NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

EMPLOYEE BENEFITS PROGRAMS COMMITTEE

Tuesday, August 30, 2005
Harvest Room, State Capitol
Bismarck, North Dakota

Representative Matthew M. Klein, Chairman, called the meeting to order at 10:00 a.m.

Members present: Representatives Matthew M. Klein, Al Carlson, Joe Kroeber, Ken Svedjan, Francis J. Wald; Senators Ray Holmberg, Carolyn Nelson

Members absent: Senators Ralph L. Kilzer, Karen K. Krebsbach

Others present: See attached appendix

Mr. Jim W. Smith, Legislative Budget Analyst and Auditor, reviewed the *Supplementary Rules of Operation and Procedure of the North Dakota Legislative Council*.

Chairman Klein said a number of state and local government pension plans have concerns with their high amount of unfunded liabilities. He said this committee is responsible for reviewing the soundness of North Dakota's pension plans.

The Legislative Council staff presented a memorandum entitled *Employee Benefits Programs Committee - Background Memorandum*. The memorandum includes information on the committee's statutory duties, the state employee compensation study directed by Section 28 of 2005 House Bill No. 1015, and other committee responsibilities.

The Legislative Council staff said the Employee Benefits Programs Committee is a statutory committee created by the 1977 Legislative Assembly.

REVIEW OF RETIREMENT AND HEALTH PROPOSALS

The Legislative Council staff said the major statutory responsibilities of the committee relate to its responsibility to review measures and proposals affecting retirement or health insurance programs. Major provisions include:

1. North Dakota Century Code (NDCC) Section 54-35-02.4(1) requires the committee to consider and report on those legislative measures or proposals over which it takes jurisdiction and which affect, actuarially or otherwise, the retirement programs of state employees or employees of any political subdivision and health and retiree health plans of state employees or employees of any political subdivision. The committee is required to make a "thorough review" of any measure or proposal that it takes under its jurisdiction, including an actuarial review, and is required to report its findings and recommendations, along with any necessary legislation, to the Legislative Council and to the Legislative Assembly. The committee is required to take jurisdiction over any measure or proposal that authorizes an automatic increase or other change in benefits beyond the ensuing biennium which would not require legislative approval and include in the report of the committee a statement that the proposal would allow future changes without legislative involvement.
2. Section 54-35-02.4(2) authorizes the committee to:
   a. Enter into contracts with an actuary or actuarial firm for expert assistance and consultation. Each retirement, insurance, or retiree insurance program must pay for the cost associated with any actuarial report required by the committee relating to that program.
   b. Request assistance from state agencies or political subdivisions, as needed.
   c. Establish rules for its operation, including the submission and review of proposals and standards for actuarial review.
3. Section 54-35-02.4(3) authorizes the committee to solicit draft measures and proposals from interested persons during the interim between legislative sessions and to study measures and proposals referred to it by the Legislative Assembly or Legislative Council.
4. Section 54-35-02.4(4) requires that a copy of the committee's report concerning any legislative measure, if the measure is introduced for consideration by the Legislative Assembly, be attached to a copy of that measure which is referred to a standing committee.

STATE EMPLOYEE COMPENSATION STUDY

The Legislative Council staff said the committee has been assigned, pursuant to Section 28 of

2005 House Bill No. 1015, a study of issues relating to state employee compensation. The Legislative Council staff provided background information on a number of areas relating to state employee compensation, including employees, compensation, salary increases, equity adjustments, retirement and health insurance benefits, and leave policies.

Employees

North Dakota state agencies are authorized to employ 10,631.95 full-time equivalent (FTE) positions for the 2005-07 biennium. Of this total, 2,194.42 relate to higher education positions paid for with funding from the general fund and 8,437.53 to positions in all other agencies.

There are two types of state employees--classified and unclassified. Classified state employees are under the jurisdiction of the classification system administered by Human Resource Management Services, a division of the Office of Management and Budget (OMB). The classification system includes 20 pay grades. Each job title is assigned to a pay grade and each pay grade identifies the salary range that employees within that pay grade may be paid. There are approximately 6,400 classified state employees. All other employees are considered unclassified. Unclassified employees include elected and appointed officials and their deputies; employees of the legislative and judicial branches; employees of higher education; the Mill and Elevator, Workforce Safety and Insurance, and Department of Commerce; and physicians and teachers. The University System has its own system of categorizing employee positions called the "broadband" system.

Compensation

State employee compensation consists of two components--salaries and fringe benefits. Except for elected officials, whose salaries are set in state statute, all other state employee salary levels are set by the governing body or supervisory personnel of each agency. For classified state employees, salary levels are determined by supervisory personnel within the agency based on the salary range for the employee's assigned pay grade as established by Human Resource Management Services and total salaries for the biennium must be within the agency's salaries and wages line item appropriation approved by the Legislative Assembly. Unclassified employees' salary levels are determined by the governing body or supervisory personnel of the agency and total salaries for the biennium must be within the agency's salaries and wages line item appropriation approved by the Legislative Assembly.

Fringe benefits for state employees include:

1. Social Security/Medicare benefits - 7.65 percent of salary provided by the employee and 7.65 percent of salary provided by the state.
2. Retirement benefits - Percentage varies by type of employee.
3. Single or family health insurance policy paid for by the state.
4. Term life insurance policy with a value of $1,300 at a cost of 28 cents per month per employee.
5. Employee assistance program paid for by the state at a cost of $1.35 per month per employee. This program provides guidance and counseling or to determine the appropriate diagnosis or course of treatment to employees and their eligible dependents in cases of alcoholism, drug abuse, or other personal problems.
6. Annual leave, sick leave, family leave, funeral leave, and holiday leave.
7. Workers' compensation.
8. Unemployment insurance.

