Minutes[*]

Senate Committee on Faculty Affairs
Tuesday, November 12, 2002
2:30 – 4:30
238A Morrill Hall

Present: John Fossum (chair), Carol Carrier, Terence Collins, Jesse Daniels, Darwin Hendel, Theodor Litman, Dwight Purdy, Wade Savage, Kathleen Sellew, Larry Wallace, Carol Wells, Aks Zaheer

Absent: Kent Bales, Carole Bland, A. Saari Csallany, William Garrard, Richard Goldstein, Robert Jones, Cleon Melsa, Timothy Wiedmann

Guests: Professor Gordon Alexander (Retirement Benefits Subcommittee); William Donohue (Office of the General Counsel), Cary Jones (Director of Risk Management)

Other: Dann Chapman (Director, Employee Benefits); Jackie Singer (Director, Retirement Programs)

[In these minutes: (1) post-retirement health care savings plan (proposal for a plan in which all in each employee group would be obligated to participate); (2) emeritus title for P&A staff; (3) automobile and home insurance issues; (4) a joint-use football stadium]

1. Post-Retirement Health Care Savings Plan

Professor Fossum convened the meeting at 2:30 and welcomed Professor Gordon Alexander to present a report from the Retirement Benefits Subcommittee on the Post-Retirement Health Care Savings Plan (hereinafter PRHCSP). Before turning to the PRHCSP, however, he introduced Mr. Chapman and Ms. Singer.

Professor Alexander began by saying that the question is how to pay for health care when one retires. At present one pays for it from retirement income--with after-tax dollars. The PRHCSP plan allows them to be paid for with pre-tax dollars; if one is in the 30% tax bracket, it will save 30%. There has been government action to allow organizations to set up these post-retirement health care plans like retirement plans: funds are contributed to the plan, tax free, the investment grows tax free, AND when the funds are used to pay health care expenses they are tax free. (It is this last point that provides the advantage; otherwise one could just put more money in retirement funds to pay for health care.) The funds can be used to pay for health care insurance, glasses, dental work, etc.--any health care costs, both for the account owner and his/her dependents. In the event someone dies before the funds are used, the money goes into the estate. The PRHCSP offers a chance for substantial savings because a large amount of retirement income often goes to pay health care costs. (Professor Litman reported that he and his wife pay $11,000 per year.)

[*] These minutes reflect discussion and debate at a meeting of a committee of the University of Minnesota Senate or Twin Cities Campus Assembly; none of the comments, conclusions, or actions reported in these minutes represents the views of, nor are they binding on, the Senate or Assembly, the Administration, or the Board of Regents.

One can choose from a variety of funds in which to invest the PRHCSP money--bond funds, stock funds, money market, etc. One lives with the consequences of the investment decisions. The account is also portable, if one leaves the University.

Professor Alexander said it would be difficult to imagine that the plan would not benefit everyone.

There are, however, sticking points. EVERYONE in a class must be covered; one cannot opt in or out once the decision is made. That does not mean the amount contributed must be the same for all; it can vary by class (but not based on age), such as years in the Faculty Retirement Plan. It can be a fixed dollar amount or a percentage of salary. One question is how to decide how much should be contributed.

Second, how will the University transition to the plan? If one starts in it at age 30 one can accumulate a lot of money. What about the people who have already been at the University a long time? The proposal assumes a steady state (that is, as if it had been in place for 40 years): there would be a contribution of 1.5% of salary into the account; the funds would come from the University. The 1.5% was selected because if one uses reasonable parameters and assumes someone is at the University for 35 years, once retired he or she would have accumulated a balance in the health care account amounting to about one year's salary by the time he or she retires that could subsequently be used to pay for non-Medicare-covered health care expenses. The principal would continue to yield returns, depending on the investment vehicle chosen, and through the use of a combination of income from the fund and reductions in principal over an expected lifetime, all or a substantial amount of non-Medicare-covered health care could be paid from pre-tax dollars.

