and correctional officers employed by each political subdivision. She said the Legislative Council should also survey state agencies with law enforcement or corrections responsibilities to determine the number of employees who may be eligible for a new law enforcement and correctional retirement plan.

Representative Froseth requested the Legislative Council staff provide information on law enforcement and correctional retirement plans in Kansas, Nebraska, and Wyoming.

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

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Jeffrey N. Nelson  
Committee Counsel

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John D. Olsrud  
Director

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