Salary Increase History

The following is a summary of state employee salary increases and the cost of providing salary increases for the 1997-99 through 2005-07 bienniums:

STATE EMPLOYEE SALARY INCREASES				
Biennium	Percentage Increase	General Fund	Special Funds	Total
1997-99	3% on July 1, 1997 (includes 1.5% for merit) and 3% on July 1, 1998 (includes 1.5% for merit)	$24,304,117	$12,520,861	$36,824,978
1999-2001	2% with a $35 per month minimum on July 1, 1999, and 2% with a $35 per month minimum on July 1, 2000	$17,681,836	$9,633,401	$27,315,237
2001-03	3% with a $35 per month minimum on July 1, 2001, and 2% with a $35 per month minimum on July 1, 2002	$27,043,178	$12,493,632	$39,536,810
2003-05	Up to 1% on January 1, 2004, and up to 2% on January 1, 2005 (based on the elimination of positions and savings from vacant positions)			$0
2005-07	4% on July 1, 2005, and 4% on July 1, 2006	$19,778,486	$21,746,666	$41,525,152

For the 2005-07 biennium, a 1 percent state employee salary increase, excluding higher education institutions, costs an estimated $3.5 million per year, of which $1.6 million is from the general fund and $1.9 million from federal or special funds.

Equity Adjustments

In recent bienniums, the Legislative Assembly has provided funding, in addition to general across-the-board salary increases, for pay or market equity adjustments for state employees. The funding has been appropriated either to OMB to distribute to classified state employees in various agencies or directly to selected agencies. The schedule below presents the funding appropriated by the Legislative Assembly for these equity increases since the 1999-2001 biennium:

	General Fund	Special Funds	Total
1999-2001 Biennium			
Equity adjustments - Classified employees	$2,700,000	$2,700,000	$5,400,000
University System salary pool	2,685,227		2,685,227
Merit increases - Department of Transportation engineers		800,000	800,000
Equity adjustments - Elected and appointed officials	77,000	22,000	99,000
Equity increases for Information Technology Department programmers and analysts		317,644	317,644
Equity increases for State Auditor's office	38,000		38,000
Public Employees Retirement System		33,574	33,574
Department of Public Instruction information technology staff	72,444		72,444
Agricultural Experiment Station/Extension Service, Transportation Institute, Northern Crops Institute	422,400		422,400
Total 1999-2001	$5,995,071	$3,873,218	$9,868,289
2001-03 Biennium			
Equity adjustments - Classified employees	$2,700,000	$2,300,000	$5,000,000
Pay grade minimum adjustments - Classified employees	360,797	131,505	492,302
Equity adjustments - Elected and appointed officials	142,697	35,536	178,233
Equity adjustments - Supreme Court and district court judges	724,451		724,451
Equity adjustments - Department of Corrections and Rehabilitation	422,528		422,528
Equity adjustments - Department of Transportation		1,200,000	1,200,000
Total 2001-03	$4,350,473	$3,667,041	$8,017,514
2003-05 Biennium			
Equity adjustment - Legislative Council	$150,000		$150,000
Equity adjustment - Public Employees Retirement System		$80,362	80,362
Equity adjustment - Attorney General's office for assistant attorneys general		241,024	241,024
Equity adjustment - Department of Human Services Program and Policy Division		131,784	131,784
Equity adjustment - Department of Financial Institutions		167,000	167,000
Equity adjustment - Department of Corrections and Rehabilitation Juvenile Services Division	99,856		99,856
Total 2003-05	$249,856	$620,170	$870,026
2005-07 Biennium			
Equity adjustment - Department of Corrections and Rehabilitation	$1,500,000		$1,500,000
Equity adjustment - Highway Patrol	166,258	$28,209	194,467
Total 2005-07	$1,666,258	$28,209	$1,694,467

Retirement

North Dakota Century Code Chapter 54-52 provides that employees who are 18 years of age or older, whose services are not limited in duration and who are filling an approved and regularly funded position in an eligible governmental unit, and are employed at least 20 hours per week at least 20 weeks each year are eligible to participate in the state retirement system. The system consists of two plans--the defined benefits plan administered by the Public Employees Retirement System (PERS) and the defined contribution plan. Only certain employees are eligible to participate in the defined contribution plan. Pursuant to Chapter 54-52.6, a permanent state employee, except an employee of the judicial branch or an employee of the State Board of Higher Education and state institutions under the jurisdiction of the board, who is in a position not classified by Human Resource Management Services of the Office of Management and Budget may elect to participate in the defined contribution retirement plan.

The defined contribution plan allows the participating employee to control the investment of funds in the employee's own retirement account into which the employee and state contributions are deposited.

Retirement benefits are dependent upon the employee's account value at retirement.