The funds would not come from an individual's salary, Professor Zaheer asked? Inasmuch as all of the money comes from one pot, Professor Alexander pointed out, they know where the funds ultimately would come from. They hope that the University could come up with the money without a substantial decrease in the salary increases but they recognize there could be a drop in the salary increase this year if the plan is adopted. One option might be to phase in the program over three years (i.e., putting in .5% per year).

The transition is sticky, Professor Alexander said, in trying to determine what to do for the vast majority of people who have been at the University for some time. Their proposal is that if one has been at the University (and participating in the Faculty Retirement Plan) for 7 or fewer years, the 1.5% contribution will result in a total balance in the participant's health care account that is close to the goal of one year's salary. If one has been here 8 years, the University will contribute the 1.5% and the individual will put in .2%, to be deducted from the contribution to the Faculty Retirement Plan. There would be an additional .2% added for each year of service, up to a maximum of 3.6% (25 years): if one has been at the University for 25 or more years, the University would contribute the 1.5% and the individual would contribute 3.6%, for a total of 5.1%. Some will not be happy with this plan, Professor Alexander said, but they can make up the deduction to the Faculty Retirement Plan by increased contributions to the optional plans. Choosing to make up the PRHCSP deduction would mean less take-home pay but one's retirement plan would continue to grow at the same rate as if the PRHCSP deduction were not being made.

If one is retired, must one spend the money on health care costs, Professor Wells asked? They must, Professor Alexander said. So unless one has health care costs requiring use of the money, it goes to one's heirs, she asked? It does, Professor Alexander said. If one leaves the University, must the money stay in the plan? It must, Professor Alexander said, and it will continue to grow.

For people close to retirement there is not time enough to accumulate very much money, Professor Savage pointed out. If one is going to retire in a year, and there is a 5.1% cap, then the person would only have the 5.1% to use for health care costs. Is there any way to increase the amount, similar to the additional contributions one can make to the Faculty Retirement Plan? One has to identify a CLASS of employees that cannot be "years from retirement" (because no one knows how far people are from retirement). They did talk about taking more money from the Faculty Retirement Plan contribution (e.g., 10% of the 15.5%), but there is really nothing that can be done to get the participant's balance to approximate his or her pre-retirement salary for those individuals who are close to retirement. Ms. Singer said it is not permissible to use the entire 15.5% that is currently put into a participant's Faculty Retirement Plan; that plan is a mandatory plan into which the University and the individual must contribute. Professor Savage said he would nonetheless guess that people close to retirement would like to be able to make larger contributions.

Professor Alexander surmised that Professor Savage might be right and that one can make a good argument the contribution should be higher. Making it higher, however, would mean a substantial reduction in the Faculty Retirement Plan contribution; that reduction could be made up with additional contributions to the optional plans but it would still mean a reduction in take-home pay.

How will it be decided if there is agreement on this proposal, Professor Savage asked? They have not figured that out yet, Vice President Carrier said. It could be a resolution from the Senate. The Professional and Administrative employees could choose a different method to decide if they wish to participate.

How long must one participate in the plan to reach the goal of having the last year's salary available for health care expenses, Professor Zaheer asked? What if one joins the University at age 40 or age 50? Then one cannot make the goal unless one brings a similar plan from one's previous employer, Professor Alexander said--one is treated as a new employee who receives the 1.5% annual contribution.

The eligible groups are the ones defined as the bargaining units, Professor Fossum asked? They are. That means that the Law School and the Academic Health Center could elect to have different plans, he pointed out. Dr. Carrier concurred. Ms. Sellew asked if one group could decide not to participate in the plan and take the 1.5% as compensation instead. They could, Professor Alexander said, but there would be a question of fairness. Vice President Carrier agreed; the University could give one group a 2.5% salary increase and another group a 1% increase and a 1.5% contribution to the PRHCSP.

