MINUTES
North Dakota Public Employees Retirement System
March 22, 2000
Peace Garden Room
State Capitol
Bismarck, ND
7:00 a.m.

Members Present:	Mr. Joseph Maichel, Chairman Mr. Weldee Baetsch Mr. David Gunkel Mr. Ron Leingang Mr. Howard Sage Mr. Murray Sagsveen Ms. Rosellen Sand
Others Present:	Mr. Sparb Collins, Executive Director NDPERS Ms. Jeanne Welder, NDPERS Ms. Deb Knudsen, NDPERS Mr. Bryan Reinhardt, NDPERS Ms. Kathy Allen, NDPERS Ms. Jamie Kinsella, NDPERS Mr. Scott Miller, Attorney General's Office Mr. Tom Tupa, AFPE & INDSEA Mr. Howard Snortland, AFPE Ms. Chris Runge, NDPEA Ms. Sue Tibiatowski, BCBSND Ms. Nancy Kopp, ND Optometric Association Dr. Tim Tello, NDOA/MedCenter One

Chairman Maichel called the meeting to order at 7:00 a.m. The first item of business was the minutes from the February 24, 2000 board meeting. Chairman Maichel called for any comments or questions regarding the minutes.

MS. SAND MOVED APPROVAL OF THE MINUTES. MR. WELDEE SECONDED THE MOTION.

AYES: Baetsch, Gunkel, Leingang, Sage, Sand, Sagsveen, Chairman Maichel
NAYS: None

PASSED

RETIREMENT

DC Update:
Included with the board materials were informational materials relating to the Defined Contribution plan, which included a table delineating the actual liabilities extinguished in relationship to the tranfers of the participants in the plan. The statute provided that the transfer amount would be the higher of the present value or actual employer and employee contribution plus interest at 7.5%. Two hundred sixteen of the transfers were based on the actual employer and employee contribution; twenty-three of the transfer amounts were based on the present value. Also included was information from Fidelity relating to short term trading fees for international funds. Fidelity will notify participants who are in that fund that this fee has now been added. The notice of the additional fee will be included with the prospectus sent to participating members.

The PEP program became effective January 1, 2000. Mr. Collins noted that for the month of January, there were $291,298 of employer contributions vested in by 3,468 participants, and enrollments continue to increase. Staff will again begin promoting the program this summer. The employee enrollment procedures are also under review at this time and those findings will be discussed in April.

This item was informational only and required no action by the Board.

Experience Study:

Segal reviewed the results of the Experience Study at the February board meeting. In that report, Segal made various recommendations of proposed changes to the current actuarial assumptions being utilized. Staff reviewed those recommendations and concurred with all the recommendations except those proposed for the salary scale and payroll growth assumptions. Mr. Collins noted that if all the Segal recommendations were accepted the employer contribution would be reduced from 3.34 to 1.95, which would be a significant drop. If all the recommendations were accepted except the salary scale and payroll growth assumptions, the employer contribution would be reduced to 3.05 percent. Mr. Collins reviewed the issues that staff considered in making this determination. It was staff's recommendation that the current salary scale and payroll growth assumptions be maintained and, if future monitoring shows a pattern emerging that would indicate the assumptions continue to remain high, the Board should again reconsider the merits of making a change to those assumptions. Discussion followed.

MR. SAGE MOVED APPROVAL TO ACCEPT THE STAFF RECOMMENDATION. MS. SAND SECONDED THE MOTION.

AYES: Baetsch, Gunkel, Leingang, Sage, Sagsveen, Sand, Chairman Maichel
NAYS: None

PASSED

Consultant Interview:

Mr. Collins conveyed that Segal had existing conflicts that could not be rescheduled and therefore were unable to attend today's meeting. Mr. Collins inquired whether the Board wished to extend the invitation to the April board meeting. By general consensus, it was agreed to invite Segal to give a presentation on their investment proposal at the April board meeting.

Health Insurance Proposal:

Mr. Collins noted that the Review Committee had met to review the responses to the health RFP. Four firms responded to that RFP. The analysis ranked Deloitte highest in total overall points, as well as, in technical understanding of the project. Based on their analysis, the Committee recommended the Board renew the contract with Deloitte.

MR. LEINGANG MOVED APPROVAL TO CONTRACT WITH DELOITTE AND TOUCHE FOR ACTUARIAL AND CONSULTING ASSISTANCE FOR A TWENTY-FIVE MONTH PERIOD BEGINNING JUNE 1, 2000 THROUGH JUNE 30, 2002. MS. SAND SECONDED THE MOTION.