Under the defined benefits plan, funds contributed are maintained by the employer and the investment of the funds is controlled by the employer. Retirement benefits are specified for participants in the plan. Separate retirement plans are maintained for state employees dependent on the type of position being filled, including the main retirement system (9.12 percent state contribution), Highway Patrolmen's retirement system (21.7 percent state contribution), judges' retirement system (19.52 percent state contribution), National Guard law enforcement retirement system (9.12 percent or 13.33 percent state contributions), Job Service retirement system (no state contributions), Teachers' Fund for Retirement (11.75 percent state contribution), and higher education retirement (TIAA-CREF) systems (state contribution varies based on position type from 9.12 to 16.4 percent).

Under the main retirement program, employees are entitled to unreduced monthly pension benefits beginning when the sum of age and years of credited service equal or exceed 85, or at normal retirement age (65), equal to 2 percent of their final average salary for each year of service. The plan permits early retirement at ages 55 to 64, with three or more years of service.

Benefit and contribution provisions to the plans are administered in accordance with NDCC Chapter 54-52. This statute requires that 4 percent of the participant's regular compensation be contributed to the plan by the employee. During the 1983-85 biennium, the state implemented the employer pickup provision of the Internal Revenue Service Code whereby a portion or all of the required employee contributions are made by the employer. The state chose, in lieu of a salary increase during this biennium, to pay the full employee contribution. Employer contributions of 4.12 percent of covered compensation are set by statute. In addition to the 4.12 percent employer contribution, the state contributes 1 percent of each participating employee's gross wage to a prefunded retiree health insurance program.

As of December 2004 there were 9,868 state employees enrolled in the defined benefits retirement plan and 243 employees in the defined contribution retirement plan.

Health Insurance

North Dakota Century Code Chapter 54-52.1 provides that group medical insurance and group life insurance are available to employees who meet the eligibility requirements of being a permanent employee of the state. A permanent employee is one whose services are not limited in duration, who is filling an approved and regularly funded position in a governmental unit, and who is employed at least 17.5 hours per week at least five months each year or for those first employed after August 1, 2003, is employed at least 20 hours per week and at least 20 weeks each year.

The 1963 Legislative Assembly enacted NDCC Chapter 52-12 which authorized state agencies, either individually or jointly with other agencies, to enter a group hospitalization and medical care plan and group life insurance plan for each agency's employees. The agencies were required to pay $5 per month for each participating employee's insurance premium. An employee could elect to participate in either a single or family plan. The 1971 Legislative Assembly repealed Chapter 52-12 and enacted Chapter 54-52.1 establishing the uniform group insurance program. The program was placed under the authority of the Retirement Board. The board was required to solicit bids and contract for the provision of insurance benefits coverage with an insurance carrier determined by the board.

From 1971 to 1983 Blue Cross Blue Shield of North Dakota provided and administered the health insurance benefits plan for public employees. In 1983 the Retirement Board was authorized by NDCC Section 54-52.1-04.2 to establish a plan of self-insurance for providing health benefits coverage under an administrative services-only contract or a third-party administrator contract if the board determined during any biennium that a self-insured plan is less costly than the lowest bid submitted by an insurance carrier. The board exercised the option to implement a self-insurance health benefits plan and administered the program in that manner from July 1, 1983, through June 30, 1989.

Rising health care costs in the state were the primary reason for the cashflow difficulties experienced in the health benefits plan. In the 1985-87 biennium, the Legislative Assembly appropriated funds for a 20 percent premium increase, and claims costs increased 42 percent.

Although the board began its administration of the self-insured health benefits plan on July 1, 1983, with reserves of $2,143,880, claim expenditures and other expenses of the program exceeded premium income and other revenue in 1984 and by June 1987 the fund balance, as indicated in audited financial statements of the plan, was a negative $4,759,963 with estimated outstanding claims payable of $4,600,000.

In 1987 the board incorporated various cost-containment components into the health benefits plan which included:

1. Implementation of a program of concurrent review of inpatient hospitalizations designed to eliminate unnecessary treatment or prolonged hospital stays and to allow consideration of less expensive appropriate treatment for long-term medical care.
2. Implementation of a program of mandatory second surgical opinions for certain elective surgeries. (This program did not generate

anticipated results and after a one-year trial period was discontinued.)

3. Expansion of contract deductibles to include all inpatient, outpatient, and physician services.
4. Increase in the coinsurance base from the first $2,000 in charges to the first $4,000 in charges.
5. Implementation of a preferred pharmacy program.
6. Establishment of a separate premium rate for retirees, based on retiree claims experience.
7. Introduction of a $25 copayment for each hospital emergency room visit.
8. Adjustment of the Medicare coordination of benefits formula applied to retiree members of the plan.

Due to the introduction of these cost-containment initiatives and the availability to public employees of a number of attractive health maintenance organization plans, approximately 3,350 membership contracts constituting 23 percent of the total contracts of the health benefits plan were lost during the 1987 open enrollment period, resulting in a decrease of approximately $563,000 per month in premium income.

The decision by the Medcenter One HMO, a health maintenance organization which had the largest PERS-eligible enrollment, to discontinue its participation agreement with PERS as of July 1, 1988, and substantial increases in premiums charged by other HMOs, resulted in a substantial number of public employees choosing the PERS health benefits plan during the 1988 open enrollment period.

In January 1989 the Retirement Board voted to end the state-funded health insurance program and buy the coverage from Blue Cross Blue Shield of North Dakota. Officials of PERS predicted the state would end the 1987-89 biennium with a $3.5 million deficit and would need to increase premium rates by 65 percent in 1989-91. The Blue Cross Blue Shield of North Dakota bid of about $35 million to fund state employees' health insurance for the 1989-91 biennium included provisions that the company would absorb about $5 million in unpaid claims when it took over in July 1989.