Is this a one-time decision opportunity and is the decision irreversible, Professor Hendel asked? Professor Alexander answered "no" to both questions but pointed out that the longer the University waits to make a decision, the more it disadvantages current employees. Professor Purdy observed that the decision is not irreversible FOR THE CLASS, but once a class of employees has decided to participate in the plan, the INDIVIDUAL may not decide to opt out. Professor Alexander said that was correct; the class could opt out but not the individual. That is also true for the Faculty Retirement Plan, Professor Fossum pointed out.

Professor Wells pointed out that the Academic Health Center is very different; if a 3% salary increase is mandated by the administration, many units in the AHC will never receive the 1.5% from central funds. Has that been taken into account? And how is salary defined? Some in the AHC receive very little state money in their salaries, so the department would be required to come up with the money. These are good issues; the discussions have not gotten that far, Dr. Carrier and Professor Alexander said.

Participation in the PRHCSP is proposed to start with the first year of employment, Professor Alexander affirmed, not the first year of participation in the Faculty Retirement Plan, because the Subcommittee does not like the 2-year waiting period for the retirement plan.

One can use the PRHCSP funds at retirement, termination, a leave of 12 months or more, or if one resigns, Ms. Singer said in response to a question.

This proposal is keyed to 35 years of service, Professor Zaheer said. What percent of faculty are at the University for 35 years? His sense is that the faculty being hired now are increasingly older. Professor Alexander said that there will contributions to such a plan at other institutions; he believed that all of the University's peers will have such a plan soon because it is too good an opportunity to pass up. Professor Zaheer still questioned the 35 years. One might have been in industry and come later to the University; can there be any allowance for someone who does not bring anything along when hired at the University? Professor Alexander said it was the view of the Subcommittee that if one has worked for an employer who did not offer such a plan, and if all the funds must come from the salary pool, then it is likely University salaries will be slightly lower--and if one was at a place that does not have the plan, then it is likely salaries were higher. He said he did not understand why the University should be expected to make up for the implications of people's earlier career decisions. If one wanted to key the plan to 20 years, then the contributions would have to increase. Their thought was that if one starts an academic career at age 30 and work until age 65, there would be 35 years of service. (Vice President Carrier said the average faculty retirement age is 66.)

Professor Zaheer repeated that people coming to faculty appointments are older and that perhaps the plan should be geared to 30 years, not 35. Professor Alexander said the plan could be adjusted but cautioned that if the contribution were increased, the salary increase next year would likely be yet smaller.

Professor Savage asked if anyone has tried these plans or if there is any information from polls of faculty. They are new, Dr. Carrier said; there are about 35 of them around the state, in counties and school districts; the state judges have also opted for it. But they have only been in place for a year. Dr. Carrier said she did not know how these groups decided to adopt the plan. Professor Fossum said it would helpful to know how the decision was made; in one case, Vice President Carrier said, a group of judges chose it while in another (the school districts) it was probably adopted through the collective bargaining process.

Professor Wells took up, and concurred with, Professor Zaheer's point about the age of faculty who accept appointments at the University. Many do not start until age 35 or later, she said, and in the case of a number of AHC fields the salaries have been going down. A plan keyed to 35 years is unrealistic. Given the training that is now required in some fields, people may not start working until they are close to 40. Asked if they should redo the numbers for a 30-year option, Ms. Sellew observed that since the goal of the equivalent of the last year's salary was arbitrary, what difference did the number of years in the plan make? A larger contribution would mean a smaller salary increase, Professor

Alexander pointed out, but he said he would be glad to prepare another plan using 30 years; his only question was whether the faculty would support a larger contribution.

Professor Fossum said that if one assumes a reasonable rate of return, a retiree will need 14 times the cost of health care in the account at the time of retirement if the intent is to use the income and leave the principal. From that one can figure out how much is needed for average expected medical expenses. And it is difficult to predict health care costs, Professor Alexander added.

Professor Hendel said it would be helpful to have information on the distribution of the number of faculty in the Faculty Retirement Plan by year of participation. Then it would be possible to obtain information on sentiment about the plan among various groups and see whatever differences might exist between groups. Ms. Singer said she would provide the information.