AYES: Baetsch, Gunkel, Leingang, Sage, Sagsveen, Sand, Chairman Maichel
NAYS: None

PASSED

Proposed Legislation:

Included with the board materials were proposed bill drafts relating to the retirement plans administered by PERS. The bills, if approved, will be forwarded to the Legislative Employees Benefits Committee for their consideration. Also included were bill drafts relating to allowing purchases of service credit to be done on a pretax basis, and providing mailing lists to member groups. Mr. Collins reviewed each of the bills.

Main Retirement System Bill:

Discussion followed on the proposed bill to allow pretaxing purchase of service credit. It was asked how that purchase related to the Deferred Compensation program and its pretax limits. Ms. Knudsen explained the cost of purchasing that service credit on a pretax basis would be counted toward the 25% gross salary limit under the Deferred Compensation program, and therefore would affect the amount that member could set aside under that program. In their analysis, the consultant recommended that, if the Board elected to move forward with this approach, they seek an IRS Letter Ruling prior to implementation. It was also questioned whether the pretax provision would also apply to sick leave conversions. Mr. Collins indicated this would have to be reviewed further to determine how it would be implemented since the purchase has to be payroll deducted in order for the transaction to be completed on a pretax basis.

The proposed bill to provide member groups with mailing lists would ease the current administrative process for handling these requests, and delineate the process in the Administrative Rules.

Mr. Miller reviewed current statutory language under 54-52-17.6, relating to treatment of beneficiaries under the main retirement system. Mr. Miller explained that, because of the way the language is currently written, the PERS statute treats surviving spouses and other beneficiaries as two distinct classes of individuals as they relate to receipt of death benefits. Under the current language, if there is a surviving spouse and another beneficiary, and the other beneficiary disclaims their interest, PERS would be limited to treating the other beneficiary as having predeceased the deceased and the disclaimant's interest would then go back to the estate; not to the surviving spouse. Historically, staff has informed member's that individual(s) listed as primary on their form will receive any remaining benefits if the member is deceased. If the individual(s) listed as primary is also deceased, the benefit would then go to the contingency beneficiary(ies) listed. It appears this interpretation is in conflict with the statutory language. Discussion followed.

By general consensus it was agreed to add language to the bill draft for the main system that will clarify the beneficiary language, provide for pretax purchases of service credit contingent upon an IRS Letter Ruling, and that will provide mailing lists to member groups.

MS. SAND MOVED APPROVAL TO SUBMIT THE BILL DRAFT RELATING TO THE MAIN RETIREMENT SYSTEM AS AMENDED. MR. LEINGANG SECONDED THE MOTION.

AYES: Baetsch, Gunkel, Leingang, Sage, Sagsveen, Sand, Chairman Maichel
NAYS: None

PASSED

Judge's Retirement Bill:

This bill would clarify the definition of disability under the Judge's system, incorporate that the normal retirement benefit consists of a single life benefit and an automatic 50% Joint & Survivor benefit, and provide for an annual 2% adjustment. Staff met with the judges who concur with the bill draft.

MR. GUNKEL MOVED APPROVAL OF THE JUDGE'S RETIREMENT BILL. MS. SAND SECONDED THE MOTION.

AYES: Baetsch, Gunkel, Leingang, Sage, Sagsveen, Sand, Chairman Maichel
NAYS: None

PASSED

<u>Retiree Health Credit Bill:</u>
This bill would provide for an increase in the retiree health insurance credit from $4.50 to $5.

MR. SAGE MOVED APPROVAL OF THE RETIREE HEALTH CREDIT BILL. MR. GUNKEL SECONDED THE MOTION.

AYES: Baetsch, Gunkel, Leingang, Sage, Sagsveen, Sand, Chairman Maichel
NAYS: None

PASSED

<u>Highway Patrol Bill:</u>
This bill would standardize the purchase provisions to be similar to that of the Main system, increase the multiplier from 3.40 to 3.60 percent, and provide an equivalent increase of 6% to disabled members. Discussion followed on whether the provision for purchasing service credit on a pretax basis, which is being incorporated into the Main retirement system bill, should also be incorporated under this bill. By general consensus, it was agreed this provision should be included.

MR. SAGE MOVED APPROVAL OF THE HIGHWAY PATROL BILL. MR. BAETSCH SECONDED THE MOTION.