Senate Bill No. 2026 (1989) appropriated $1.2 million from the fund for unemployment compensation claims to PERS for the state group health program for the period beginning January 1, 1989, and ending June 30, 1991.

Until 1993 the health insurance program charged premiums based on the employee's election of a single or family plan. Beginning in the 1993-95 biennium, the board began to charge a combination rate which is a blended rate per employee whether a single or family plan is chosen. The blended rate enables agencies to budget the same premium rate for all employees, therefore an agency's budget is not adversely affected if an employee electing to receive single health insurance coverage quits and is replaced by an employee electing to receive family coverage. The schedule below shows the premiums charged since the program began in 1963.

Biennium	Single Plan	Percentage Change	Family Plan	Percentage Change	Combination Rate	Percentage Change
1963-65	$5.00		$21.00			
1965-67	$8.55	71.0%	$21.50	7.1%		
1967-69	$10.75	25.7%	$25.00	16.3%		
1969-71	$14.45	34.4%	$34.90	39.6%		
1971-73	$15.95	10.4%	$41.90	20.1%		
1973-75	$14.46	(9.3%)	$41.90	0.0%		
1975-77	$19.50	34.9%	$59.95	43.1%		
1977-79	$25.50	30.8%	$67.42	12.5%		
1979-81	$34.84	36.6%	$87.40	29.6%		
1981-83	$42.68	22.5%	$107.07	22.5%		
1983-85	$50.28	17.8%	$140.28	31.0%		
1985-87	$60.00	19.3%	$168.00	19.8%		
1987-89	$68.28	13.8%	$191.28	13.9%		
1989-91	$99.82	46.2%	$280.39	46.6%		
1991-93	$108.00	8.2%	$304.00	8.4%		
1993-95					$254.00	
1995-97					$265.00	4.3%
1997-99					$301.00	13.6%
1999-2001					$349.72	16.2%
2001-03					$409.09	17.0%
2003-05					$488.70	19.5%
2005-07					$553.95	13.4%

From 1963 through 1969, the state contributed $5 per month toward the cost of health insurance for state employees. State employees paid any additional amount for single or family coverage. During the 1969-71 biennium, the state contributed $7.50 per month. For the period 1973 through 1979, the state paid the cost of a single health insurance plan. Employees choosing a family plan paid any additional cost. Since 1979 the state has paid the full cost of either a single or family plan for eligible state employees.

The schedule below provides information on health insurance premiums and the cost of health insurance increases since the 1997-99 biennium.

STATE EMPLOYEE HEALTH INSURANCE INCREASES						
Biennium	Monthly Premium	Increase From Previous Biennium	Percentage Increase	General Fund	Special Funds	Total
1997-99	$301	$36	13.6%	$7,026,674	$3,619,802	$10,646,476
1999-2001	$350	$49	16.2%	$6,989,537	$3,858,174	$10,847,711
2001-03	$409	$59	17.0%	$11,182,551	$6,001,252	$17,183,803
2003-05	$489	$80	19.5%	$8,027,122	$8,258,216	$16,285,338
2005-07	$554	$65	13.4%	$5,335,798	$7,903,870	$13,239,668

Holiday Leave

The following is a list of statutory holidays cited in NDCC Sections 1-03-01 through 1-03-02.1 on which North Dakota state offices are closed:

- Every Sunday.
- January 1 - New Year's Day.
- The third Monday of January - Martin Luther King Day.
- The third Monday of February - Recognition of the birthday of George Washington.
- The Friday preceding Easter Sunday - Good Friday.
- The last Monday of May - Memorial Day.
- July 4 - Independence Day.
- The first Monday of September - Labor Day.
- November 11 - Veterans Day.
- The fourth Thursday of November - Thanksgiving Day.
- December 25 - Christmas Day.
- Every day appointed by the President of the United States or by the Governor of this state for a public holiday.

If a holiday falls on Saturday or Sunday, the preceding Friday or following Monday, respectively, is considered the holiday. Also, state offices close at noon on December 24, but this is an office closure, not a holiday. The noon closure applies only on December 24 and is not moved to the preceding Friday or following Monday.

Annual Leave and Sick Leave

According to NDCC Section 54-06-14, annual leave and sick leave must be provided for all permanent employees of the state who are not employed under a written contract of hire setting forth the terms and conditions of employment.

According to North Dakota Administrative Code Chapter 4-07-12, all state and local government agencies, departments, institutions, and boards and commissions that employ individuals in positions classified by Human Resource Management Services are recommended to use the following annual leave schedule:

Years of Service	Hours Per Month	Hours Per Year
0-3	8	96
4-7	10	120
8-12	12	144
13-18	14	168
Over 18	16	192

According to North Dakota Administrative Code Chapter 4-07-13, all state and local government agencies, departments, institutions, and boards and commissions that employ individuals in positions classified by Human Resource Management Services are recommended to use the sick leave accumulation rate of eight hours per month.

Employees who are eligible for annual and sick leave begin to accrue leave from the day of hire. The accrual of annual leave is limited in that no more than 240 hours of annual leave may be carried forward from one year to the next, according to the cutoff date established by the agency. Any hours in excess of 240 will be lost. All accrued, unused sick leave may be carried over from one year to the next, and NDCC Section 54-06-14 provides for a lump sum payment equal to one-tenth of the pay attributed to an employee's unused sick leave accrued to an employee with at least 10 continuous years of state employment.