What is the Committee supposed to do, Professor Savage asked? They wanted Committee views on the plan, Professor Alexander said, and ways it might be modified before it becomes a formal proposal. They will obtain data on participation in the retirement plan and will redo the numbers so they are based on 25 and 30 years of service.

How will the different units be approached, Professor Alexander asked? Different units could opt in or out, Professor Fossum said, or could opt for different plans. The Medical School could opt for a 25-year plan. The Subcommittee might want to think about different goals and how much should be accumulated (the goal in this plan is a payout equal to the last year's salary). The amount could be more or less, depending on what predictions one makes about health care costs. Professor Alexander agreed that any number is arbitrary. The Subcommittee might propose different scenarios, Professor Fossum suggested.

Professor Wallace commended the report and agreed that people who have been at the University a long time would not benefit very much. But they must look at the people who will come in the future. Many will not look at what their health care will cost when they retire--but it will be more than they think and it will have to come from retirement income if this plan is not adopted. Faculty coming behind those now here will be able to offset health care costs with this plan.

But why is this geared to bargaining units, Professor Wallace asked? That is a technicality of the law, Professor Fossum. This plan proposes to cover ALL faculty who are not now part of a collective bargaining unit.

Is this the only university to come up with such a plan, Professor Purdy asked? They are not widespread, Professor Alexander said, but that is because they have only recently become available.

Professor Savage urged that the views of younger faculty be sought, a group that is not represented on this Committee. They may not see this as a great idea, he said. Professor Alexander replied that any junior faculty members making such a statement are not making a rational argument--unless they intend to die at their desk writing their last paper.

What if one is young; it is difficult to predict what will happen with health care in 30 years, Professor Wells said. What if there is a national health care system? It is difficult to believe that the government would not make allowances for using PRHCSP funds in other ways if it were to adopt a national health insurance plan, Professor Alexander responded. The funds would probably revert to retirement plans, Professor Fossum speculated.

In terms of gathering opinions, the Committee agreed that the most effective way might be to have focus group discussions with different groups of faculty, depending on how many years they have been at the University. These are complicated issues that could not easily be addressed in a survey, Professor Hendel said, although Professor Zaheer said that a survey could be conducted after faculty were provided information about the PRHCSP.

Professor Fossum said the Committee would look forward to a revised proposal in the near future. Asked what happens after this Committee acts, Professor Fossum said the proposal would go to the Senate Committee on Finance and Planning and the Faculty Consultative Committee.

2. Emeritus Title for P&A Staff

Professor Fossum said the question of awarding an emeritus title came from the Faculty Consultative Committee. Approving it would require changing the existing Regents' policy, he said. The current policy provides that the Regents reserve the right to award the emeritus title to faculty, presidents, and regents.

What are the privileges of emeritus faculty and would the P&A staff have the same ones, Professor Savage asked? That would depend on how the policy were amended, Professor Fossum said; the primary benefits are library privileges, an email account, and perhaps office space (although that is determined by the department). Professor Savage expressed concern that granting emeritus privileges to P&A staff would compound the problems that many departments face in providing emeritus faculty with office space.

What is the interest of the P&A staff in the title--the benefits or the honor, Ms. Sellew asked? Since the proposal did not come from the P&A staff there was no one who knew the answer to the question. Professor Fossum surmised that it would be desired to recognize long service to the University and would not necessarily be across-the-board. (Faculty are eligible for the title after five years of service.) Professor Purdy said there is a very strong tradition of equality on the Morris campus and he said such a change would be welcomed. Is the emeritus title given to all faculty, Professor Zaheer asked? Essentially, Dr. Carrier said; it is awarded if an individual retires from service at the University, Professor Collins said.

There could also be a totally separate policy, Vice President Carrier pointed out, if there are concerns about the benefits that would accrue with the title. If the concern is that the title could be handed out too freely, Professor Zaheer said, perhaps it would not be automatic for P&A staff.

The Committee approved a motion saying it was basically in favor of the idea and referring it to the Council of Academic and Professional Administrators for advice and suggestions.