AYES: Baetsch, Gunkel, Leingang, Sage, Sand, Chairman Maichel
NAYS: None
ABSENT: Sagsveen

PASSED

<u>Defined Contribution Bill:</u>
This bill would standardize the treatment of an individual who elects to go into the DC plan for both the state government and political subdivisions; clarifies the interest calculation as simple interest; allows the Board to accept rollovers into the plan; allows the Board too automatically distribute diminimus amounts less than $5,000; and places the disability program into statute. Discussion followed. It was recommended that the language under Section 2 be clarified to indicate the six-month extension would be from the date of notification from the PERS office.

MR. BAETSCH MOVED APPROVAL OF THE BILL DRAFT RELATING TO THE DEFINED CONTRIBUTION SYSTEM. MR. SAGE SECONDED THE MOTION.

AYES: Baetsch, Gunkel, Leingang, Sage, Sagsveen, Sand, Chairman Maichel
NAYS: None

PASSED

Ms. Knudsen asked for clarification on whether staff should continue to use their current interpretation of the statutory language when informing members of their beneficiary options. Discussion followed.

MR. SAGE MOVED APPROVAL THAT, DURING THE INTERIM OF THE BILL GOING THROUGH THE LEGISLATIVE PROCESS, STAFF SHOULD CONTINUE TO INTERPRET THE STATUTE AS THEY HAVE IN THE PAST. MR. GUNKEL SECONDED THE MOTION.

AYES: Baetsch, Gunkel, Leingang, Sage, Sagsveen, Sand
NAYS: Chairman Maichel

PASSED

Mr. Sagsveen conveyed that he would need to leave at 9:45 a.m. to attend another meeting and asked if the Board could consider the next meeting date at this time.

MISCELLANEOUS

Next Meeting:
The next meeting of the Board will be on April 17, at 8:00 a.m. The May board meeting will be held on May 25, at 8:00 a.m. Staff will arrange to have the board picture taken at the April meeting, if possible.

Other:
Ms. Sand inquired whether staff had reviewed whether there would be any potential savings if it were mandatory for all members to belong to an EPO, subject to one being available in their area. She explained that she was not advocating this as the approach that should be taken, but rather an issue that the Board should look at to determine what impact it could have, and whether it would be reasonable or not to pursue it. Discussion followed. Staff will put together information for review at the next meeting.

GROUP INSURANCE

Optometrist Benefits:
Discussions have been held with the North Dakota Optometric Association to review whether the current plan design of the group health program may be discriminatory. At issue is whether the office call copay or deductible should be applied to services rendered by an optometrist. Mr. Collins clarified that currently the office call copay applies to medical doctors, podiatrists, physician assistants, nurse practitioners, state and federal agencies and medical organizations.

Ms. Kopp, Executive Director of the North Dakota Optometric Association and Dr. Tim Tello, Past-President of the Association, addressed the Board. Dr. Tello conveyed the association's concern is with language under the current plan of benefits which indicates that the deductible is applied to all services except those provided or billed by a physician, preventative screening services and diagnostic services regardless of where they are performed. Optometrists are not classified as M.D.s, so all services provided by them are subject to the deductible amount. The current deductible amount ranges from $200-$600. However, if the same service is provided by an ophthalmologist the claim would require only a $5-$20 copayment. He noted that other non-physician services, such as podiatrists and nurse practitioners are assessed the copayment and not applied to the deductible. The Association was asking the Board to consider allowing medical services provided by an optometrist to be assessed the copayment rather than being applied to the deductible. He noted that by law an optometrist can provide the same medical eye care as an M.D., other than surgical services. It was also pointed out that access to the care of an optometrist, especially in rural areas, is more readily available to members than that of an ophthalmologist. Discussion followed. Ms. Kopp noted that optometrists provide medical services and the request today is for the Board to consider allowing the medical services provided by an optometrist to be subject to the copayment rather than the deductible. Dr. Tello noted that this request does not differ from the request from the Nurse Practitioners, for which the Board did make an exception.

Mr. Collins reviewed the history of how deductibles and copayments developed as the plan design evolved. It was anticipated that the cost to make this change would be approximately 36¢ per contract. It was also noted that, if this change were made, it might be appropriate to consider reimbursing chiropractors and psychologists in the same manner. The estimated cost to make these changes would be approximately 20¢ per contract. Discussion followed. The Board directed that staff provide additional information regarding the methodology used to calculate the anticipated costs related to the optometrist request. The Board will make their final decisions regarding the health plan design in May.

Chairman Maichel recessed for a five-minute break.