Under NDCC Sections 54-06-14.1 and 54-06-14.2, a state employee may, under certain instances, donate either annual leave or sick leave to another state employee who is suffering or has a relative or household member suffering from an illness, injury, impairment, or similar condition.

Family Leave - Family Sick Leave

North Dakota Century Code Chapter 54-52.4 provides for family leave which is an unpaid leave of absence available to an employee for the birth, adoption, or foster placement of a child; or for the serious health condition of a parent, child, spouse, or employee to all state employees who have been employed by the employer for at least 12 months and who has worked at least 1,250 hours for the employer over the previous 12 months.

North Dakota Century Code Chapter 54-52.4 also provides that an employer who offers compensated leave to its employees for illnesses or other medical or health reasons should allow an employee to use that leave as family sick leave when there is an illness or medical need in the employee's family. Employees are limited to using 40 hours of sick leave for this purpose in any 12-month period.

OTHER RESPONSIBILITIES

The Legislative Council staff said that other committee responsibilities include:

- NDCC Section 54-52.1-08.2 requires the PERS Board to obtain Employee Benefits Programs Committee approval of any terminology changes needed to Chapter 54-52.1 to comply with federal requirements.
- NDCC Section 18-11-15(5) requires that the Employee Benefits Programs Committee be notified by a firefighters relief association if it implements the alternate schedule of monthly service pension benefits to members of the association as provided in this subsection.
- NDCC Section 39-03.1-08.1(6) requires that the Employee Benefits Programs Committee be notified by the PERS Board of the date the board receives a letter ruling from the Internal Revenue Service that the section allowing a member to purchase service credit with pretax or aftertax money does not jeopardize the qualified status of the Highway Patrolmen's retirement system.
- NDCC Section 54-52-17.4(6) requires that the Employee Benefits Programs Committee be notified by the PERS Board of the date the board receives a letter ruling from the Internal Revenue Service that the section allowing a member to purchase service credit with pretax or aftertax money does not jeopardize the qualified status of PERS.
- NDCC Section 54-06-31 requires Human Resource Management Services to periodically report to a legislative committee designated by the Legislative Council on the implementation, progress, and bonuses provided under agency recruitment and retention bonus programs.

PROPOSED STUDY PLAN

The Legislative Council staff proposed the following study plan:

1. Establish rules for the committee's operations, including rules relating to the submission and review of proposals affecting retirement or health insurance programs. The committee may wish to consider a separate motion at its first meeting providing that the committee only accept legislative proposals affecting retirement programs that are submitted to the committee by legislators and state agencies with bill introduction privilege, that the proposals be in bill draft form, and that the proposals be submitted to the committee prior to April 1, 2006.
2. Review proposals and request actuarial reviews and receive testimony on the proposals.
3. Prepare and submit a report on each proposal, including the proposal's sponsor, a summary of the proposal, the actuarial analysis of the proposal, and the committee's recommendation.
4. Review current state employee compensation levels and policies.
5. Receive testimony on the appropriateness of current state employee compensation levels and policies and suggested changes.
6. Develop recommendations, if any, relating to state employee compensation.
7. Receive reports from Human Resource Management Services regarding the implementation, progress, and bonuses provided under agency recruitment and retention bonus programs.
8. Receive any other statutorily required reports, if necessary.
9. Develop committee recommendations and any legislation necessary to implement the recommendations.
10. Prepare the committee report for submission to the Legislative Council.

COMMITTEE DISCUSSION

The committee discussed the establishment of rules relating to submission and review of proposals affecting retirement or health insurance programs.

Representative Carlson suggested allowing agencies with bill introduction privilege and legislators until July 1, 2006, to submit proposals to the committee. Senator Nelson said that previously the committee has required proposals be submitted by April 1 of the even-numbered year to allow enough time for actuarial reviews to be done, changes to be made, and for preparing the committee's report for the Legislative Council by early November.

In response to a question from Representative Carlson, Mr. Sparb Collins, Executive Director, Public Employees Retirement System, said because of the change made by the 2003 Legislative Assembly requiring any health insurance mandate approved to be first implemented in the PERS health insurance plan, health insurance mandate bills introduced during the 2005 legislative session needed to be considered by the Employee Benefits Programs Committee. He said this increased the number of times a committee needed to meet during the legislative session.

It was moved by Senator Nelson, seconded by Representative Wald, and carried on a roll call vote that the committee only accept legislative proposals affecting retirement or health insurance programs that are submitted to the committee by legislators and state agencies with bill introduction privilege, that the proposals be in bill draft form, and that proposals be submitted to the committee prior to April 1, 2006, except that proposals for new health insurance mandates be

submitted to the committee prior to July 1, 2006. Representatives Klein, Carlson, Kroeber, Svedjan, and Wald and Senators Holmberg and Nelson voted "aye." No negative votes were cast.

OVERVIEW OF PUBLIC EMPLOYEES RETIREMENT SYSTEM

Mr. Collins provided an overview of PERS. Mr. Collins said the retirement system goal is to maintain an 8 percent annual investment return. He said over the past 10 years the average return has been 9.4 percent.

Mr. Collins said the fund balance is currently $1,267,000. He said total contributions to the plan have totaled $654.7 million, while total payments made to retirees have totaled $450 million.