3. Car and Home Insurance Issues

Professor Fossum next welcomed Messrs. Donohue and Jones to discuss insurance coverage. He recalled that Mr. Donohue had visited the Committee last spring about auto insurance coverage for faculty driving their own vehicle on University business; Mr. Donohue sent a letter to the Committee but a couple of additional issues arose after the discussion and letter. One was about the limits of coverage and the University's willingness to defend faculty if they are sued; the other was about coverage for events held in one's home.

With respect to autos, Mr. Donohue said, responsibility follows ownership. Thus if a faculty member is in an accident his personal insurance is primarily responsible. If a University employee is in an accident while on University business and the claims exceed the employee's coverage, the University will cover the next $1 million and will provide a lawyer. The limit of University coverage is $1 million, which is the limit set by the Minnesota Tort Claims Act and is what the State provides to its employees as well. There are not many accidents that generate that kind of liability, he said; most are in the tens of thousands of dollars--and even those are big cases. Most involve only small amounts.

With respect to premises liability: if for example a faculty member has a party at the request of the dean to entertain a candidate, it is an authorized University event. If someone breaks their leg, in general there would be University liability. Most homeowner's policies have a "business pursuits" exception and the University would take over liability. The harder question comes with odd facts: what if the faculty member has not maintained the roof and it falls in on someone at the party, making him a quadriplegic? In a case like that, there might be joint liability. Again, the University liability would be $1 million per person. All of this depends on the policy language and on the facts; odd facts can lead to odd results.

Mr. Jones added that the University does buy excess insurance for employees on business outside Minnesota because the limits of the Minnesota law might not prevail in another state.

What about when a faculty member invites the class home but there is no dean's signature, Professor Zaheer inquired? That would depend on the custom, practice and tradition of the department, Mr. Donohue said. If a department routinely holds such events and they are regarded by the administration as sponsored events, it would probably be considered an authorized event. Depending on the facts, the University would likely be found liable.

What is it important that faculty have as a priori evidence that something is a University responsibility, Professor Fossum asked? If one is holding an event in one's house, be sure someone knows about it and has authorized it , said Mr. Donohue. Something in writing from the Board of Regents or the President would be best, he joked, but barring that unlikely source, something from the dean or department head would be would be fine--they both have the authority. If someone is uncertain, they should call someone in the department to ask if the event is OK (for example, if this would be the first time in the history of the department that a faculty member invited students to a private home).

The Committee will notify the Faculty Consultative Committee about the University's policy. It was agreed that Mr. Donohue would draft a statement that the Committee could forward. Beyond that it is hard to think what it might do, he said, because this is the way the world works. The University could get more insurance--but that would cost more money and simply allow people to sue the University for more money. Most organizations do not carry more than required by the Tort Claims Act.

Professor Fossum thanked Messrs. Donohue and Jones for joining the meeting.

4. Joint-Use Football Stadium

Professor Fossum turned now to Professor Savage, who had asked that the proposed football stadium be on the agenda.

Professor Savage recalled that the stadium had been discussed at the end of the last Senate meeting but that there was not full discussion. He said he was concerned that faculty have been relatively uninvolved in the process (which is not their fault, it is the way the Regents are conducting the process). He said he had listened to an interview with President Bruininks on the subject; the President said almost nothing and expressed no opinion himself. This is being done in closed session.

Professor Savage said he was opposed to building the stadium, as are a number of faculty (some of whom spoke at the Senate meeting). Not all who spoke were opposed; some believed there could be spill-over benefits to the University. He said he doubted that. His feelings are well conveyed by the questions raised by the Faculty Consultative Committee, a document that could easily be turned into a statement. It says that a stadium addresses none of the core missions of the University and asks questions about costs.

This is the Committee on Faculty Affairs and many of the questions raised by FCC speak to broad economic concerns, not faculty affairs, but as research and teaching faculty the Committee can speak to some of the issues, Professor Savage maintained. He said he believed that FCC does not think the stadium is a good idea, for a number of reasons. Some of the FCC concerns are close to SCFA concerns, such as using the land that could be devoted to the two core academic purposes of the University, the effect of NFL games on campus on students pursuing their studies, and the effect on faculty in pursuing their research. The campus is noisy enough, he said, in a big city environment; it needs more quiet and a more academic atmosphere, not less.