Heart of America:
The Heart of America application requested that they be allowed to continue to participate in the uniform group insurance program as an HMO in the Rugby area, and also be allowed to expand their coverage into the Minot area. At the last meeting, the Board directed staff to have the consultant, Deloitte & Touche, review the HMO, their application, and the Market Conduct Examination report, and provide the Board with their observations. In their findings Deloitte noted that, although Heart of America sustained a marginal loss on their commercial line of business during the past year, there did not appear to be a high level of risk in allowing them to continue their current participation in the Rugby area. However, allowing them to expand their current service offering at this time would not seem prudent. Mr. Collins conveyed that legal counsel was also asked to review what would happen to the HMO participants if Heart of America did become insolvent. Mr. Miller indicated should this situation occur, PERS would be required under law to offer those members enrolled under this HMO the opportunity to enroll under the medical plan offered through Blue Cross Blue Shield. Staff developed the following options for consideration:

- Approve the application as submitted
- Deny the application
- Approve the application for the Rugby area, but deny expansion into the Minot area
- Deny the application for the Minot area and not allow an open enrollment in the Rugby area, however allow existing members to continue their participation.

It was staff's recommendation that the Board consider the third option, which was to approve the application for the Rugby area, however, deny expansion into the Minot area. It was noted the approval would be for a 12-month period only, at which time the Board would have an opportunity to revisit this issue.

MR. SAGSVEEN MOVED APPROVAL OF THE STAFF RECOMMENDATION. MR. GUNKEL SECONDED THE MOTION.

AYES: Baetsch, Gunkel, Leingang, Sage, Sagsveen, Sand, Chairman Maichel
NAYS: None

PASSED

Employer Health Premium Contributions:

Ms. Allen conveyed that a political subdivision, that is considering joining the group medical plan, inquired whether their policy of varying the employer contribution to the health premium based upon an employee's years of service, would be acceptable. Legal counsel was asked to review this issue. Mr. Miller conveyed that he felt there were two plausible interpretations of the consistency requirement under N.D.A.C. § 71-03-07-03. The first would be that the employer must collect the same contribution from each participating employee. The second is that once the employer sets a contribution schedule, it must apply the schedule equally to all employees. He felt that since this is the Board's rule, the Board's interpretation of this rule is entitled to deference. Discussion followed.

MR. SAGSVEEN MOVED APPROVAL TO ACCEPT THE SECOND INTERPRETATION. MR. SAGE SECONDED THE MOTION.

Ms. Sand noted that, based upon the information provided, it is unclear whether the methodology utilized by the employer, to determine the type of benefit they are going to provide their employees based upon years of service, is allowable under federal law. Discussion followed. Hearing no further discussion, Chairman Maichel called for a vote on the motion.

AYES: Baetsch, Gunkel, Leingang, Sage, Sagsveen, Chairman Maichel
NAYS: Sand

PASSED

Proposed Legislation:

Included with the board materials were two bills relating to the uniform group insurance program. The first bill would create a new section that would provide that the Board would establish a dental plan consisting of two levels of coverage. A preventive level and a full coverage level. It also provides that the State will pay the cost of the preventive coverage for all eligible employees. The second bill establishes the Board's authority relating to any gains under the group health insurance plan; clarifies the definition of eligible employee to include retired and terminated employees; clarifies that individuals taking a periodic distribution from the DC plan can continue to participate in the group insurance program; and expands the language under the confidentiality section. A copy of a survey conducted by Job Service ND was distributed for informational purposes. Mr. Leingang explained that the survey is sent to 2,865 North Dakota employers. One of the areas of inquiry on the survey relates to whether the employer provides dental plans and what the employer and/or employee contribute towards that premium.

Mr. Baetsch noted that under the bill draft for the dental plan, retirees would incur out-of-pocket expenses for any preventive services. He inquired whether the actuary could determine what it would cost to have retirees included in the coverage paid for by the State. Mr. Collins noted the cost to include retirees would be approximately $800,000 and those funds would need to be appropriated from the general funds. Mr. Weldee noted it is critical for retirees to have good dental services in terms of maintaining their health and, therefore, would like to see this information included with the bill draft.

MS. SAND MOVED APPROVAL TO SUBMIT THE PROPOSED LEGISLATION TO THE LEGISLATIVE BENEFITS PROGRAMS COMMITTEE. MR. GUNKEL SECONDED THE MOTION.

AYES: Baetsch, Gunkel, Leingang, Sage, Sagsveen, Sand, Chairman Maichel
NAYS: None

PASSED

Plan Performance Update:
Included with the board materials was the February surplus projection and affordability analysis. This item was informational only and required no action by the Board.