Mr. Collins said as of June 2005 PERS has 18,370 active members and as of March 2005 has 6,049 retirees.

Mr. Collins said contributions under the main retirement plan are calculated at 8.12 percent of salary, of which 4.12 percent is paid by the employer and 4 percent by the employee. He said in lieu of salary increases in 1983-84, the state pays the employee contribution.

Mr. Collins said the goal of the main retirement system is to provide employees with 50 percent of their final average salary provided by PERS. Mr. Collins presented the following schedule showing the multiplier percentages for the plan and retiree adjustments since 1977.

Date	Multiplier	Retiree Adjustment
7/77	1.04%	1.04%
7/83	1.20%	15.38%
7/85	1.30%	8.33%
7/87	1.50%	15.38%
7/89	1.65%	15.76%
7/91	1.69%	2.42%
8/93	1.725%	2.00%
1/94	1.74%	1.00%
8/97	1.77%	5.00%
8/99	1.89%	8.00%
8/01	2.00%	6.00%
In 2006 there will be a 13th check equal to half the monthly payment.		

Regarding the judges' retirement system, Mr. Collins said the employer contribution is 14.52 percent and the employee contribution is 5 percent. He said the state pays 4 of the 5 percent on behalf of the employee in lieu of salary increases in 1983 and 1984.

Mr. Collins said the National Guard retirement plan has an 8.33 percent employer contribution and a 4 percent employee contribution. He said the employee contribution is paid by the state in lieu of salary increases in 1983 and 1984. He said the employer contribution will soon be reduced to 6 percent because the plan is now 100 percent funded.

Regarding the Highway Patrol retirement plan, Mr. Collins said the employer contribution is 16.7 percent and the employee contribution is 10.3 percent. He said the state pays 4 of the 10.3 percent employee contribution in lieu of salary increases in 1983 and 1984.

Mr. Collins said the average years of service at retirement in the PERS plan is 19. He said the plan is currently 94 percent funded at actuarial valuation.

Mr. Collins said the state provides a retiree health credit program which began in 1989. He said the benefit formula is $4.50 for each year of service of the employee which is provided as a credit on health insurance premiums after retirement. He said the employer contribution for this program is 1 percent of payroll.

Mr. Collins said PERS also provides voluntary dental, vision, and long-term care insurance plans to state employees. He said the employee pays the entire premium for these plans if the employee chooses to participate.

Regarding health insurance premiums, Mr. Collins provided a comparison of North Dakota health insurance premiums to 10 other central states. For a single health premium, North Dakota has the lowest premium among the 11 states. For a family health plan premium, North Dakota's employer contribution was the 5th lowest out of the 11 state plans.

Regarding health insurance costs, Mr. Collins said 20 percent of PERS members account for 81 percent of the health plan's medical expenses while 80 percent of the members account for 19 percent of the plan's medical expenses.

Mr. Collins said that the Government Accounting Standards Board (GASB) has issued a new statement requiring that after December 15, 2006, government financial statements must reflect the unfunded liability of retiree health benefits. As a result, Mr. Collins said this will therefore need to be reflected on North Dakota financial statements beginning for the reporting year ending June 30, 2007.

Mr. Collins commented on the Medicare prescription drug program beginning in January 2006 and the effect on the PERS retiree health plan prescription drug coverage. Mr. Collins said the PERS Board has decided to contract with a private drug plan for providing prescription drug services to PERS retirees. A copy of the report is on file in the Legislative Council office.

In response to a question from Representative Carlson, Mr. Collins said he would provide information at a future meeting on whether any other states have recently changed rules regarding eligibility for retirement benefits from the current "Rule of 85."

In response to a question from Representative Klein, Mr. Collins said that of the retirement plan's 17,000 members, approximately 10,000 are state employees.

Representative Carlson asked for additional information on revenues and expenditures of the health insurance program, including for the most recent fiscal year, the amount of premium revenue collected and medical expenses paid. Mr. Collins said he would provide that information at a future meeting.

The committee recessed for lunch at 12:05 p.m. and reconvened at 1:00 p.m.

Mr. Steve Cochrane, Executive Director/Investment Director, Retirement and Investment Office, provided an overview of the state's investment program. Mr. Cochrane said the State Investment Board invests funds of the Teachers' Fund for Retirement and PERS as directed by the respective boards. Mr. Cochrane said the pension trust fund includes $3.13 billion. For fiscal year 2005, he said, the actual return on the pension funds totaled 13.72 percent.

Mr. Cochrane said the PERS investment returns over 5 years have averaged 4.66 percent per year while the 10-year return has averaged 9.34 percent per year. He said the Teachers' Fund for Retirement 5-year return has averaged 3.19 percent per year and the 10-year return 8.57 percent per year.

A copy of the report is on file in the Legislative Council office.

Ms. Fay Kopp, Deputy Executive Director, Retirement and Investment Office, provided an overview of the Teachers' Fund for Retirement. Ms. Kopp said the Teachers' Fund for Retirement was established in 1913 to provide retirement benefits for all North Dakota public school teachers and administrators. She said the fund is a defined benefit pension plan. She said the fund is managed by seven members consisting of active and retired teachers appointed by the Governor and state officials.

Ms. Kopp said the board's goals are to provide retirement income equal to 60 percent of the final average salary of a career employee who has 30 or more years of credited service. She said the plan provides a 2 percent multiplier. She said average actual years of service at retirement are 28 years.