In terms of economic issues, they potentially impinge on the ability of faculty to carry out their teaching and research responsibilities. And what will be the impact on the legislature's willingness to appropriate money for the academic mission if it spends a lot of money on a stadium? The willingness will probably diminish.

A Gopher-only stadium would be better, Professor Savage said, but he said he did not know if it were being considered. He expressed concern that a regental steamroller is not considering the impact of a stadium on the two key missions of research and teaching. [The staff to the Committee and Vice President Carrier both assured Professor Savage and the Committee that they saw no evidence of any regental steamroller and that the Regents were in fact very concerned about the issues that have been raised--and that any "steamroller" might come from St. Paul, not the Board of Regents.]

Professor Savage said he believed it would be appropriate for the Committee to express its views to the Faculty Consultative Committee. He hoped that someone would draft a statement, keyed off the FCC statement, and that the Committee could act quickly on it.

Professor Savage said he was opposed to the stadium even if it costs the University no money because it would be unhealthy for the institution. Professor Litman said he totally disagreed; he has been at the University since 1950 as an undergraduate and thought Memorial Stadium fit well into the campus environment. Professor Savage clarified that he was opposed to a joint-use stadium; he agreed about

Memorial Stadium, the parade, and the enthusiasm. The joint-use stadium is an entirely different kettle of fish, he said.

This is not just about 7-8 NFL football games per year, Professor Purdy said; the stadium cannot sit empty but must be used 4-5 days per week. The big conflicts will arise when there are NFL games on week nights, Professor Litman said.

There is a virtue to having a stadium on campus, Professor Collins said, although one can ask questions about a joint-use stadium that is 20 stories high. When the symphony left the campus, and the stadium left, and the Extension service started charging for services, the disconnect between the University and the public grew larger and larger. That is a problem for state universities, and funding becomes more of a problem as the disconnect grows larger and larger, because fewer and fewer people feel any connection to the institution or want to pay for it. It is best to be thoughtful about this, he said; he does not disagree with the questions that FCC has raised, but it is important to make connections with people, including the people who watch NFL games. It is no accident that the withdrawal of activities from the campus has meant the University does not get non-student, non-alumni on the campus any more.

The Vikings need the University, Professor Litman said, and the Regents know it, which is why they are taking a hard line position. This should be a state facility that provides a service to the University but that would not be acceptable to the Vikings. The University is paying a price in terms of alumni for the loss of Memorial Stadium because people now leave without that connection to the campus. In terms of funding, he said he understood the Vikings want a 5-year renewable lease; that would be disastrous for the University. But financial considerations may kill the entire project anyway, he concluded.

Even without the financial considerations, there will be a tremendous impact on the ability of the University to deliver evening programs, Professor Fossum said. The traffic will be very bad.

Is there anything the Committee can do, Professor Savage asked? Strengthen the hands of the Regents, Professor Litman suggested. Reiterate what the University should insist on, including no cost to the institution, now or in the future, and suggest that the Regents go no farther than suggested by the items in the statement from FCC. Security concerns are also a huge responsibility, Professor Wallace added; it is one thing to have a Big Ten game on campus and quite another to have an NFL crowd.

FCC has discussed this topic a number of times this fall, Professor Fossum commented. The best the Committee can do is convey the concerns raised here (the potential financial impact, putting teaching and research at risk, interfering with the ability to deliver on two of the major missions) and support a very careful look at the whole idea of putting a joint-use stadium on the campus. FCC would likely welcome such a statement; it would very likely NOT welcome a statement of opposition to a stadium. It was agreed the Committee would consider by email the next day a draft statement that could be carried to FCC at its meeting on November 14.

Professor Fossum adjourned the meeting at 4:25.

-- Gary Engstrand

University of Minnesota