DEFERRED COMPENSATION

Employer Contributions:
Staff recently became aware of at least two employers who are contributing to the PERS deferred compensation program on behalf of their employees. Upon discovery, staff asked legal counsel to review whether it was allowable for members to vest in their employer contributions to the retirement program based on employer paid contributions to the deferred contribution program. Mr. Miller determined that members could not receive the benefit of PEP based on employer paid contributions to the deferred compensation program.

A second issue was whether the employer contributions to the deferred compensation program could be accepted. The plan document provides for only employee contributions to the deferred compensation program. The employers indicated they have been sending in the contributions since the early 90's. Segal provided three corrective actions for consideration by the Board. Of the three options, Segal and staff recommended the Board consider option 1, which would allow existing employer contributions in participant accounts to remain in the Program, but take remedial steps to ensure that no additional employer contributions are made on a prospective basis; assuming this is consistent with applicable state law. Segal also recommended the Board incorporate language into the plan documents to reflect that employer contributions were allowed through a certain date. Staff recommended this date be through May 31, 2000. It was asked how such an error could occur. Ms. Knudsen explained that the contributions in question were from political subdivisions. Through the current process, PERS authorizes the amount that can be deducted however all political subdivisions send the funds directly to the provider.

MR. SAGE MOVED APPROVAL TO ADOPT OPTION 1. MS. SAND SECONDED THE MOTION.

AYES: Baetsch, Gunkel, Leingang, Sage, Sand, Chairman Maichel
NAYS: None
ABSENT: Sagsveen

PASSED

Deferred Comp Update:
Mr. Collins conveyed that Jackson National was sent a letter in February that they have been placed under a special review status. A copy of the letter was also sent to all participating members of that provider. Jackson National has since expressed their regret of the situation and indicated a representative would like to meet with PERS staff to review the issue and the corrective actions Jackson National is taking.

A second issue related to the penalty clause under the provider agreement. In the past PERS has issued warning letters to providers who have not executed requested transfers in a timely manner. However, it was felt that sufficient time has passed to allow all providers an opportunity to bring their business practices into compliance. Mr. Collins reported that Equitable was recently notified that the penalty clause was being initiated as a result of their not executing a requested transfer within the established timeframes. Staff was subsequently notified that the transfer did actually occur, however, was not reported by Equitable, as required.

A third issue related to Great West, one of the approved deferred compensation providers. Ms. Knudsen reported that Great West recently contacted PERS to inform them that Great West has decided it is in the best interest of all parties to relinquish their vendor status at this time. They indicated that having an employer sponsored plan, such as the Companion Plan, was an excellent concept. Although they are interested in providing services to North Dakota, they felt they were not able to fit it into their plan of business given the current plan structure. Great West also indicated that all current participants will be notified of their decision and be given the opportunity to transfer any existing funds to any of the other approved funds without assessing penalties. They anticipate giving participants until June 30th to request a transfer. If a participant does not make an election prior to that date, Great West would like to forward any remaining balances to the State as trustee. There are 36 participants under this provider, and approximately $384,000 in funds.

Staff developed two approaches for consideration: 1) take a similar approach to that used when another provider left the plan, and default accounts of participants who have not made an election within the designated timeframe to BND, or 2) map participants who do not select a provider by the designated timeframe into the Companion Plan. Mapping would be done by matching the existing investment funds with the funds that are most similar in the Companion Plan or defaulting the funds into the Stable Value fund in the Companion Plan. Discussion followed on the differences between the Stable Value Fund, BND and the mapping option. It was noted that if the funds were defaulted to the Stable Value Fund, and a participant later decides to participate with another provider, there would be no penalty for transferring out of the Companion Plan.

MR. GUNKEL MOVED APPROVAL TO NOTIFY GREAT WEST PARTICIPANTS OF THE CHANGE AND, FOR THOSE PARTICIPANTS WHO DO NOT MAKE AN ELECTION BY MAY 31, THE STABLE VALUE FUND WOULD BE THE DEFAULT ACCOUNT FOR THOSE FUNDS. MR. SAGE SECONDED THE MOTION.

AYES: Baetsch, Gunkel, Leingang, Sage, Sand, Chairman Maichel
NAYS: None
ABSENT: Sagsveen

PASSED

Other:
Chairman Maichel indicated the Executive Director's annual evaluation is due. Mr. Baetsch and Mr. Leingang will conduct the performance analysis and report their findings back to the Board. This item was informational and required no board action at this time.

Chairman Maichel called for any other business or comments to come before the Board. Hearing none, the meeting was adjourned at 10:05 a.m.

Respectfully submitted,

Jeanne Welder
Secretary, NDPERS Board