Ms. Kopp presented the following schedule showing retirement plan changes since 1991.

HISTORY OF THE TEACHERS' FUND FOR RETIREMENT (TFFR) RETIREMENT PLAN CHANGES

July 1	Plan Improvements	Benefit Formula Increase	Retired Member Increase	Amount Average Increase	Average Increase Percentage	Average Monthly Benefits
1991	Provisions for military service credit under Veterans' Reemployment Rights Act (VRAA) added	Multiplier increased to 1.39% final average salary (FAS) x 1.39% x years of service	10% of current benefit or leveling benefit increase based on retirement date and years of service (maximum of $75/month)	$63.24	14.66%	1990 - $415 1991 - $513
1993	Disability retirement formula changed to coincide with retirement formula	Multiplier increased to 1.55% FAS x 1.55% x years of service	10% of current benefit or leveling benefit increase based on retirement data and years of service (maximum of $100/month)	$75.00	13.80%	1992 - $549 1993 - $547
1995	Allow members to roll over refunds from TFFR to IRA or qualified plan	No change	No increase	$0	0%	1994 - $663 1995 - $690
1997	Employer and employee contributions increased to 7.75% Allow rollovers to purchase service credit Expand TFFR Board to 7 members	Multiplier increased to 1.75% FAS x 1.75% x years of service	$30 per month increase	$30.00	4.1%	1996 - $719 1997 - $729
1999	Vesting and eligibility for benefits reduced from 5 to 3 years Early retirement reduction changed from age 65 to earlier of age 65 or Rule of 85 Purchase of service credit modified; air time and leave of absence added Member's spouse required to be beneficiary and spousal consent to choice of benefit option	Multiplier increased to 1.88% FAS x 1.88% x years of service	Increase equal to $2 per month x member's years of service credit + $1 per month x number of years since member's retirement	$70.00	8.5%	1998 - $810 1999 - $833
2001	Modified retiree employment provisions by adding exceptions for critical shortage areas and educational foundation	Multiplier increased to 2.00% FAS x 2.00% x years of service	Increase equal to $2 per month x member's years of service credit + $1 per month x number of years since member's retirement + 0.75%	$78.00	7.8%	2000 - $970 2001 - $995

July 1	Plan Improvements	Benefit Formula Increase	Retired Member Increase	Amount Average Increase	Average Increase Percentage	Average Monthly Benefits
	donations, and improved recalculation of retiree benefits after returning to teach		annual adjustment for 7/1/01 and 7/1/02			
2003	Clarified definition of salary Updated dual-membership guidelines Added 20-year term certain and partial lump sum distribution (PLSO) options Expended refund and rollover options to purchase service credit Allow employers to purchase service credit on behalf of members	No change	No increase	$0	0%	2002 - $1,152 2003 - $1,203
2005	None	No change	No increase	$0	0%	2004 - $1,255 *2005 - $1,310

*Preliminary 2005 data.

Ms. Kopp said the Teachers' Fund for Retirement in 2005 has 9,801 active members and 5,589 retired members. Ms. Kopp said the contribution rates for the plan are 7.75 percent of payroll contributed by the employer and 7.75 percent contributed by the employee.

Ms. Kopp said an employee may receive normal or unreduced retirement benefits by retiring at age 65 with three years of service or by qualifying for the Rule of 85 which is a combination of the employee's age and years of service which must equal 85.

Ms. Kopp said the plan was funded at 80.3 percent based on its 2004 actuarial valuation. She said the plan has been declining from a high of 101 percent funded in 2000.

Ms. Kopp said an increasing number of retired teachers are returning to teach in the classroom. She said when a retiree returns to employment, neither the employer nor the employee contributes to the retirement program. Ms. Kopp said the system has a decreasing number of active members and an increasing number of retired members which, if this trend continues over the long term, will make it more difficult to adequately fund the retirement system.

A copy of the report is on file in the Legislative Council office.

Representative Wald asked what the effect was on the Teachers' Fund for Retirement of retired teachers being rehired. Ms. Kopp said that in recent actuarial reviews, these situations have had a minimal impact on the system; however, she said, the Teachers' Fund for Retirement will be receiving additional information this fall. Chairman Klein asked that the new information be provided to the committee when available.

Ms. Laurie Sterioti Hammeren, Director, Human Resource Management Services, Office of Management and Budget, commented regarding the state employee compensation study. Ms. Sterioti Hammeren said the section directing the study of state employee compensation includes many issues. She said it may be beneficial for the committee to discuss and make a determination of the following three items:

1. The focus and scope of the study.
2. An appropriate employment market to compare state employee salaries and benefits.
3. A pay philosophy.

Regarding the focus and scope of the study, Ms. Sterioti Hammeren said a very extensive list of items to address in the study is included in the section directing the study. She said some of the items should not be considered part of employee compensation such as the merit system which is required by the federal government, leave without pay, disaster and emergency services leave, military leave, and veterans' preference. Ms. Sterioti Hammeren provided a schedule defining a number of compensation-related terms.

Ms. Sterioti Hammeren said there are generally two basic pay philosophies--the entitlement philosophy and the performance-oriented philosophy. Ms. Sterioti Hammeren said under the entitlement philosophy, automatic increases are given to employees each year and the majority of employees receive the same or nearly the same percentage increase. She said this philosophy is based on the premise that individuals who have worked another year are entitled to a raise in base pay and that incentives and benefits programs should continue and be increased, regardless of changing industry or economic conditions. Under the performance-oriented philosophy, she said, no one is guaranteed a compensation increase each year. Instead, she said, pay and incentives are based on performance differences among employees. Employees who perform well get larger increases and those who do not perform satisfactorily receive little or no increase in compensation.

Ms. Sterioti Hammeren said that few organizations are totally performance-oriented in all facets of their compensation practices. Ms. Sterioti Hammeren said it is important to determine an appropriate pay philosophy. She asked whether it is the state's intention to lead, equal, or lag market comparisons. She said previously it was determined that North Dakota would lag the market and, as a result, midpoints of salary ranges were established at 95 percent of market. She said generally market comparisons for North Dakota are made to the central states' 11-state survey.

A copy of the report is on file in the Legislative Council office.

Representative Carlson expressed concern with comparing to the central states which he believes is not an appropriate market. He suggested more comparisons be made to local markets.

Mr. Ken Purdy, Compensation Manager, Human Resource Management Services, presented information on state employee compensation. Mr. Purdy said that North Dakota currently employs approximately 7,238 employees, excluding the University System. He said increases effective July 2005 averaged 4.8 percent compared to the authorized level approved by the Legislative Assembly of 4 percent. He said the additional .8 percent increase results from the equity salary increases approved by the Legislative Assembly of $1.5 million for the Department of Corrections and Rehabilitation and $413,000 for the Highway Patrol.

Mr. Purdy said that North Dakota compares its salaries to two sources of comparable data--the central states, including Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Oklahoma, South Dakota, and Wyoming, and Job Service North Dakota which includes comparisons to other North Dakota employers.

A copy of the report is on file in the Legislative Council office.

Representative Carlson asked for the average salary of all North Dakota employees. Mr. Purdy said he would attempt to gather this information for the committee's next meeting.

Representative Carlson suggested that Human Resource Management Services provide comparisons of health insurance premiums paid and the employer contributions to health insurance premiums for other in-state employers.

Representative Carlson asked for information on actual salary increases provided to state employees since the 2005 legislative session.

Representative Carlson expressed concern with comparing North Dakota state employee salaries to those of Minnesota and Colorado which include the metropolitan centers of Minneapolis and Denver which he believes are not comparable. Representative Carlson suggested the North Dakota system be based more on pay for performance to reward employees performing well.

Mr. Doug Vannurden, State Board for Career and Technical Education, said that under current law, nonteaching employees of the State Board for Career and Technical Education are required, pursuant to North Dakota Century Code Section 15-39.1-04, to participate in the Teachers' Fund for Retirement even though these individuals are not licensed teachers. He said the 2001 Legislative Assembly authorized similar employees of the Department of Public Instruction to choose to participate in either the PERS retirement plan or the TFFR plan. He said in the 2005 legislative session, Senate Bill No. 2413 was introduced but defeated, which would have allowed employees of the State Board for Career and Technical Education to have the same choice. He asked the committee to consider recommending a bill which will allow these employees to participate in PERS. He said during the legislative session, the Teachers' Fund for Retirement reported that the effect on the teachers' fund of allowing this change would be immaterial.

Senator Nelson said the 2005 Legislative Assembly did not approve Senate Bill No. 2413 because of the late date of introduction of the bill to allow a more indepth study of the effects of this change, and to consider whether it may be appropriate to allow employees of other agencies to also choose between PERS and the Teachers' Fund for Retirement for their retirement plan.

Chairman Klein asked the Teachers' Fund for Retirement to review this statute and the employee groups affected and to return to the committee at its next meeting with a recommendation for a legislative change, if appropriate.

Ms. Ardyth Pfaff, Human Resource Director, Information Technology Department, commented on the state employee compensation study. Ms. Pfaff said that while the state's compensation system has many positive aspects, she expressed concern that it is difficult to give additional incentives and rewards to high-quality employees. She said the salary increases approved by the Legislative Assembly in recent years have only provided for cost-of-living increases leaving nothing to address performance adjustments.

Ms. Pfaff suggested that an outside consultant be hired to provide comparisons to appropriate competing markets if the committee does not believe the comparisons made by Human Resource Management Services to the central states and Job Service data are appropriate.

Ms. Jodee Buhr, Executive Director, North Dakota Public Employees Association, expressed her support for the study and offered the association's assistance in providing data as needed by the committee.

Ms. Jan Webb, Director, Council on the Arts, commented on the state employee compensation study. She said employees of the Council on the Arts, who previously were unclassified, have now been classified by Human Resource Management Services and these employees, based on their current salary levels, are at the low end of their salary ranges. She said it is difficult for a small agency to make salary adjustments with little or no staff turnover.

Representative Wald asked that information be provided on the Alaska state employee pension plan and recent changes made by Alaska.

Representative Svedjan said the compensation study needs to include all aspects of North Dakota's compensation system and result in a definitive policy that is fair, nonpunitive, and consistent.

Representative Carlson asked PERS to review and provide information to the committee on the feasibility of the state becoming a self-insured health plan.

Representative Wald asked PERS to provide information on health savings accounts and information on any other states that have implemented health savings accounts for their state employees.

The committee adjourned subject to the call of the chair at 3:10 p.m.

____

Allen H. Knudson
Assistant Legislative Budget Analyst
and Auditor

____

Jim W. Smith
Legislative Budget Analyst and Auditor

ATTACH:1